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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of
the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): December 9, 2020

CarGurus, Inc.

(Exact name of registrant as specified in its charter)

Delaware	**001-38233**	**04-3843478**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

2 Canal Park, 4th Floor
Cambridge,
Massachusetts 02141
(Address of principal executive offices)
(zip code)

Registrant's telephone number, including area code: 617-354-0068

Not Applicable
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A Common Stock, par value $0.001 per share	CARG	The Nasdaq Stock Market LLC (Nasdaq Global Select Market)

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

Emerging growth company ☐

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

Item 1.01 Entry into a Material Definitive Agreement.

Membership Interest Purchase Agreement

On December 9, 2020 (the "Agreement Date"), CarGurus, Inc., a Delaware corporation (the "Company"), entered into a Membership Interest Purchase Agreement (the "Purchase Agreement") by and among the Company, CarOffer, LLC, a Delaware limited liability company ("CarOffer"), CarOffer Investors Holding, LLC, a Delaware limited liability company ("TopCo"), each of the Members of TopCo (each a "Member" and collectively, the "Members"), and Bruce T. Thompson, an individual residing in Texas (the "Members' Representative"), pursuant to which the Company will acquire a 51% interest in CarOffer, with the remaining equity (the "Remaining Equity") to be indirectly retained by the existing equity holders of CarOffer and subject to certain call and put arrangements (the "Transaction").

Upon consummation of the transactions contemplated by the Purchase Agreement (the "Closing"), the Company will acquire a 51% interest in CarOffer for an aggregate consideration of $140,250,000 (the "Total Consideration"), such Total Consideration consisting of (a) shares of Class A Common Stock of the Company, par value $0.001 per share (the "Company Class A Common Stock"), in the aggregate amount of $70,125,000 (the "Stock Consideration") and (b) $70,125,000 in cash ("Cash Consideration"), subject to certain adjustments set forth in the Purchase Agreement. The number of shares of Company Class A Common Stock to be issued in connection with the Stock Consideration is 3,115,282 which has been calculated by reference to a value of $22.51 per share, which equals the volume-weighted average closing price per share of Company Class A Common Stock on the Nasdaq Stock Market for the 28 consecutive trading days ending on the third Business Day preceding the Agreement Date.

In addition, the Company will establish a retention pool in an aggregate amount of $8,000,000 in the form of restricted stock units to be issued pursuant to the Company's standard form of restricted stock unit agreement under the Company's Omnibus Incentive Compensation Plan, (i) $6,000,000 of which will be granted to certain CarOffer employees following the Closing in accordance with the terms of the Purchase Agreement and (ii) $2,000,000 of which will be made available for issuance to future CarOffer employees following the Closing in accordance with the terms of the Purchase Agreement.

The Purchase Agreement contains customary representations, warranties and covenants by the Company and CarOffer. A portion of the Total Consideration will be held in escrow to secure certain payment and indemnification obligations of CarOffer and the Members, as applicable and in accordance with the terms of the Purchase Agreement. The Company is also purchasing a representations and warranties insurance policy in connection with the Purchase Agreement, which will be subject to certain exclusions and deductibles.

The Closing is subject to customary closing conditions, including regulatory approvals, and is expected to occur in the first quarter of 2021. Either the Company or CarOffer may terminate the Purchase Agreement if the Closing has not occurred on or before March 9, 2021, subject to the terms of the Purchase Agreement.

Second Amended and Restated Limited Liability Company Agreement

In addition, the Company, TopCo, each Member and CarOffer MidCo, LLC, a Delaware limited liability company, entered into the Second Amended and Restated Limited Liability Company Agreement, dated December 9, 2020 (the "CarOffer Operating Agreement"), pursuant to which, among other matters, the Company will have the right to appoint a majority of the members of the Board of Managers of CarOffer, other rights customary for a transaction of this nature and the put and call rights described below.

In the second half of 2022, the Company will have a call right (the "2022 Call Right"), exercisable in its sole discretion, to acquire a portion of the Remaining Equity representing up to twenty-five percent (25%) of the fully diluted capitalization of CarOffer (such acquired Remaining Equity, the "2022 Acquired Remaining Equity") at an implied CarOffer value as of June 30, 2022 equal to the First Determination Date Company Value (as defined in the CarOffer Operating Agreement). If the 2022 Call Right is exercised by the Company, the 2022 Acquired Remaining Equity will be purchased ratably across all of the non-Company holders of CarOffer equity securities. The consideration to be paid by the Company in connection with the exercise of the 2022 Call Right will be in the form of cash and/or shares of Company Class A Common Stock, as determined by the Company in its sole discretion.

In the second half of 2024, (a) the Company will have a call right (the "2024 Call Right"), exercisable in its sole discretion, to acquire all, and not less than all, of the Remaining Equity that it has not acquired pursuant to the 2022 Call Right and the Transaction, at an implied CarOffer value as of June 30, 2024 equal to the Second Determination Date Company Call Value (as defined in the CarOffer Operating Agreement), and (b) the representative of the holders of the Remaining Equity will have a put right (the "2024 Put Right"), exercisable in his, her or their sole discretion, to have the holders of the Remaining Equity sell to the Company, all, and not less than all, of the Remaining Equity at an implied CarOffer value as of June 30, 2024 equal to the Second Determination Date Company Put Value (as defined in the CarOffer Operating Agreement). The determination of whether the 2024 Call Right or the 2024 Put Right is ultimately exercised is as set forth in the CarOffer Operating Agreement. The consideration to be paid by the Company in connection with the exercise of either the 2024 Call Right or the 2024 Put Right, as applicable, will be in the form of cash and/or shares of Company Class A Common Stock, as determined by the Company in its sole discretion.

The Company intends to issue the shares of Company Class A Common Stock described herein in reliance upon the exemptions from registration afforded by Section 4(a)(2) of the Securities Act of 1933, as amended (the "Securities Act"), and Rule 506 of Regulation D promulgated thereunder. The foregoing summary of the Purchase Agreement, the CarOffer Operating Agreement and the transactions contemplated thereby do not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Purchase Agreement and the CarOffer Operating Agreement, which are attached hereto as Exhibits 2.1 and 10.1, respectively.

Cautionary Language Concerning Forward-Looking Statements

This report includes forward-looking statements. All statements contained in this report other than statements of historical facts, including, without limitation, statements regarding the expected completion of the transactions contemplated by the Purchase Agreement and the time frame in which this will occur, as well as expected share issuances and the exercise of put and call rights under the CarOffer Operating Agreement, are forward-looking statements. The words "anticipate," "believe," "continue," "estimate," "expect," "guide," "intend," "likely," "may," "will" and similar expressions and their negatives are intended to identify forward-looking statements. The Company has based these forward-looking statements on its current expectations and projections about future events and financial trends that it believes may affect the Company's financial condition, results of operations, business strategy, short-term and long-term business operations and objectives and financial needs. These forward-looking statements are subject to a number of risks and uncertainties, including, without limitation: risks related to regulatory approval of the transaction with CarOffer or that other conditions to the Closing may not be satisfied; the potential impact on the businesses of the Company and CarOffer due to the announcement of the transaction; the occurrence of any event, change or other circumstances that could give rise to the termination of the Purchase Agreement; the Company's growth and ability to grow its revenue; the Company's relationships with dealers; competition in the markets in which the Company operates; market growth; the Company's ability to innovate; the Company's ability to realize benefits from its acquisitions generally and successfully implement the integration strategies in connection therewith; natural disasters, epidemics or pandemics, like COVID-19 that has negatively impacted the Company's business; the Company's ability to operate in compliance with applicable laws, as well as other risks and uncertainties set forth in the "Risk Factors" section of the Company's Quarterly Report on Form 10-Q, filed on November 5, 2020 with the Securities and Exchange Commission (SEC), and subsequent reports that the Company files with the SEC. Moreover, the Company operates in a very competitive and rapidly changing environment. New risks emerge from time to time. It is not possible for the Company's management to predict all risks, nor can the Company assess the impact of all factors on its business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements the Company may make. In light of these risks, uncertainties and assumptions, the Company cannot guarantee future results, levels of activity, performance, achievements or events and circumstances reflected in the forward-looking statements will occur. The Company is under no duty to update any of these forward-looking statements after the date of this report to conform these statements to actual results or revised expectations, except as required by law. You should, therefore, not rely on these forward-looking statements as representing the Company's views as of any date subsequent to the date of this report.

Item 3.02 Unregistered Sales of Equity Securities.

The information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 3.02.

Item 7.01 Regulation FD Disclosure.

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

On December 10, 2020, the Company issued a press release announcing that it had entered into the Purchase Agreement. A copy of the press release is furnished as Exhibit 99.1 to this Current Report on Form 8-K.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	*Description*
2.1	Membership Interest Purchase Agreement, dated December 9, 2020, by and among CarGurus, Inc., CarOffer, LLC, CarOffer Investors Holding, LLC ("TopCo"), the Members of TopCo and Bruce T. Thompson.
10.1	Second Amended and Restated Limited Liability Company Agreement, dated December 9, 2020, by and among CarGurus, Inc., TopCo, the Members of TopCo, and CarOffer MidCo, LLC.
99.1	Press Release of CarGurus, Inc., dated December 10, 2020.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

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 hereunto duly authorized.

Date: December 10, 2020

CARGURUS, INC.

/s/ Jason Trevisan

Name: Jason Trevisan
Title: Chief Financial Officer and President, International

EXHIBIT 2.1

EXECUTION COPY

MEMBERSHIP INTEREST PURCHASE AGREEMENT

by and among

CARGURUS, INC.,

CAROFFER, LLC,

CAROFFER INVESTORS HOLDING, LLC,

THE MEMBERS
(as defined herein),

and

BRUCE THOMPSON,
as the Members' Representative

December 9, 2020

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MEMBERSHIP INTEREST PURCHASE AGREEMENT

THIS MEMBERSHIP INTEREST PURCHASE AGREEMENT (the "**Agreement**") is made and entered into as of December 9, 2020 (the "**Agreement Date**"), by and among CarGurus, Inc., a Delaware corporation (the "**Buyer**"), CarOffer, LLC, a Delaware limited liability company (the "**Company**"), CarOffer Investors Holding, LLC, a Delaware limited liability company ("**TopCo**"), each of the Members of TopCo (each, a "**Member**" and collectively, the "**Members**"), and Bruce T. Thompson, an individual residing in Texas (the "**Members' Representative**"), in his capacity as the Members' Representative and as a Member.

A. Prior to the Agreement Date, the following transactions were completed: (i) the Company caused TopCo to be formed; (ii) TopCo formed CarOffer MidCo, LLC, a Delaware limited liability company ("**MidCo**"); (iii) the Members contributed all of the outstanding membership interests of the Company to TopCo in exchange for membership interests in TopCo, resulting in TopCo owning all of the outstanding equity interests of the Company; (iv) pursuant to a duly adopted Plan of Conversion and a Certificate of Conversion filed with each of the Secretary of State of the State of Texas and the Secretary of State of the State of Delaware, the Company converted from a Texas limited liability company to a Delaware limited liability company under the Delaware Act (the "**Conversion**"); (v) pursuant to the Conversion, all of the outstanding membership interests of the Company were either cancelled and extinguished or recapitalized and converted into Class CO Units and Incentive Units; (vi) TopCo contributed one percent (1%) of the equity interests of the Company to MidCo in exchange for membership interests of MidCo, resulting in TopCo owning ninety-nine percent (99%) of the membership interests of the Company, consisting of Class CO Units and Incentive Units, and MidCo owning one percent (1%) of the membership interests of the Company, consisting of Class CO Units; and (vii) the Company issued TopCo that certain Promissory Note, dated December 9, 2020 in an amount equal to the Net Closing Payment (the "**Company Note**");

B. Buyer desires to purchase from the Company, and the Company desires to sell to Buyer, the Membership Units set forth on Schedule 1 hereto, on the terms and subject to the conditions set forth herein;

C. Immediately following the Closing, the Company shall pay the Net Closing Cash Consideration and the Closing Buyer Shares Consideration to TopCo as full payment and satisfaction of the Company Note (the "**Company Note Repayment**");

D. Immediately following the Company Note Repayment, TopCo shall redeem certain membership interests in TopCo held by the Members (the "**Redemption**") pursuant to a form of Redemption Agreement attached hereto as Exhibit A (the "**Redemption Agreement**") in exchange for the aggregate payment in an amount equal to the Net Closing Payment and delivery of the Closing Buyer Shares Consideration as more fully described in Schedule 2, together with the obligations hereunder with respect to payment of the adjustments to the Final Purchase Price pursuant to Section 1.9 and the release to or on behalf of TopCo of any amounts from the Escrow Fund, the PPP Loan Escrow Fund, or the Representative Expense Fund, pursuant to Sections 10.7 and 1.3(d), respectively;

E. TopCo and MidCo are the direct beneficial equityholders of the Company and collectively own all of the issued and outstanding equity interests in the Company;

F. The Members are (i) the direct beneficial equityholders of TopCo and collectively own all of the issued and outstanding equity interests in TopCo, (ii) the indirect beneficial equityholders of the Company and collectively beneficially own all of the issued and outstanding equity interests of the Company, and (iii) shall receive cash, shares of Buyer Common Stock, and other consideration in

connection with this Agreement and the Transactions, and as consideration therefor are agreeing to, among other things, certain covenants pursuant to Article VI, and certain indemnification obligations pursuant to Article X, hereof;

G. A portion of the consideration otherwise payable to the Members in connection with the Transactions shall be placed in escrow by Buyer as partial security for certain adjustments to the cash portion of the Purchase Price and the indemnification obligations of the Members set forth in this Agreement;

H. Each of the Members and TopCo desire to make certain representations, warranties, covenants and other agreements in connection with the Transactions;

I. Prior to the Agreement Date, the Company has established an equity incentive pool for the issuance of equity awards principally to future hires of the Company; and

J. As a condition and material inducement to Buyer to enter into this Agreement, concurrently with the execution of this Agreement: (i) each employee identified on Schedule 3 hereto (each, a "**Key Employee**") is executing a Restrictive Covenant Agreement (each, an "**Restrictive Covenant Agreement**"), in the form attached hereto as Exhibit B; (ii) each Member and TopCo and MidCo is delivering a duly executed signature page to the Operating Agreement; (iii) each of the Members listed on Schedule 4 hereto is executing a Lock-Up Agreement (each, a "**Lock-Up Agreement**") in the form attached hereto as Exhibit C; (iv) the Member set forth on Schedule 5 hereto is executing a Vesting Agreement (a "**Vesting Agreement**") in the form attached hereto as Exhibit D; (v) the designated beneficial owner of each Member set forth on Schedule 6 shall deliver a duly executed Guarantee (a "**Guarantee**") in the form attached hereto as Exhibit E; and (vi) Bruce Thompson is executing an offer letter that describes, among other matters, the terms of his employment with the Company following Closing (the "**Thompson Offer Letter**").

NOW THEREFORE, in consideration of the premises and of the representations, warranties, covenants and agreements which are to be made and performed by the respective parties hereto, it is agreed as follows:

ARTICLE I

DEFINITIONS; PURCHASE AND SALE OF MEMBERSHIP INTERESTS

1.1 Definitions

. The following terms when used in this Agreement have the meanings set forth below:

"**Accounting Principles**" means (a) the specific accounting policies set forth in the attached Schedule 1.1(a) (the "**Specific Policies**"), (b) to the extent not expressly set forth in the Specific Policies and only to the extent consistent with GAAP, the accounting principles, policies, procedures, definitions, methods, and practices adopted by the Company in preparation of the financial statements as of and for the period ended December 31, 2019 (the "**Consistent Policies**"), and (c) to the extent not considered in the Specific Policies and the Consistent Policies, in accordance with GAAP at the Closing.

"**Accredited Investor**" means a Member who is an "accredited investor" as such term is defined in Rule 501(a) of Regulation D promulgated under the Securities Act.

"**Acquisition Transaction**" means any transaction or series of transactions involving:

(a) the sale, license, sublicense, disposition or pledge of all or a material portion of the Company's Business or assets, including Intellectual Property Rights;

(b) the issuance, disposition, transfer, or acquisition of: (i) any Membership Units, membership interest, units, or other equity security of the Company, TopCo, or MidCo; (ii) any option, call, warrant or right (whether or not immediately exercisable) to acquire any Membership Unit, unit or other equity security of the Company, TopCo, or MidCo; or (iii) any security, instrument or obligation that is or may become convertible into or exchangeable for any Membership Unit, membership interest, unit or other equity security of the Company, TopCo, or MidCo;

(c) any joint venture, partnership, merger, consolidation, business combination, reorganization or similar transaction involving the Company, TopCo, or MidCo;

(d) any direct or indirect financing or capital raising transaction involving the Company, TopCo, or MidCo;

(e) any restructuring transaction or any sale or divestment of any business or product line; or

(f) any other transaction or series of transactions which has substantially similar economic effects of any of the foregoing or that impair the Company's or TopCo's ability to consummate the Transactions.

"**Action**" means any action, order, writ, injunction, written demand, written claim, suit, litigation, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), hearing, arbitration, mediation, audit, inquiry, dispute, examination or investigation commenced, brought, conducted or heard by or before, or otherwise involving, any court or other Governmental Authority or any arbitrator or arbitration panel.

"**Adjustment Amount**" means the positive or negative number that is equal to the difference of (i) the Closing Date Net Working Capital, *minus* (ii) the Base Working Capital.

"**Affiliate**" means, with respect to any Person, if such Person is not an individual, any Person directly or indirectly controlling or controlled by or under direct or indirect common control with such Person, where "control" means the possession, directly or indirectly, of the power to direct the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"**Affordable Care Act**" shall mean the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010, and regulations promulgated thereunder.

"**AFG**" means Automotive Financing Group, LLC, a Delaware limited liability company.

"**AFG Line of Credit**" means that certain Company Note and the Line of Credit Loan and Security Agreement, dated as of November 12, 2019, by and between AFG and the Company.

"**Agreement Date**" has the meaning set forth in the introductory paragraph of this Agreement.

"**Anti-Corruption Laws**" means the United States Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder, or any other applicable anti-corruption or anti-bribery Law or any similar Law of any other jurisdiction where the Company operates or conducts business.

"**Antitrust Laws**" means the Sherman Antitrust Act, the Clayton Antitrust Act of 1914, the HSR Act, the Federal Trade Commission Act of 1914, and all other Laws that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or significant impediments to or lessening of competition or the creation or strengthening of a dominant position through merger or acquisition, in any case that are applicable to the transactions contemplated herein.

"**Antitrust Restraint**" has the meaning set forth in Section 6.5(c).

"**Balance Sheet Date**" has the meaning set forth in Section 4.6.

"**Base Working Capital**" means $9,277,000.

"**Books and Records**" means the business records, financial books and records, personnel records, ledgers, sales accounting records, tax records and related work papers, sales order files, purchase order files, engineering order files, supplier lists, customer lists, studies, surveys, analyses, strategies, plans, forms, specifications, technical data, and other books and records of the Company.

"**Business**" means the business as presently conducted, and currently proposed to be conducted, by the Company as of the Agreement Date.

"**Business Day**" means any day on which banking institutions in Boston, Massachusetts are open for the purpose of transacting business.

"**Buy Center Cash**" means cash and cash equivalents of the Company that are generated by, associated with, or held for use in connection with, the Company's "Buy Center" program, including cash located in that certain bank account with Comerica Bank having an account number ending in x4199.

"**Buyer**" has the meaning set forth in the introductory paragraph of this Agreement.

"**Buyer Closing Certificate**" has the meaning set forth in Section 8.4.

"**Buyer Common Stock**" means the shares of Class A Common Stock of Buyer, par value $0.001 per share.

"**Buyer Cure Period**" has the meaning set forth in Section 9.1(e).

"**Buyer Fundamental Representations**" means the representations of Buyer set forth in Section 5.1 (*Authorization; Enforceability*), Section 5.6 (*Buyer Shares; Authorization and Delivery*) and Section 5.7 (*Brokers' Finders' Fees, etc.*)

"**Buyer Indemnified Parties**" has the meaning set forth in Section 10.2(a).

"**Buyer Line of Credit**" has the meaning set forth in Section 6.20.

"**Buyer Parties**" has the meaning set forth in Section 11.16(c).

"**Buyer RSUs**" has the meaning set forth in Section 6.18.

"**Buyer SEC Documents**" has the meaning set forth in Section 5.4.

"**Buyer Share Value**" means $70,125,000.

"**Buyer Shares**" means shares of Buyer Common Stock (rounded to the nearest whole share) with an aggregate value (based on the Closing Reference Price) equal to the Buyer Share Value.

"**CARES Act**" means the Coronavirus Aid, Relief and Economic Security Act of 2020.

"**Cash Consideration**" means an amount in cash equal to (i) the Gross Cash Consideration, (ii) *minus* the Company Cash Deficiency (if any), (iii) *minus* the Closing Indebtedness Amount, (iv) *plus* the Adjustment Amount, (v) *minus* the Company Transaction Expenses, (vi) *plus* an amount equal to the product of 51% *multiplied by* the Company Cash.

"**Check-the-Box Election**" has the meaning set forth in Section 6.7(g)(i).

"**Claim Certificate**" has the meaning set forth in Section 10.5(a).

"**Class CG Units**" means the membership interests of the Company designated as Class CG Units in the Operating Agreement.

"**Class CO Units**" means the membership interests of the Company designated as Class CO Units in the Operating Agreement.

"**Closing**" has the meaning set forth in Section 1.4.

"**Closing Buyer Shares Consideration**" has the meaning set forth in Section 1.5(b)(ii).

"**Closing Cash Consideration**" has the meaning set forth in Section 1.5(b)(i).

"**Closing Date**" has the meaning set forth in Section 1.4.

"**Closing Date Balance Sheet**" has the meaning set forth in Section 1.9(b).

"**Closing Date Dispute Notice**" has the meaning set forth in Section 1.9(c).

"**Closing Date Net Working Capital**" means: (a) the Current Assets of the Company, *less* (b) the Current Liabilities of the Company, determined as of the Measurement Time.

"**Closing Date Statement**" has the meaning set forth in Section 1.9(b).

"**Closing Indebtedness Amount**" means the aggregate amount of outstanding Indebtedness as of the Measurement Time, *provided, however*, that the following Indebtedness shall be excluded therefrom, (a) the AFG Line of Credit and (b) the PPP Loan, to the extent fully secured by cash collateral through the PPP Loan Escrow Fund on or before the Closing.

"**Closing Payment**" has the meaning set forth in Section 1.5(b)(ii).

"**Closing Reference Price**" means $22.51, as adjusted to appropriately reflect any stock split, reverse stock split, stock dividend, reorganization, reclassification, combination, recapitalization or other like change with respect to Buyer Common Stock occurring after the Agreement Date.

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

"**Company**" has the meaning set forth in the introductory paragraph of this Agreement.

"**Company Assets**" has the meaning set forth in Section 4.6.

"**Company Benefit Plan**" has the meaning set forth in Section 4.16(a).

"**Company Cash**" means, as of the Measurement Time, the Company's cash (excluding Restricted Cash and Buy Center Cash) and cash equivalents held in bank accounts owned and controlled by the Company. For the avoidance of doubt, Company Cash shall be net of outstanding checks, drafts, wire transfers, and debit transactions not yet cashed or settled.

"**Company Cash Deficiency**" means an amount, if any, by which the Minimum Company Cash exceeds Company Cash as of the Measurement Time, such amount expressed as an absolute value.

"**Company Closing Certificate**" has the meaning set forth in Section 7.11.

"**Company Contract**" has the meaning set forth in Section 4.14(b).

"**Company Core IP Representations**" means, collectively, the representations and warranties contained in subsections (c), (d), (h), (i) and (v) of Section 4.13 (*Intellectual Property*).

"**Company Data**" has the meaning set forth in Section 4.13(o).

"**Company Financial Statements**" has the meaning set forth in Section 4.7(a).

"**Company Fundamental Representations**" means, collectively, the representations and warranties contained in Article II (*Representations and Warranties of the Members*), Article III (*Representations and Warranties of TopCo*), Section 4.1 (*Authorization; Enforceability*), Section 4.2 (*Subsidiaries*), Section 4.3(a)-(e) (*Capitalization; Indebtedness*), Section 4.5(v) (*Non-Contravention*), Section 4.15 (*Taxes*), and Section 4.17(a) (*Brokers', Finders' Fees, etc.*).

"**Company Intellectual Property**" has the meaning set forth in Section 4.13(a)(i).

"**Company Intellectual Property Rights**" has the meaning set forth in Section 4.13(a)(ii).

"**Company Note**" has the meaning set forth in the Recitals.

"**Company Note Repayment**" has the meaning set forth in the Recitals.

"**Company Privacy Policy**" has the meaning set forth in Section 4.13(a)(v).

"**Company Products**" has the meaning set forth in Section 4.13(a)(iii).

"**Company Registered Intellectual Property**" has the meaning set forth in Section 4.13(b).

"**Company Sites**" has the meaning set forth in Section 4.13(n).

"**Company Transaction Expenses**" means, without duplication, all fees, costs, expenses, payments, expenditures or Liabilities (collectively, "**Expenses**"), unpaid as of the Measurement Time, whether incurred prior to the Agreement Date, during the Pre-Closing Period or at or after the Closing, and whether or not invoiced prior to the Closing, incurred by or on behalf of the Company, or to or for which the Company is or becomes subject or liable, in connection with any of the transactions contemplated by the Agreement, including: (a) Expenses payable to legal counsel or to any financial advisor, broker, accountant or other Person, including any brokerage fees, commissions, finders' fees, or financial advisory

fees, and, in each case, related costs and expenses, who performed services for or on behalf of, or provided advice to the Company, or who is otherwise entitled to any compensation or payment from the Company, in connection with or relating to the Agreement, any of the transactions contemplated by the Agreement, or the process resulting in such transactions; (b) any other expenses that arise or are expected to arise, or are triggered, accelerated or become due or payable, as a direct or indirect result of the consummation (whether alone or in combination with any other event or circumstance) of the transactions contemplated by the Agreement, including any fees and expenses related to any retention, transaction, equity, discretionary, bonus, severance, profit sharing or change of control payment or benefit (or similar payment obligation), made or provided, or required to be made or provided, by the Company to any Person, including any service provider to the Company, as a result of or in connection with the transactions contemplated herein or any of the other Transactions or any other Transaction Document; (c) any social security, Medicare, unemployment or other employment, withholding or payroll Tax or similar amount owed by the Company with respect to any of the transactions contemplated by the Agreement; (d) Expenses incurred by or on behalf of any Member or service provider to the Company in connection with the transactions contemplated herein that the Company is or will be obligated to pay or reimburse; (e) any forgiveness by the Company of any Indebtedness; (f) any Expenses incurred to obtain consents, waivers or approvals under any Company Contract as a result of or in connection with the transactions contemplated by the Agreement; and (g) one-half of the total R&W Insurance Policy Costs; *provided, however*, that Company Transaction Expenses shall not include any amount included in the Closing Indebtedness Amount or the Closing Date Net Working Capital.

"**Confidential Information**" has the meaning set forth in Section 6.6.

"**Consents**" means consents, assignments, Permits, Orders, certification, concession, franchises, approvals, authorizations, registrations, filings, registrations, waivers, declarations or filings with, of or from any Governmental Authority, parties to Contracts or any other third Person.

"**Consideration Spreadsheet**" has the meaning set forth in Section 1.3(c).

"**Contaminants**" has the meaning set forth in Section 4.13(u).

"**Contingent Workers**" has the meaning set forth in Section 4.17(d).

"**Continuing Claim**" has the meaning set forth in Section 10.7(a).

"**Contract**" means any contract, mortgage, indenture, lease, covenant or other agreement, instrument or commitment, permit, concession, franchise or license (including any purchase or sales order), whether written or oral.

"**Conversion**" has the meaning set forth in the Recitals.

"**Copyrights**" has the meaning set forth in Section 4.13(a)(viii).

"**Current Assets**" means the combined current assets of the Company as of the Measurement Time, determined in accordance with the Accounting Principles, but specifically excluding any Company Cash, Restricted Cash, Buy Center Cash, or any Tax assets (including prepaid Taxes)). An illustrative calculation of Net Working Capital including Current Assets is provided on Part II of Schedule 1.1(a).

"**Current Liabilities**" means the combined current liabilities of the Company as of the Measurement Time, determined in accordance with the Accounting Principles, but specifically excluding

any Indebtedness, Company Transaction Expenses and Tax liabilities. An illustrative calculation of Net Working Capital including Current Liabilities is provided on Part II of Schedule 1.1(a).

"**Customer Data**" has the meaning set forth in Section 4.13(a)(vi).

"**Deal Communications**" has the meaning set forth in Section 11.16(b).

"**Deductible Amount**" has the meaning set forth in Section 10.3(a).

"**Derivative Instruments**" has the meaning set forth in Section 6.16.

"**Domain Names**" has the meaning set forth in Section 4.13(a)(viii).

"**End Date**" has the meaning set forth in Section 9.1(b).

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

"**ERISA Affiliate**" means any entity, trade or business that is, or at any applicable time was, a member of a group described in Section 414(b), (c), (m) or (o) of the Code or Section 4001(b)(1) of ERISA that includes the Company.

"**Escrow Agent**" has the meaning set forth in Section 1.6(a).

"**Escrow Agreement**" has the meaning set forth in Section 1.6(a).

"**Escrow Amount**" means (i) the Purchase Price Escrow Amount *plus* (ii) the Retention Escrow Amount, and *plus* (iii) the Specified Matters Escrow Amount.

"**Escrow Contribution Amount**" for each Member shall be as provided in the Initial Consideration Spreadsheet.

"**Escrow Fund**" has the meaning set forth in Section 1.6(a).

"**Estimated Balance Sheet**" has the meaning set forth in Section 1.9(a).

"**Estimated Cash Consideration**" has the meaning set forth in Section 1.9(a).

"**Estimated Purchase Price**" has the meaning set forth in Section 1.9(a).

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

"**Exchange Agent**" means Broadridge Corporate Issuer Solutions.

"**Expiration Date**" has the meaning set forth in Section 10.1(a).

"**Final Closing Date Statement**" has the meaning set forth in Section 1.9(c).

"**Final Purchase Price**" has the meaning set forth in Section 1.9(c).

"**Future Consideration Spreadsheet**" has the meaning set forth in Section 1.3(c).

"**GAAP**" means United States generally accepted accounting principles.

"**General Enforceability Exceptions**" has the meaning set forth in Section 2.2**.**

"**Generally Commercially Available Code**" has the meaning set forth in Section 4.13(a)(vii).

"**Governmental Authority**" means any governmental, regulatory or administrative authority, agency, body, commission or other entity, whether international, multinational, national, regional, state, provincial or of a political subdivision; any court, judicial body, arbitration board or arbitrator; any tribunal of a self-regulatory organization; or any instrumentality of any of the foregoing (including other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange or professional association).

"**Gross Cash Consideration**" means an amount in cash equal to $70,125,000.

"**Gross Consideration**" means the sum of (i) the Buyer Shares *plus* (ii) the Gross Cash Consideration.

"**HSR Act**" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"**Inbound Licenses**" has the meaning set forth in Section 4.13(e).

"**Incentive Units**" means the membership interests of the Company designated as Incentive Units in the Operating Agreement.

"**Indebtedness**" means, without duplication, all obligations, contingent or otherwise, of the Company, including (i) for borrowed money; (ii) evidenced by notes, bonds, debentures, or similar instruments; (iii) all lease obligations required to be capitalized in accordance with GAAP or classified as capital or finance leases in Financial Statements of such Person; (iv) for the deferred purchase price of assets, property, goods or services, including all earn-out payments, seller notes and other similar payments (whether contingent or otherwise) calculated as the maximum amount payable under or pursuant to such obligation; (v) for reimbursement obligations, whether contingent or matured, with respect to letters of credit (whether drawn or undrawn), bankers' acceptances, performance bonds, surety bonds or interest rate cap agreements, interest rate swap agreements, foreign currency exchange contracts or other hedging contracts; (vi) all conditional sale obligations and all obligations under any title retention agreement; (vii) all obligations of any other Person of the type referred to in clauses (i) through (vi) which is secured by a Lien on any property or asset of the Company, the amount of such obligation being deemed to be the lesser of the fair market value of such property or asset or the amount of the obligation; (viii) in the nature of guarantees of the types of obligations described in (i)-(vi) above; (ix) any amendment, supplement, modification, deferral, renewal, extension, refunding or refinancing or any Liability of the types referred to in clauses (i) through (viii) above; (x) for all accrued or unpaid interest on or any fees, premiums, penalties or other amounts (including prepayment and early termination fees and penalties) due with respect to any of the obligations described in (i)-(viii) above; (xi) all Pre-Closing Taxes determinable as of the Closing Date, including for this purpose, any Taxes deferred by the Company pursuant to Section 2302 of the CARES Act (or any similar provision of federal, state, local or non-U.S. Law); (xii) all Liabilities for reserves for any of the foregoing; (xiii) any obligations not officially forgiven or that are outstanding under the PPP Loan or any other government loan assistance program; (xiv) any declared but unpaid distributions; and (xv) all accrued but unpaid severance obligations (including the employer portion of any applicable payroll taxes).

"**Independent Accounting Firm**" means BDO USA, LLP.

"**Information Security Reviews**" has the meaning set forth in Section 3.13(p).

“**Initial Consideration Spreadsheet**” has the meaning set forth in Section 1.3(b).

“**Insider Payables**” has the meaning set forth in Section 4.7(c).

“**Insider Receivables**” has the meaning set forth in Section 4.7(c).

“**Intellectual Property Rights**” has the meaning set forth in Section 4.13(a)(viii).

“**IRS**” means the United States Internal Revenue Service.

“**Key Employees**” has the meaning set forth in the Recitals.

An individual shall be deemed to have “**Knowledge**” of a particular fact or other matter if: (a) such individual is actually aware of such fact or other matter; or (b) such individual would have known such fact or other matter had such individual made reasonable inquiry of the Persons who would reasonably be expected to have actual knowledge of such fact or other matter. The Company shall be deemed to have “Knowledge” of a particular fact or other matter if any officer or manager of the Company or any other Person identified on Schedule 1.1(b) has Knowledge of such fact or other matter.

“**Laws**” mean any common law or any code, law, ordinance, regulation, Order (administrative or other), treaty, rule, statute or reporting or licensing requirements, applicable to a Person or its assets, properties, Liabilities or business promulgated, interpreted or enforced by any Governmental Authority.

“**Lease Agreement**” has the meaning set forth in Section 4.21.

“**Legal Request**” has the meaning set forth in Section 11.16(c).

“**Liability**” or “**Liabilities**” means, with respect to any Person, any and all liabilities of any kind (whether known or unknown, contingent, accrued, due or to become due, secured or unsecured, matured or otherwise) including, but not limited to, Indebtedness, accounts payable, royalties payable, and other reserves, accrued bonuses and commissions, accrued vacation and any other form of leave, termination payment obligations, employee expense obligations and all other liabilities of such Person or any of its Subsidiaries or Affiliates, regardless of whether such liabilities are required to be reflected on a balance sheet in accordance with GAAP.

“**Liens**” means any and all liens, encumbrances, mortgages, charges, claims, pledges, security interests, title defects, voting agreements or trusts, transfer restrictions or other restrictions of any nature, other than restrictions under applicable securities laws.

“**Lock-Up Agreement**” has the meaning set forth in the Recitals.

“**Loss**” and “**Losses**” means any and all losses, Liabilities, claims, suits, obligations, judgments, liens, penalties, fines, Taxes, damages (other than punitive damages unless such punitive damages are actually awarded to a third party), and reasonable costs and expenses, including, but not limited to, reasonable attorneys’ fees and accounting fees and other expert fees (and other expenses related to litigation or other proceedings) and related disbursements, and any costs and expenses incurred in connection with investigating, defending against or settling any of the foregoing.

“**made available**” means as provided in that certain virtual data room titled “Project Maverick” on Intralinks at least two Business Days prior to the Agreement Date and not removed from such virtual data room prior to the Closing Date.

"**Management RSUs**" has the meaning set forth in Section 6.18.

"**Material Adverse Effect**" means (a) any change, event, violation, inaccuracy, circumstance or effect (each, an "**Effect**") that, individually or taken together with all other Effects, and regardless of whether such Effect constitutes a breach of any representations or warranties made by, or a breach of the covenants, agreements, or obligations of, the Company, has, or would reasonably be likely to have a material adverse effect on the Business, operations, assets, liabilities (absolute, accrued, contingent, or otherwise), financial condition, or prospects of the Company, taken as a whole; *provided* that none of the following shall be deemed to constitute, and none of the following shall be taken into account in determining whether there has been, a Material Adverse Effect: (i) changes in general economic conditions in the United States; (ii) changes affecting the industry generally in which the Company operates; (iii) the outbreak or escalation of war, hostilities, or terrorist activities, either in the United States or any other country or region in the world; (iv) changes in Law or GAAP; or (v) any failure, in and of itself, by the Company to meet internal or external projections or forecasts or revenue or earnings predictions (*provided* that the cause or basis for the Company failing to meet such projections or forecasts or revenue or earnings predictions may be considered in determining the existence of a Material Adverse Effect unless such cause or basis is otherwise excluded by this definition); unless, in the case of each of the foregoing clauses (i) through (iv), such changes disproportionately and materially affect the Company as compared to other Persons that operate in the industry in which the Company operates, or (b) any effect or circumstance that could reasonably be expected to materially impair or materially delay the Company's, TopCo's, or any Member's ability to perform under this Agreement or the other Transaction Documents.

"**Material Contract**" has the meaning set forth in Section 4.14(a).

"**Measurement Time**" means 11:59 p.m. (Central Time) on the day immediately prior to the Closing Date.

"**Member Cure Period**" has the meaning set forth in Section 9.1(d).

"**Member Cap**" has the meaning set forth in Section 10.3(c)(ii).

"**Member-Related Claims**" means any claim by any current, former or purported equityholder of the Company (including such holders of rights or instruments convertible or exercisable into equity securities) or any other Person, seeking to assert, or based upon (i) ownership or rights to ownership of any equity securities or securities convertible into or exercisable for equity securities, including, without limitation, preemptive, notice and voting rights, (ii) errors in formulas, definitions or provisions related to TopCo's payment of any proceeds in connection with the Redemption, including, without limitation, inaccurate calculation of the Members' Purchase Price Escrow Pro Rata Portion or the Members' Pro Rata Portion, (iii) rights under the Organizational Documents of the Company or TopCo, (iv) wrongful repurchase or cashing out of options, membership interests, or profits interests, of the Company or TopCo, or (v) otherwise in connection with the Transactions.

"**Members**" has the meaning set forth in the introductory paragraph of this Agreement.

"**Members' Representative**" has the meaning set forth in the introductory paragraph of this Agreement.

"**Membership Units**" means, collectively, the Class CG Units and the Class CO Units.

"**MidCo**" has the meaning set forth in the Recitals.

"**Minimum Company Cash**" means an amount of Company Cash equal to $2,000,000.

"**MWM**" has the meaning set forth in Section 11.16(a).

"**New Hire RSUs**" has the meaning set forth in Section 6.18.

"**Net Closing Cash Consideration**" means the Closing Cash Consideration *less* the Pearl Purchase Price.

"**Net Closing Payment**" means the Closing Payment *less* the Pearl Purchase Price.

"**Non-Disclosure Agreement**" means the Non-Disclosure Agreement, dated as of November 22, 2019, by and between the Company and Buyer, as amended by Amendment 1 thereto, dated as of November 17, 2020.

"**Offer Letter**" has the meaning set forth in the Recitals.

"**Open Source Software**" has the meaning set forth in Section 4.13(a)(ix).

"**Operating Agreement**" means that certain Second Amended and Restated Limited Liability Company Agreement of the Company, dated December 9, 2020, by and among the Members, the manager, and the Company, as the same may be amended and/or restated from time to time.

"**Order**" means any order, directive, judgment, assessment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.

"**Ordinary Course of Business**" means the ordinary and usual course of business of the Company consistent with past practices and customs.

"**Organizational Documents**" means (a) in the case of a Person that is a corporation, its articles or certificate of incorporation and its by-laws, regulations or similar governing instruments required by the laws of its jurisdiction of formation or organization; (b) in the case of a Person that is a partnership, its articles or certificate of partnership, formation or association, and its partnership agreement (in each case, limited, limited liability, general or otherwise); (c) in the case of a Person that is a limited liability company, its articles or certificate of formation or organization, and its limited liability company agreement or operating agreement; and (d) in the case of a Person that is none of a corporation, partnership (limited, limited liability, general or otherwise), limited liability company or natural person, its governing instruments as required or contemplated by the laws of its jurisdiction of organization.

"**Outbound Licenses**" has the meaning set forth in Section 4.13(g).

"**Pass-Through Returns**" has the meaning set forth in Section 6.7(a)(i).

"**Patents**" has the meaning set forth in Section 4.13(a)(viii).

"**Payment Agent**" means Acquiom Financial LLC, a Colorado limited liability company.

"**Payment Agent Agreement**" means the payment agent agreement to be entered into among Buyer, TopCo, the Members' Representative and the Payment Agent on the Closing Date, substantially in the form of Exhibit F to this Agreement.

"**Payoff Letters**" has the meaning set forth in Section 6.12.

“**Pearl**” means Pearl Technology Holdings, LLC, a Texas limited liability company.

“**Pearl Acquisition**” has the meaning set forth in Section 1.5(a)(vi).

“**Pearl Acquisition Agreement**” means that certain Asset Purchase Agreement, dated as of December 9, 2020, by and among the Company, Pearl and T5 Holdings, L.P., a Texas limited partnership.

“**Pearl Purchase Price**” means $15,000,000.00.

“**Permits**” means any permit, license, authorization, registration, certificate, variance or similar right issued or granted by any Governmental Authority (but excluding registrations of Intellectual Property Rights).

“**Permitted Liens**” means (i) statutory Liens for Taxes not yet due and payable, (ii) mechanics’, carriers’, workers’, repairers’ and other similar liens arising or incurred in the Ordinary Course of Business relating to obligations which are not individually, or in the aggregate, material, (iii) purchase money security interests in respect of personal property arising or incurred in the Ordinary Course of Business, and (iv) Liens under the AFG Line of Credit.

“**Person**” means a natural person, a partnership, a corporation, a company (limited liability or otherwise), an association, a joint stock company, a trust, a joint venture, an unincorporated organization, a Governmental Authority, or any department, agency or subdivision thereof.

“**Personally Identifiable Information**” has the meaning set forth in Section 4.13(a)(x).

“**PPP Application**” is defined in Section 4.27.

“**PPP Enforcement Action**” means any acceleration or demand for repayment of the PPP Loan by the PPP Lender or any Governmental Authority (including the U.S. Small Business Administration).

“**PPP Forgiveness Application**” is defined in Section 1.5(a)(xv).

“**PPP Forgiveness Board Authorization**” is defined in Section 1.5(a)(xv).

“**PPP Forgiveness Date**” has the meaning set forth in Section 10.7(c).

“**PPP Lender**” means JPMorgan Chase Bank, N.A.

“**PPP Loan**” means that certain SBA Loan by and between the Company and the PPP Lender.

“**PPP Loan Escrow Amount**” means an amount in cash equal to all accrued principal and interest under the PPP Loan.

“**PPP Loan Escrow Fund**” has the meaning set forth in Section 1.6(b).

“**PPP Termination Date**” has the meaning set forth in Section 10.1(d).

“**Pre-Closing Period**” has the meaning set forth in Section 6.1.

“**Pre-Closing Tax Period**” means (i) any taxable period ending on or before the Closing Date and (ii) the portion of any Straddle Period beginning on the first (1st) day of such Straddle Period and ending on (and including) the Closing Date.

“**Pre-Closing Taxes**” mean all (i) Taxes of the Company with respect to any Pre-Closing Tax Period, including, for the avoidance of doubt, the portion of any Straddle Period ending on the Closing Date determined in accordance with Section 6.7(c) (including, for this purpose, any “imputed underpayment” within the meaning of Section 6225 of the Code (or any similar or corresponding provision of state, local or foreign Law) paid or payable by the Company relating or attributable to a Pre-Closing Tax Period), (ii) Taxes for which the Company is held liable under Treasury Regulations Section 1.1502-6 (or any corresponding or similar provision of state, local or foreign Tax Law) by reason of the Company being included in any consolidated, affiliated, combined or unitary group in any Pre-Closing Tax Period, (iii) Taxes of another Person for which the Company is held liable as a result of being a successor or transferee of such Person on or prior to the Closing Date or as a result of any express or implied obligation existing on or prior to the Closing Date to indemnify any such Person, by Contract or otherwise, (iv) Transfer Taxes for which TopCo and the Members are responsible pursuant to Section 6.7(e), and (v) the employer’s share of any payroll or employment Tax attributable to compensatory payments made by the Company in connection with the Transactions.

“**Privacy Laws**” means any Laws that govern the receipt, collection, compilation, use, storage, processing, sharing, safeguarding, security, disposal, destruction, disclosure or transfer of Personally Identifiable Information and any such legal requirement governing privacy, data security, data or security breach notification, any penalties and compliance with any order, including, without limitation, the Gramm-Leach-Bliley Act, the California Online Privacy Protection Act, the California Consumer Privacy Act, the CAN-SPAM Act, the Telephone Consumer Protection Act of 1991, state Laws regulating the use of Personally Identifiable Information in connection with marketing purposes , the UK Data Protection Act 2018, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation or “**GDPR**”) and any analogous legislation in any jurisdiction in which the Company carries on its business and/or from which Company collects Personally Identifiable Information and all Laws regulating the privacy, security, and/or protection of Personally Identifiable Information.

“**Privacy Requirements**” has the meaning set forth in Section 3.13(n).

“**Privileged Deal Communications**” has the meaning set forth in Section 11.16(b).

“**Pro Rata Portion**” means, with respect to a Member, the percentage set forth next to the Member’s name in the applicable Consideration Spreadsheet. For purposes of clarity, the sum of all “**Pro Rata Portions**” shall at all times equal one hundred percent (100%).

“**PTO**” has the meaning set forth in Section 4.13(b).

“**Purchase Price**” has the meaning set forth in Section 1.3(a).

“**Purchase Price Allocation**” has the meaning set forth in Section 1.8(b).

“**Purchase Price Escrow Amount**” means an amount in cash equal to $6,000,000.

“**Purchase Price Escrow Contribution Amount**” for each Member shall be as provided in the applicable Consideration Spreadsheet. For purposes of clarity, the sum of all “**Purchase Price Escrow Contribution Amounts**” shall equal the Purchase Price Escrow Amount.

“**Purchase Price Escrow Fund**” has the meaning set forth in Section 1.6(a).

“**Purchase Price Escrow Pro Rata Portion**” means, with respect to a Member, the percentage set forth next to the Member’s name in the applicable Consideration Spreadsheet. For purposes of clarity, the sum of all “**Purchase Price Escrow Pro Rata Portions**” shall at all times equal one hundred percent (100%).

“**Purchase Price Excess**” has the meaning set forth in Section 1.9(d).

“**Purchased Units**” has the meaning set forth in Section 1.2.

“**R&W Insurance Policy**” means that certain representation and warranties insurance policy underwritten by the R&W Insurer, Policy No. BC-BS-2020-99225-0459.

“**R&W Insurance Policy Costs**” means all costs and expenses associated with the R&W Insurance Policy (including all premiums, underwriting fees, surplus line taxes, premium taxes, brokerage fees and commissions), but excluding the costs of each party’s legal counsel in negotiating and advising with respect to such R&W Insurance Policy.

“**R&W Insurer**” means BlueChip Underwriting Services LLC.

“Reclassified Employee” has the meaning set forth in Section 7.14(d).

“**Redemption**” has the meaning set forth in the Recitals.

“**Redemption Agreement**” has the meaning set forth in the Recitals.

“**Registered Intellectual Property**” has the meaning set forth in Section 4.13(a)(xi).

“**Released Causes of Action**” has the meaning set forth in Section 6.10.

“**Released Parties**” has the meaning set forth in Section 6.10.

“**Releasing Parties**” has the meaning set forth in Section 6.10.

“**Representative Expense Fund**” has the meaning set forth in Section 1.3(d).

“**Representatives**” means directors, managers, officers, employees, agents, attorneys, accountants, advisors and representatives.

“**Restricted Cash**” means any cash which is not freely usable by the Company because it is subject to restrictions, limitations or taxes on use or distribution by Law, contract or otherwise, including, without limitation, restrictions on dividends and repatriations or any other form of restriction.

“**Restrictive Covenant Agreement**” has the meaning set forth in the Recitals.

“**Retained Escrow Amount**” has the meaning set forth in Section 10.7(a).

“**Retention Escrow Amount**” means an amount in cash equal to $4,000,000.

“**Retention Escrow Fund**” has the meaning set forth in Section 1.6(a).

“**Revised Purchase Price Allocation**” has the meaning set forth in Section 1.8(b).

"**Sanctioned Country**" has the meaning set forth in Section 4.22(c).

"**SEC**" means the U.S. Securities and Exchange Commission.

"**Securities Act**" means the Securities Act of 1933, as amended.

"**Specially Designated Nationals and Blocked Persons List**" has the meaning set forth in Section 4.22(c).

"**Specified Matters**" has the meaning set forth in Section 10.2(a)(ix).

"**Specified Matters Escrow Amount**" means an amount equal to $175,000.

"**Specified Matters Escrow Fund**" has the meaning set forth in Section 1.6(a).

"**Specified Matters Expiration Date**" has the meaning set forth in Section 10.7(c).

"**Specified Matters Retained Escrow Amount**" has the meaning set forth in Section 10.7(c).

"**Standard Form Agreements**" has the meaning set forth in Section 4.13(f).

"**Straddle Period**" means any taxable period beginning before or on the Closing Date and ending after the Closing Date.

"**Subject Provision**" has the meaning set forth in Section 10.5(a).

"**Subsidiary**" means, with respect to any Person, any other Person of which more than 50% of the securities or other ownership interests having by their terms ordinary voting power to elect a majority of the board of directors or of other Persons performing similar functions, or to receive more than 50% of the profits or losses, of such other Person is directly or indirectly owned or controlled by such Person, by one or more of such Person's Subsidiaries (as defined in the preceding clause) or by such Person and any one or more of such Person's Subsidiaries.

"**Tax**" or "**Taxes**" means (i) any net income, alternative or add-on minimum tax, gross income, estimated, gross receipts, sales, use, ad valorem, value added, transfer, franchise, fringe benefit, membership interest, profits, license, registration, withholding, payroll, social security (or equivalent), employment, unemployment, disability, excise, severance, stamp, occupation, premium, property (real, tangible or intangible), environmental, escheat or windfall profit tax, custom duty or other tax, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest or any penalty, addition to tax or additional amount (whether disputed or not) imposed by any Governmental Authority responsible for the imposition of any such tax, (ii) any Liability for the payment of any amounts of the type described in clause (i) of this sentence as a result of being (or ceasing to be) a member of an affiliated, consolidated, combined, unitary or aggregate group for any taxable period, and (iii) any Liability for the payment of any amounts of the type described in clause (i) or (ii) of this sentence as a result of being a transferee of or successor to any Person or as a result of any express or implied obligation to assume such Taxes or to indemnify any other Person.

"**Tax Contest**" has the meaning set forth in Section 6.7(d).

"**Tax Return**" means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

"**Technology**" has the meaning set forth in Section 4.13(a)(xii).

"**Third Party Claim**" has the meaning set forth in Section 10.6(a).

"**Third Party Dispute**" has the meaning set forth in Section 11.16(c).

"**TopCo**" has the meaning set forth in the introductory paragraph of this Agreement.

"**Trademarks**" has the meaning set forth in Section 4.13(a)(viii).

"**Transaction Documents**" means this Agreement, the Operating Agreement, the Restrictive Covenant Agreements, the Vesting Agreement, the Lock-Up Agreements, the Guarantee, the Redemption Agreements, the Non-Disclosure Agreement, and each agreement, document, schedule, certificate or other instrument executed or delivered in connection with this Agreement.

"Transactions" means the transactions contemplated by this Agreement and the Transaction Documents.

"**Transfer**" means, with respect to any security, to sell, offer, pledge, contract to sell, grant any option, right or contract to purchase, or otherwise transfer (including by gift or operation of law), dispose of, hypothecate or encumber, directly or indirectly, such security.

"**Transfer Taxes**" has the meaning set forth in Section 6.7(e).

"**Unaccredited Investor**" means any Member who is not an Accredited Investor.

"**Unaudited Interim Balance Sheet**" has the meaning set forth in Section 4.7(a).

"**URLs**" has the meaning set forth in Section 4.13(a)(viii).

"**Vesting Agreement**" has the meaning set forth in the Recitals.

"**WARN Act**" has the meaning set forth in Section 4.17(g).

1.2 Purchase and Sale of Membership Units

. Subject to the terms and conditions set forth herein, at the Closing, and in reliance on the representations, warranties, covenants and agreements made herein, the Company shall sell to Buyer, and Buyer shall purchase from the Company, the number of Class CG Units set forth on Schedule 1 (the "**Purchased Units**"), free and clear of all Liens, for the consideration specified in Section 1.3.

1.3 Purchase Price; Consideration Spreadsheets

.

(a) Subject to the terms and conditions hereof, the aggregate consideration to be paid or issued by Buyer as consideration for the Purchased Units shall be the Gross Consideration (the "**Purchase Price**"), subject to adjustment as provided in Section 1.9. At the Closing, Buyer shall deliver the portion of the Purchase Price constituting the Closing Payment as provided in Section 1.5(b)(i) and Section 1.5(b)(ii) in exchange for the Purchased Units. The Company and TopCo each acknowledge and agree that upon delivery of the Net Closing Payment, the Company Note Repayment shall be effectuated

and the Company Note shall be cancelled and terminated in its entirety as of the Closing with no further liability or obligation of the Company thereunder and the Company will forever be released from any and all further obligations under the Company Note.

(b) The Company and TopCo shall prepare and deliver to Buyer, no less than three (3) Business Days prior to the Closing, a spreadsheet (the "**Initial Consideration Spreadsheet**"), duly executed by the Chief Executive Officer of each of the Company and TopCo, setting forth all of the following information, as of the Closing Date: (i) the names of all Members and their respective addresses and email addresses (and such other information as the Payment Agent may reasonably request) and whether such Member is an Unaccredited Investor or an Accredited Investor; (ii) the equity interests of TopCo held by such Members immediately prior to the Closing; (iii) the calculation of the Purchase Price, (iv) the Adjustment Amount, the Closing Buyer Shares Consideration and the Closing Cash Consideration; (v) the amount of Company Transaction Expenses (including an itemized list of each such Company Transaction Expense and, if applicable, the Person to whom such expense is owed and the wire transfer information for each such Person); (vi) the Closing Indebtedness Amount (including an itemized list of each such item of Indebtedness and the Person, if any, to whom such Indebtedness is owed and the wire transfer information for each such Person); (vii) the amount of the Pearl Purchase Price payable to Pearl (and the wire transfer information for Pearl); (viii) the amount of the Net Closing Cash Consideration and Closing Buyer Share Consideration payable or issuable to each Member (subject to the terms and conditions of this Agreement) on behalf of TopCo in connection with the Redemption; (ix) the Purchase Price Escrow Amount; (x) the Retention Escrow Amount; (xi) the PPP Loan Escrow Amount; (x) the Specified Matters Escrow Amount; (xi) the Representative Expense Fund (and the wire transfer information for the segregated account established by the Members' Representative for that purpose); (xii) each Member's Pro Rata Portion (as of the Closing Date) of the amounts contributed to the Retention Escrow Amount, the PPP Loan Escrow Amount, the Specified Matters Escrow Amount and the Representative Expense Fund as of the Closing Date; (xiii) each Member's Purchase Price Escrow Pro Rata Portion (as of the Closing Date) of the amounts contributed to the Purchase Price Escrow Amount as of the Closing Date; (xiv) wire instructions for each Member; and (xv) information regarding each Member as reasonably requested by Buyer in connection with the issuance of the Closing Buyer Shares to the Members in book entry (electronic form), in each case, together with documentation reasonably satisfactory to Buyer in support of any calculation of amounts set forth therein.

(c) The Members' Representative shall prepare and deliver to Buyer one or more spreadsheet(s) (each, a "**Future Consideration Spreadsheet**" and together with the Initial Consideration Spreadsheet, the "**Consideration Spreadsheets**"), which sets forth the allocation of each payment to be made to the Members after the Closing Date on behalf of TopCo in connection with the payment of the adjustments to the Final Purchase Price pursuant to Section 1.9 or the release of any amounts from the Escrow Fund or the Representative Expense Fund, together with such supporting documentation and access to the Company's Books and Records as is reasonably requested by Buyer to permit Buyer to review the calculation of amounts set forth therein. The Members' Representative shall deliver to Buyer each applicable Future Consideration Spreadsheet (i) with respect to the payment of the Final Purchase Price (if any is payable to the Members on behalf of TopCo) no less than three (3) Business Days after receipt of the Final Closing Date Statement with respect to the payment of adjustments to the Final Purchase Price pursuant to Section 1.9, and (ii) with respect to the release of any portion of the Escrow Fund or the Representative Expense Fund (if any is payable to the Members on behalf of TopCo) no less than three (3) Business Days prior to the scheduled release of any amount of the Escrow Fund or Representative Expense Fund, in each case together with such documentation as is reasonably requested by Buyer to permit Buyer to review the calculation of amounts set forth therein.

(d) $200,000 (the "**Representative Expense Fund**") shall be withheld from the Cash Consideration and paid to the Members' Representative to be used, in the sole and absolute discretion of

the Members' Representative, to pay the costs and expenses, if any, incurred by the Members' Representative in accordance with or otherwise related to this Agreement and the Transactions, and any other costs or expenses incurred by the Members' Representative in the performance of its obligations, which shall be retained by the Members' Representative in a segregated account designated for that purpose until such time as the Members' Representative shall determine, and, subject to the terms of this Agreement, the balance of such Representative Expense Fund shall be delivered by the Members' Representative in the amounts set forth on the applicable Future Consideration Spreadsheet to the Payment Agent, for further distribution to the Members on behalf of TopCo in accordance with their respective Pro Rata Portions; *provided, however*, that neither Buyer nor the Company shall have any Liability or be responsible in any capacity in connection with the Members' Representative's failure to deliver such balance.

1.4 Closing

. Unless this Agreement is validly terminated pursuant to Article IX, the closing of the Transactions (the "**Closing**") shall take place at 10:00 a.m. Eastern Time at the offices of Goodwin Procter LLP at 100 Northern Avenue, Boston, Massachusetts on the later of (i) January 14, 2021 or such earlier date determined by Buyer in its sole discretion, and (ii) the third (3rd) Business Day after the satisfaction or waiver of the last to be satisfied or waived of the conditions set forth in Article VII and Article VIII (other than those conditions which are to be satisfied at the Closing, but subject to the satisfaction or waiver of such conditions) or at such other time and/or date as Buyer and the Company may jointly designate. The Closing and exchange of documents may take place by facsimile or other electronic transmission. The date on which the Closing actually takes place is referred to in this Agreement as the "**Closing Date**."

1.5 Deliveries at Closing

.

(a) At or prior to the Closing, the Company, TopCo, or the Members' Representative shall deliver, or cause to be delivered, to Buyer:

(i) evidence of the issuance of the Purchased Units in a form reasonably acceptable to Buyer, vesting all right, title and interest in such Purchased Units in Buyer;

(ii) the Transaction Documents executed by the Company, TopCo, and the Members, as applicable, and all other agreements, documents, instruments or certificates required to be delivered by the Company, TopCo, and the Members at or prior to the Closing pursuant to Article VII;

(iii) the Escrow Agreement, duly executed by the Members' Representative and TopCo;

(iv) the Payment Agent Agreement, duly executed by the Members' Representative, TopCo, and the Payment Agent;

(v) the Company Closing Certificate;

(vi) written certification by the Chief Executive Officer of each of the Company and Pearl of the closing of the acquisition of the assets of Pearl in accordance with the Pearl Acquisition Agreement on the Closing Date (such acquisition, the "**Pearl Acquisition**"), including, without limitation, the execution and delivery of all documents required for closing and the satisfaction of all other conditions to closing subject only to funding of the Pearl Purchase Price on the Closing Date pursuant to this Agreement;

(vii) the Payoff Letters and evidence in form satisfactory to Buyer that all Liens relating to the Company and Company Assets shall have been released in full, other than Permitted Liens;

(viii) a written acknowledgement by TopCo in form satisfactory to Buyer that the Company Note is to be satisfied in full upon the payment of the Purchase Price;

(ix) an IRS Form W-9 (or other proof of exemption from withholding under Section 1445 and 1446(f) of the Code in connection with the Transactions reasonably satisfactory to Buyer) validly executed by each Member and TopCo;

(x) evidence reasonably satisfactory to Buyer that all security interests and other Liens, other than Permitted Liens, in any assets of the Company have been released prior to or shall be released simultaneously with the Closing;

(xi) evidence of termination of the agreements listed on Schedule 7.9;

(xii) the deliverables of the Company and Members set forth in Article VII;

(xiii) completion of the RSM Sarbanes-Oxley audit and delivery of the RSM report;

(xiv) a finalized forgiveness application in the form prescribed by the PPP Lender (the "**PPP Forgiveness Application**") with all supporting documentation including, but not limited to, evidence of each of the amounts used in the forgiveness amount calculation therein, together with a certificate executed by the Chief Executive Officer of the Company, in form and substance reasonably satisfactory to Purchaser, certifying that the PPP Loan Forgiveness Application was submitted to the PPP Lender and attaching a copy of each of the PPP Forgiveness Application and the resolutions of the Managers of the Company approving the PPP Forgiveness Application (such resolutions the "**PPP Forgiveness Board Authorization**").

(b) At or prior to the Closing, Buyer shall deliver or cause to be delivered the following:

(i) by wire transfer of immediately available funds to the account of the Payment Agent on behalf of the Company for further payment to the Members on behalf of TopCo pursuant to the Redemption, cash in an amount equal to the Estimated Cash Consideration, *less* the sum of (y) the Escrow Funds, *plus* (z) the Representative Expense Fund (the "**Closing Cash Consideration**"), and *less* the Pearl Purchase Price;

(ii) to the Exchange Agent the Buyer Shares for the account of the Company for immediate distribution to TopCo in connection with the Company Note Repayment, and then to the Members pursuant to the Redemptions (the "**Closing Buyer Shares Consideration**" and, together with the Closing Cash Consideration, the "**Closing Payment**"), which Buyer Shares will be delivered in book entry (electronic form);

(iii) cash in an amount equal to the Pearl Purchase Price to Pearl on behalf of the Company, by wire transfer of immediately available funds as set forth in the Initial Consideration Spreadsheet;

(iv) cash in an amount equal to the Representative Expense Fund to the Members' Representative, by wire transfer of immediately available funds as set forth in the Initial Consideration Spreadsheet;

(v) cash in an amount equal to the Company Transaction Expenses set forth in the Initial Consideration Spreadsheet, by wire transfer of immediately available funds, to each of the payees set forth in such Initial Consideration Spreadsheet;

(vi) cash in an amount equal to the Closing Indebtedness Amount set forth in the Initial Consideration Spreadsheet each of the payees set forth in such Initial Consideration Spreadsheet, to the extent applicable;

(vii) cash in an amount equal to the PPP Loan Escrow Amount, by wire transfer of immediately available funds, to the PPP Lender as set forth in the Initial Consideration Spreadsheet;

(viii) the Buyer Closing Certificate to the Members' Representative;

(ix) the Escrow Agreement, duly executed by Buyer and the Escrow Agent, to the Members' Representative and TopCo;

(x) the Payment Agent Agreement, duly executed by Buyer, to the Members' Representative; and

(xi) to the Members' Representative and TopCo, the Transaction Documents executed by Buyer, as applicable, including all other agreements, documents, instruments or certificates required to be delivered by Buyer at or prior to the Closing pursuant to Article VIII.

1.6 Escrows

.

(a) TopCo, the Company and the Members acknowledge and agree that at the Closing, Buyer shall withhold from the Estimated Cash Consideration payable pursuant hereto, and deposit into an escrow account with Acquiom Clearinghouse LLC (the "**Escrow Agent**"): (i) an amount in cash equal to the Purchase Price Escrow Amount (the "**Purchase Price Escrow Fund**"), to secure any payment obligations of the Members in respect of the Purchase Price under Section 1.9 of this Agreement, (ii) an amount in cash equal to the Retention Escrow Amount to secure any indemnification payment obligations of the Members in respect of Article X of this Agreement (the "**Retention Escrow Fund**"), and (iii) an amount in cash equal to the Specified Matters Escrow Amount to secure any indemnification payment obligations of the Members in respect of those specified matters set forth in Section 10.2(a)(ix) of this Agreement (the "**Specified Matters Escrow Fund**" and, collectively with the Purchase Price Escrow Fund, and the Retention Escrow Fund, the "**Escrow Fund**"). The Escrow Fund shall be held by the Escrow Agent and disbursed by it solely for the purposes and in accordance with the terms of this Agreement and the provisions of the escrow agreement to be entered into among Buyer, the Members' Representative, TopCo, and the Escrow Agent on the Closing Date, substantially in the form of Exhibit G to this Agreement (the "**Escrow Agreement**"). The terms and provisions of the Escrow Agreement and the transactions contemplated thereby are specific terms of this Agreement, and the approval and execution of this Agreement by TopCo and the Members shall constitute approval by TopCo and the Members, and the irrevocable agreement of TopCo and the Members to be bound by and comply with, the Escrow Agreement and all of the arrangements and provisions of this Agreement relating thereto, including the deposit of the Escrow Amount into escrow and the indemnification obligations set forth in Article X hereof.

(b) Prior to the Closing, the Company has deposited into an escrow account with the PPP Lender an amount in cash equal to the PPP Loan Escrow Amount (the "**PPP Loan Escrow Fund**"), to secure any payment obligations of the Company or the Members in respect of the repayment and discharge of the PPP Loan to the extent the PPP Loan is not forgiven. The PPP Loan Escrow Fund shall be held by the PPP Lender in accordance with the terms of the PPP Forgiveness Application and the Laws applicable thereto. The terms and provisions of the Forgiveness Application and the transactions contemplated thereby are specific terms of this Agreement, and the approval and execution of this Agreement by TopCo and the Members shall constitute approval by TopCo and the Members, and the irrevocable agreement of TopCo and the Members to be bound by and comply with, the PPP Loan Escrow Fund and the Loan Forgiveness Application and all of the arrangements and provisions of this Agreement relating thereto, including the deposit of the PPP Loan Escrow Fund into escrow with the PPP Lender.

1.7 Payment

.

(a) Within one (1) Business Day of the Closing Date (subject to the Payment Agent's timely receipt with respect to each Member of wire transfer information and executed Form W-9 or other applicable tax form), the Company, TopCo, and Buyer shall cause the Payment Agent to pay to each Member the amount of the Net Closing Cash Consideration as provided in the Initial Consideration Spreadsheet in connection with the Redemption (in accordance with, and subject to, the terms and conditions of this Agreement and the Redemption Agreements).

(b) If payment of a portion of the Cash Consideration payable to a Member is to be made to a Person other than the Member set forth on the Consideration Spreadsheet, it shall be a condition to such payment that the Person requesting such payment shall have paid any transfer and other Taxes required by reason of such payment in a name other than that of the Member set forth in the Consideration Spreadsheet or shall have established to the satisfaction of Buyer that such Tax either has been paid or is not payable.

(c) Any portion of the Cash Consideration that remains undistributed to Members as of the date that is one hundred eighty (180) days after the Agreement Date shall be delivered to Buyer upon demand, and Members who have not theretofore received their share of the Cash Consideration, shall thereafter look only to Buyer for satisfaction of their claims for the Cash Consideration without any interest thereon.

(d) Notwithstanding anything in this Agreement to the contrary neither Buyer nor any other Person shall be liable to TopCo, the Members, or to any other Person for any amount paid to a public official pursuant to applicable abandoned property law, escheat law or similar applicable Law. Any Purchase Price or other amounts remaining unclaimed by Members three (3) years after the Closing (or such earlier date immediately prior to such time as such amounts would otherwise escheat to or become property of any Governmental Authority) shall, to the extent permitted by applicable Laws, become the property of Buyer free and clear of any Lien.

(e) Each of the Payment Agent, the Exchange Agent, the Escrow Agent, Buyer, TopCo, and the Company shall be entitled to deduct and withhold from any amount otherwise payable pursuant to this Agreement (including all amounts to be contributed to the Escrow Fund in accordance with Section 1.6(a)) such amounts as it is required to deduct and withhold with respect to the making of such payment under the Code or any provision of state, local or foreign Tax law or under any other applicable Law. To the extent such amounts are so deducted or withheld, such amounts shall be treated for all purposes under this Agreement as having been paid to the Person to whom such amounts would otherwise have been paid.

(f) No fractional shares of Buyer Common Stock will be issued in connection with the consummation of the Transactions.

1.8 Tax Treatment and Purchase Price Allocation

.

(a) The parties hereto acknowledge and agree that, for U.S. federal (and applicable state and local) income Tax purposes, the Transactions will be reported in a manner that is consistent with the treatment described in this Section 1.8(a), and each party hereto (and each of their respective Affiliates) shall prepare and file all Tax Returns on a basis consistent with this Section 1.8(a) and shall take no inconsistent position on any Tax Return, in any audit or similar proceeding before any Governmental Authority, or otherwise. In particular:

(i) Following the Members' contribution of all of the outstanding membership interests of the Company to TopCo in exchange for equivalent membership interests in TopCo, TopCo shall be treated as a continuation of the existing tax partnership under Section 708(a) of the Code.

(ii) Effective as of January 1, 2021, upon filing of the Check-the-Box Election, the Company shall be treated as a newly formed partnership for income Tax purposes.

(iii) The sale of the Purchased Units by the Company to Buyer pursuant to this Agreement is intended to be treated as a contribution of property by Buyer to the Company pursuant to Section 721 of the Code.

(iv) The Company Note Repayment is intended to be treated as a "disguised sale" (pursuant to Section 707(a)(2) of the Code and the Treasury Regulations thereunder) of property by TopCo to the Company.

(b) Buyer and the Members shall allocate the amount of the Company Note Repayment, all other applicable capitalized costs, and other relevant items among the assets of the Company in accordance with the allocation to be determined by Buyer in good faith within ninety (90) days following the Closing (the "**Purchase Price Allocation**"). The Purchase Price Allocation Schedule will be prepared in accordance with the rules under Sections 743, 751, 755 and 1060 of the Code, as applicable, and the Treasury Regulations promulgated thereunder and in a manner consistent with the methodologies set forth on Schedule 1.8(b). Buyer shall permit the Members' Representative, at the Members' expense, to review and comment on the Purchase Price Allocation within fifteen (15) days of the Purchase Price Allocation being delivered by Buyer. Buyer will consider any comments to the Purchase Price Allocation that are consistent with the methodologies set forth on Schedule 1.8(b) and the rules under Sections 743, 751, 755 and 1060 of the Code, as applicable, and the Treasury Regulations promulgated thereunder, in good faith; *provided, however*, if Buyer does not receive comments from the Members' Representative within the fifteen (15)-day review period, the Members' Representative shall be deemed to have no comments to the Purchase Price Allocation and Buyer shall have final control over the Purchase Price Allocation. Buyer shall prepare and deliver to the Members' Representative, from time to time, revised or supplemental copies of the Purchase Price Allocation (a "**Revised Purchase Price Allocation**") so as to report any necessary updates to the Purchase Price Allocation or as may be required by Sections 743, 751, 755 and 1060 of the Code, as applicable, and the Treasury Regulations promulgated thereunder (including any adjustments to the Purchase Price, if any). Buyer and the Members shall file all Tax Returns consistent with the Purchase Price Allocation and any Revised Purchase Price Allocation and no party hereto shall take any position for Tax purposes inconsistent with such allocation; *provided*, that the parties acknowledge that Buyer and its Affiliates may use a different allocation for financial reporting purposes.

1.9 Closing Adjustment

.

(a) The Company shall deliver to Buyer no later than five (5) Business Days prior to the Closing Date a statement that sets forth the Company's good faith estimate of (i) the balance sheet of the Company as of the Measurement Time (the "**Estimated Balance Sheet**"), which shall be prepared in accordance with the Accounting Principles; (ii) the Closing Date Net Working Capital and, based thereon, the Adjustment Amount; (iii) the Company Cash and, based thereon, the amount of the Company Cash Deficiency (if any), (iv) the Closing Indebtedness Amount, (v) the Company Transaction Expenses and, based thereon, (vi) the Purchase Price (the "**Estimated Purchase Price**") and the Cash Consideration (the "**Estimated Cash Consideration**"), together with reasonably detailed calculations demonstrating each component thereof and such documentation and access to the Company's Books and Records as is reasonably requested by Buyer to permit Buyer to review the calculation of amounts set forth therein. Buyer shall have the ability to review and provide comments to (i) – (vi) above and the Company shall consider in good faith Buyer's comments.

(b) No later than ninety (90) days after the Closing Date, Buyer shall prepare and deliver to the Members' Representative a statement that sets forth Buyer's calculation of (i) the balance sheet of the Company as of the Measurement Time (the "**Closing Date Balance Sheet**") which shall be prepared in accordance with the Accounting Principles, (ii) the Closing Date Net Working Capital and, based thereon, the Adjustment Amount, (iii) the Company Cash and, based thereon, the amount of the Company Cash Deficiency (if any), (iv) the Closing Indebtedness Amount, (v) the Company Transaction Expenses and, based thereon, (vi) the Purchase Price and the Cash Consideration, together with reasonably detailed supporting calculations demonstrating each component thereof (the "**Closing Date Statement**").

(c) The Members' Representative shall have thirty (30) days after delivery of the Closing Date Statement in which to notify Buyer in writing (such notice, a "**Closing Date Dispute Notice**") of any discrepancy in, or disagreement with, the items reflected on the Closing Date Statement (and specifying the amount of each item in dispute and setting forth in reasonable detail the basis for each such discrepancy or disagreement), and upon agreement by Buyer regarding the adjustment requested by the Members' Representative, an appropriate adjustment shall be made thereto. If the Members' Representative does not deliver a Closing Date Dispute Notice to Buyer during such thirty (30)-day period, the Closing Date Statement shall be deemed to be accepted in the form presented to the Members' Representative. If the Members' Representative timely delivers a Closing Date Dispute Notice and Buyer and the Members' Representative do not agree, within thirty (30) days after timely delivery of the Closing Date Dispute Notice, to resolve any discrepancy or disagreement therein, either the Members' Representative or Buyer may submit the discrepancy or disagreement for review and final determination by the Independent Accounting Firm, it being understood that in making such determination, the Independent Accounting Firm shall be functioning as an expert and not as an arbitrator. The review by the Independent Accounting Firm shall be limited solely to the discrepancies and disagreements set forth in the Closing Date Dispute Notice and a single written submission to the Independent Accounting Firm by each of Buyer and the Members' Representative with respect to such discrepancies and disagreements (which shall also be provided to the other party). The resolution of such discrepancies and disagreements and the determination of the Closing Date Net Working Capital and the resulting Adjustment Amount, the Company Cash and the resulting Company Cash Deficiency (if any), the Closing Indebtedness Amount, and the Company Transaction Expenses by the Independent Accounting Firm shall be (i) in writing, (ii) made in accordance with the Accounting Principles, definitions and relevant provisions of this Agreement, (iii) with respect to any specific discrepancy or disagreement, no greater than the higher amount calculated by Buyer or the Members' Representative, as the case may be, and no lower than the lower amount calculated by Buyer or the Members' Representative as the case may be, (iv) made as promptly as practicable after the submission of such discrepancies and disagreements to the Independent Accounting Firm (but in no event later than thirty (30) days after the date of submission), and (v) final and binding

upon, and non-appealable by, the parties hereto and their respective successors and assigns for all purposes hereof, and not subject to collateral attack for any reason absent manifest error or fraud. The fees, costs and expenses of the Independent Accounting Firm shall be allocated to and borne by Buyer and the Members (in accordance with their respective Purchase Price Escrow Pro Rata Portions, which may be paid out of the Representative Expense Fund to the extent thereof) based on the inverse of the percentage that the Independent Accounting Firm's determination (before such allocation) bears to the total amount of the total items in dispute as originally submitted to the Independent Accounting Firm. For example, should the aggregate value of the items in dispute equal $1,000 and the Independent Accounting Firm awards $600 in favor of the Members' Representative's position and $400 in favor of Buyer, then sixty percent (60%) of the costs of its review would be borne by Buyer and forty percent (40%) of such costs would be borne by the Members' Representative (on behalf of the Members). Within five (5) Business Days of the resolution of all matters set forth in the Closing Date Dispute Notice, by mutual agreement of Buyer and the Members' Representative or by the Independent Accounting Firm, Buyer shall prepare a revised version of the Closing Date Statement including an updated Purchase Price and Cash Consideration (the "**Final Purchase Price**") reflecting such resolution and shall deliver copies thereof to the Members' Representative, and such revised version (and all amounts set forth therein) shall be considered final and binding on the parties (the "**Final Closing Date Statement**").

(d) If the Final Purchase Price exceeds the Estimated Purchase Price, Buyer shall pay to the Payment Agent for distribution to the Members on behalf of TopCo in connection with the Redemption the entire amount of such difference in cash by wire transfer of immediately available funds, and Buyer and the Members' Representative shall instruct the Escrow Agent to release to the Payment Agent the entire balance of the Purchase Price Escrow Fund, in each case for further distribution to the Members in accordance with the applicable Consideration Spreadsheet and such Members' Purchase Price Escrow Pro Rata Portions. If the Estimated Purchase Price exceeds the Final Purchase Price, the Members' Representative (on behalf of each Member) and Buyer shall instruct the Escrow Agent to pay the entire amount of such difference to Buyer out of the Purchase Price Escrow Fund, with any remaining balance of the Purchase Price Escrow Fund to be paid by the Escrow Agent to the Payment Agent (for further distribution to the Members in accordance with the applicable Consideration Spreadsheet and such Members' Purchase Price Escrow Pro Rata Portions); *provided, however*, that if the amount payable to Buyer under this Section 1.9(d) exceeds the Purchase Price Escrow Fund (a "**Purchase Price Excess**"), Buyer shall have the right to require the Members, severally and not jointly, in each case based on their then current respective Purchase Price Escrow Pro Rata Portions to pay to Buyer the Purchase Price Excess in cash by wire transfer of immediately available funds. If the Final Purchase Price is equal to the Estimated Purchase Price, there shall not be any adjustment.

(e) Any payments made pursuant to Section 1.9 shall be treated as an adjustment to the Purchase Price by the parties for Tax purposes, unless otherwise required by Law.

1.10 Further Action

. If, at any time after the Closing, any further action is reasonably determined by Buyer to be necessary or desirable to carry out the purposes of this Agreement or to vest Buyer with full right, title and possession of and to all rights and interests to the Purchased Units, the officers and directors of the Company and Buyer shall be fully authorized (in the name of the Company and otherwise) to take such action.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF THE MEMBERS

Each Member hereby severally, and not jointly, represents and warrants to Buyer, on the Agreement Date and (except where a representation or warranty is made herein as of a specified date) as of the Closing, as though made at the Closing, as follows:

2.1 Ownership

. Such Member is the beneficial and record owner of, has good and valid title to, and, in the case of equity interests with voting power, has unrestricted power to vote, all of the equity interests of TopCo set forth opposite such Member's name on Section 2.1 of the Disclosure Schedule, in each case free and clear of all Liens, other than restrictions on Transfer set forth in the TopCo Organizational Documents.

2.2 Authorization; Enforceability

. Such Member has the necessary power, authority, right and capacity to execute and deliver this Agreement and each of the other Transaction Documents to which it is a party, to perform its obligations hereunder and thereunder, and to consummate the transactions contemplated herein and therein. The execution, delivery and performance by such Member of this Agreement and each of the other Transaction Documents to which it is a party, and the consummation by such Member of the Transactions and thereby have been duly authorized by all necessary action on the part of such Member (if any). This Agreement and each other Transaction Document to which such Member is a party intended to be executed on or before the Agreement Date have been, and each other Transaction Document to which such Member is a party will be, duly executed and delivered by such Member and, assuming the due authorization, execution and delivery thereof by Buyer to the extent a party thereto, each constitutes or, with respect to such other Transaction Documents to be executed after the Agreement Date, will each constitute a valid and binding agreement of such Member, enforceable against such Member in accordance with its terms, subject to limitations on enforcement and other remedies imposed by or arising under or in connection with (i) applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws now or hereafter in effect relating to or affecting rights of creditors generally, and (ii) rules of law and general principles of equity, including those governing specific performance, injunctive relief and other equitable remedies (the "**General Enforceability Exceptions**").

2.3 Non-Contravention

. The execution, delivery and performance by such Member of this Agreement and each other Transaction Document to which it is a party, and the consummation by such Member of the Transactions and thereby, do not and will not (i) contravene or conflict with or constitute a violation of any contract, agreement, Permit, license, authorization or obligation to which such Member is a party or by which its assets are bound; (ii) contravene or conflict with or constitute a violation of any provision of any Law binding upon or applicable to such Member; (iii) constitute a default or breach under or give rise to any right of termination, cancellation or acceleration of any right or obligation of such Member or to a loss of any benefit to which such Member is entitled.

2.4 Ownership of Equity Interests

. Such Member has not (i) transferred any of the equity interests of TopCo set forth opposite such Member's name on Section 2.1 of the Disclosure Schedule, or any interest therein, (ii) granted any options, warrants, calls or any other rights to purchase or otherwise acquire any such equity interests or any interest therein, or (iii) entered into any Contract with respect to any of the matters contemplated by clauses (i) or (ii).

2.5 No Actions

. There is no Action of any nature pending, or to the Knowledge of such Member, threatened, against such Member or any of such Member's properties (whether tangible or intangible) or, if such Member is an entity, any of such Member's officers, managers or directors (in their capacities as such), arising out of or relating to: (i) such Member's beneficial ownership of securities of TopCo or any right to acquire the same, (ii) this Agreement, any Transaction Document to which such Member is a party or any of the Transactions or thereby, or (iii) any other Contract between such Member (or any of its Affiliates) and the Company or any of its Affiliates, nor to the Knowledge of such Member, is there any reasonable basis therefor. There is no Action pending or, to the Knowledge of such Member,

threatened against such Member with respect to which such Member has the right, pursuant to Contract, the Laws of the State of Delaware or otherwise, to indemnification from the Company or any of its Affiliates related to facts and circumstances existing prior to the Agreement Date, nor to the Knowledge of such Member, are there any facts or circumstances that would reasonably be expected to give rise to such an Action.

2.6 Consents

. There are no Contracts binding upon such Member requiring notice, consent, waiver, authorization or approval as a result of the execution, delivery and performance of this Agreement or the Transaction Documents to which such Member is a party or the consummation of the Transactions and thereby. Neither the execution, delivery or performance by such Member of this Agreement or the Transaction Documents to which it is a party, nor the consummation by such Member of the Transactions and thereby, requires any consent of, authorization by, exemption from, filing with, or notice to any Person, other than such filings and notifications as may be required to be made by a Member in connection with the transactions contemplated herein under the HSR Act and the expiration or early termination of the applicable waiting period under the HSR Act.

2.7 Brokers', Finders' Fees, etc

. Such Member has not employed any broker, finder, investment banker or financial advisor (i) as to whom such Member may have any obligation to pay any brokerage or finders' fees, commissions or similar compensation in connection with the Transactions, or (ii) who might be entitled to any fee or commission from Buyer, the Company or any of their respective Affiliates upon consummation of the Transactions.

2.8 Principal Residence

. Such Member represents and warrants that its principal residence is as set forth opposite such Member's name on Section 2.1 of the Disclosure Schedule.

2.9 Securities Laws

. Such Member understands that the Buyer Shares (i) have not been registered under the Securities Act by reason of their issuance in a transaction exempt from the registration requirements of the Securities Act, (ii) must be held indefinitely unless a subsequent disposition thereof is registered under the Securities Act or is exempt from such registration, and (iii) will bear a legend to such effect and Buyer will make a notation on its transfer books to such effect. Such Member represents that it is familiar with SEC Rule 144 and Rule 506, as presently in effect, and understands and agrees to be bound by the resale limitations imposed thereunder and by the Securities Act.

2.10 Disclosure of Information

. Such Member has received all the information it considers necessary or appropriate for deciding whether to execute and deliver this Agreement and to consummate the Transactions. Such Member further represents that it has had an opportunity to ask questions and receive answers from Buyer regarding the Buyer Shares and the business, properties, prospects and financial condition of Buyer. Such Member has (i) received a copy of this Agreement and each other Transaction Document to which it is a party (if any), (ii) had the opportunity to carefully read each such agreement and the Buyer SEC Documents, (iii) has discussed the foregoing with such Member's professional advisors to the extent such Member has deemed necessary and (iv) understands his, her or its obligations hereunder or thereunder.

2.11 Investment Experience

. Such Member understands and acknowledges that such Member's investment in the Buyer Common Stock involves a high degree of risk and has sought such accounting, legal and tax advice as such Member has considered necessary to make an informed investment decision with respect to such Member's acquisition of the Buyer Common Stock. Such Member is fully aware of: (i) the highly speculative nature of an investment in the Buyer Common Stock, (ii) the financial hazards involved, (iii) the lack of liquidity of the Buyer Common Stock including the restrictions on Transfer and other obligations with respect thereto set forth in this Agreement, (iv) the qualifications and backgrounds of the management of Buyer, and (v) the tax consequences of acquiring the Buyer Common Stock. Such

Member has such knowledge and experience in financial and business matters such that such Member is capable of evaluating the merits and risks associated with consummating the transactions contemplated herein and accepting the Buyer Common Stock as consideration in accordance with the terms of this Agreement, has the capacity to protect such Member's own interests in connection with the Transactions, and is financially capable of bearing a total loss of the Buyer Common Stock. Such Member, by reason of his, her or its business or financial experience or that of its, his or her professional advisers who are unaffiliated with and who are not compensated by Buyer or any Affiliate or selling agent of Buyer, directly or indirectly, has the capacity to protect such Member's own interests in connection with the Transactions.

2.12 Accredited Investor

. Such Member is an "accredited investor" within the meaning of Rule 501 of Regulation D promulgated under the Securities Act, as presently in effect.

2.13 Purchase Entirely for Own Account

. This Agreement is made with such Member in reliance upon such Member's representation to Buyer, which by such Member's execution of this Agreement such Member hereby confirms, that the Buyer Shares to be received by such Member will be acquired for investment for such Member's own account, not as a nominee or agent, and not with a view to the distribution of any part thereof, and that such Member has no present intention of selling, granting any participation in, or otherwise distributing the same.

2.14 Spousal Consent

. If such Member is married, he or she represents that true and complete copies of this Agreement and all Transaction Documents to be executed by such Member have been furnished to his or her spouse; that such spouse has read this Agreement and all Transaction Documents to be executed by such Member; that such spouse is familiar with each of their terms; and that such spouse has agreed to be bound to the obligations of such Member hereunder and thereunder.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF TOPCO

TopCo represents and warrants to Buyer, on the Agreement Date and (except where a representation or warranty is made herein as of a specified date) as of the Closing, as though made at the Closing, as follows:

3.1 Ownership

. Each of TopCo and MidCo is the beneficial and record owner of, has good and valid title to, and, in the case of equity interests of the Company, has unrestricted power to vote, all of the equity interests of the Company set forth opposite TopCo's or MidCo's name, as applicable, on Section 3.1 of the Disclosure Schedule, in each case free and clear of all Liens, other than restrictions on Transfer set forth in the Operating Agreement. TopCo is the beneficial and record owner of, has good and valid title to, and, in the case of interests in the capital of MidCo, has unrestricted power to vote, all of the equity interests of MidCo free and clear of all Liens, other than restrictions on Transfer set forth in the MidCo Organizational Documents.

3.2 Authorization; Enforceability

. TopCo has the necessary power, authority, right and capacity to execute and deliver this Agreement and each of the other Transaction Documents to which it is a party, to perform its obligations hereunder and thereunder, and to consummate the transactions contemplated herein and therein. The execution, delivery and performance by TopCo of this Agreement and each of the other Transaction Documents to which it is a party, and the consummation by TopCo of the Transactions and thereby have been duly authorized by all necessary action on the part of TopCo. This Agreement and each other Transaction Document to which TopCo is a party intended to be executed on or before the Agreement Date have been, and each other Transaction Document to which TopCo is a party will be, duly executed and delivered by TopCo and, assuming the due authorization, execution and delivery

thereof by Buyer to the extent a party thereto, each constitutes or, with respect to such other Transaction Documents to be executed after the Agreement Date, will each constitute a valid and binding agreement of TopCo, enforceable against TopCo in accordance with its terms, subject to the General Enforceability Exceptions.

3.3 Non-Contravention

. The execution, delivery and performance by TopCo of this Agreement and each other Transaction Document to which it is a party, and the consummation by TopCo of the Transactions and thereby, do not and will not (i) contravene or conflict with or constitute a violation of any contract, agreement, Permit, license, authorization or obligation to which TopCo is a party or by which its assets are bound; (ii) contravene or conflict with or constitute a violation of any provision of any Law binding upon or applicable to TopCo; or (iii) constitute a default or breach under or give rise to any right of termination, cancellation or acceleration of any right or obligation of TopCo or to a loss of any benefit to which TopCo is entitled.

3.4 Ownership of Equity Interests

. Neither TopCo nor MidCo has (i) transferred any of the equity interests of the Company set forth opposite TopCo's or MidCo's name on Section 3.1 of the Disclosure Schedule, or any interest therein, (ii) granted any options, warrants, calls or any other rights to purchase or otherwise acquire any such equity interests or any interest therein, or (iii) entered into any Contract with respect to any of the matters contemplated by clauses (i) or (ii).

3.5 No Actions

. There is no Action of any nature pending, or to the Knowledge of TopCo, threatened, against TopCo or any of TopCo's properties (whether tangible or intangible) or any of TopCo's officers, managers or directors (in their capacities as such), arising out of or relating to: (i) TopCo's beneficial ownership of securities of the Company or any right to acquire the same, (ii) this Agreement, any Transaction Document to which TopCo is a party or any of the Transactions or thereby, or (iii) any other Contract between TopCo (or any of its Affiliates) and the Company or any of its Affiliates, nor to the Knowledge of TopCo, is there any reasonable basis therefor. There is no Action pending or, to the Knowledge of TopCo, threatened against TopCo with respect to which TopCo has the right, pursuant to Contract, the Laws of the State of Delaware or otherwise, to indemnification from the Company or any of its Affiliates related to facts and circumstances existing prior to the Agreement Date, nor to the Knowledge of TopCo, are there any facts or circumstances that would reasonably be expected to give rise to such an Action.

3.6 Consents

. There are no Contracts binding upon TopCo requiring notice, consent, waiver, authorization or approval as a result of the execution, delivery and performance of this Agreement or the Transaction Documents to which TopCo is a party or the consummation of the Transactions and thereby. Neither the execution, delivery or performance by TopCo of this Agreement or the Transaction Documents to which it is a party, nor the consummation by TopCo of the Transactions and thereby, requires any consent of, authorization by, exemption from, filing with, or notice to any Person.

3.7 Brokers', Finders' Fees, etc

. TopCo has not employed any broker, finder, investment banker or financial advisor (i) as to whom TopCo may have any obligation to pay any brokerage or finders' fees, commissions or similar compensation in connection with the Transactions, or (ii) who might be entitled to any fee or commission from Buyer, the Company, or any of their respective Affiliates upon consummation of the Transactions.

3.8 Securities Laws

. TopCo understands that the Buyer Shares (i) have not been registered under the Securities Act by reason of their issuance in a transaction exempt from the registration requirements of the Securities Act, (ii) must be held indefinitely unless a subsequent disposition thereof is registered under the Securities Act or is exempt from such registration, and (iii) will bear a legend to such effect and Buyer will make a notation on its transfer books to such effect. TopCo represents that it is

familiar with SEC Rule 144 and Rule 506, as presently in effect, and understands and agrees to be bound by the resale limitations imposed thereunder and by the Securities Act.

3.9 Disclosure of Information

. TopCo has received all the information it considers necessary or appropriate for deciding whether to execute and deliver this Agreement and to consummate the Transactions. TopCo further represents that it has had an opportunity to ask questions and receive answers from Buyer regarding the Buyer Shares and the business, properties, prospects and financial condition of Buyer. TopCo has (i) received a copy of this Agreement and each other Transaction Document to which it is a party, (ii) had the opportunity to carefully read each such agreement and the Buyer SEC Documents, (iii) has discussed the foregoing with TopCo's professional advisors to the extent TopCo has deemed necessary and (iv) understands its obligations hereunder or thereunder.

3.10 Investment Experience

. TopCo understands and acknowledges that TopCo's investment in the Buyer Common Stock involves a high degree of risk and has sought such accounting, legal and tax advice as TopCo has considered necessary to make an informed investment decision with respect to TopCo's acquisition of the Buyer Common Stock. TopCo is fully aware of: (i) the highly speculative nature of an investment in the Buyer Common Stock, (ii) the financial hazards involved, (iii) the lack of liquidity of the Buyer Common Stock including the restrictions on Transfer and other obligations with respect thereto set forth in this Agreement, (iv) the qualifications and backgrounds of the management of Buyer, and (v) the tax consequences of acquiring the Buyer Common Stock. TopCo has such knowledge and experience in financial and business matters such that TopCo is capable of evaluating the merits and risks associated with consummating the transactions contemplated herein and accepting the Buyer Common Stock as consideration in accordance with the terms of this Agreement, has the capacity to protect TopCo's own interests in connection with the Transactions, and is financially capable of bearing a total loss of the Buyer Common Stock. TopCo, by reason of its business or financial experience or that of its professional advisers who are unaffiliated with and who are not compensated by Buyer or any Affiliate or selling agent of Buyer, directly or indirectly, has the capacity to protect TopCo's own interests in connection with the Transactions.

3.11 Accredited Investor

. TopCo is an "accredited investor" within the meaning of Rule 501 of Regulation D promulgated under the Securities Act, as presently in effect.

3.12 Purchase Entirely for Own Account

. This Agreement is made with TopCo in reliance upon TopCo's representation to Buyer, which by TopCo's execution of this Agreement TopCo hereby confirms, that the Buyer Shares to be received by TopCo will be acquired for investment for TopCo's own account, not as a nominee or agent, and not with a view to the distribution of any part thereof, and that TopCo has no present intention of selling, granting any participation in, or otherwise distributing the same, except in connection with the Redemption.

3.13 Capitalization

.

(a) Authorized and Outstanding Equity Securities of TopCo. The authorized equity securities of TopCo consists solely of: (i) 1,750,000 Class A Interests (of which there are currently 1,750,000 Class A Interests issued and outstanding); (ii) 4,693,243 Class B Interests (of which there are currently 4,693,243 Class B Interests issued and outstanding); (iii) 256,875 Non-Incentive Class C Interests (of which there are currently 256,875 Non-Incentive Class C Interests issued and outstanding); and (iv) 535,596 Incentive Class C Interests (of which there are currently 535,596 Incentive Class C Interests issued and outstanding).

(b) Outstanding Membership Interests. The number, class, and series of issued and outstanding equity securities of TopCo held by each Member is set forth on Section 3.13(b) of the Disclosure Schedule, no equity securities are issued or outstanding that are not set forth on Section 3.13(b)

of the Disclosure Schedule, and no equity securities will be issued or outstanding as of the Closing Date that are not set forth on Section 3.13(b) of the Disclosure Schedule. All issued and outstanding equity securities of TopCo (x) have been duly authorized and validly issued, (y) were offered, issued, sold and delivered by TopCo in compliance in all material respects with applicable Law, TopCo's Organizational Documents, and all requirements set forth in applicable Contracts, and (z) except with respect to certain of the Incentive Class C Interests as to vesting, as set forth on Section 3.13(b) of the Disclosure Schedule, are not subject to vesting, forfeiture, any right of rescission, right of first refusal or preemptive right under applicable Law, TopCo's Organizational Documents or any Contract to which TopCo is a party, except with respect to vesting requirements with respect to certain of the Incentive Class C Interests as set forth on Section 3.13(b) of the Disclosure Schedule. There is no Liability for distributions accrued and unpaid by TopCo.

(c) No Other Rights. There is no outstanding (x) equity appreciation right, option, restricted equity, "phantom" equity or any similar security or right that is derivative or provides any economic benefit based, directly or indirectly, on the value or price of any security of TopCo or (y) warrant, call, right, commitment, conversion privilege or preemptive or other right or Contract to purchase or otherwise acquire any equity security or debt convertible into or exchangeable for equity securities of TopCo or obligating TopCo to grant, extend or enter into any such equity appreciation right, option, restricted equity, "phantom" equity, warrant, call, right, commitment, conversion privilege or preemptive or other right or Contract. Except for the operating agreement of TopCo, there is no voting agreement, registration right, rights of first refusal, preemptive right, co-sale right or other similar right or restriction applicable to any outstanding security of TopCo.

(d) Ungranted Interests. No employee of TopCo or any other Person, has an offer letter or other Contract that contemplates or commits to making a grant of any equity interests or any other security of TopCo, or has otherwise been promised any option to purchase any equity interests or any other security of TopCo, which option has not been granted, or security has not been issued.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company hereby represents and warrants to Buyer, subject to such exceptions as are specifically disclosed in the Disclosure Schedule attached hereto as Exhibit H (which disclosure should reference the appropriate section and subsection numbers of this Article IV; *provided, however*, that any disclosures made therein shall apply to any other section or subsection without repetition where it is readily apparent on the face of such disclosure, without any independent knowledge on the part of the reader regarding the matter disclosed, that the disclosure is intended to apply to such other section or subsection), on the Agreement Date and (except where a representation or warranty is made herein as of a specified date) as of the Closing, as though made at the Closing, as follows:

4.1 Authorization; Enforceability

. The Company is a limited liability company duly organized and validly existing under the Laws of the State of Delaware and has the requisite corporate power and authority to carry on its business as it is now being conducted. The Company is duly qualified or licensed to do business, and is in good standing (to the extent applicable), in each jurisdiction where the character of the properties owned, leased or operated by it or the nature of its business makes such qualification or licensing necessary. Section 4.1(a) of the Disclosure Schedule sets forth each jurisdiction in which the Company is qualified or licensed to do business as of the Agreement Date. The Company has the necessary power and authority to execute and deliver this Agreement and each of the other Transaction Documents to which it is a party, to perform its obligations hereunder and thereunder, and to consummate the Transactions and thereby. The Company has made available to Buyer true and complete copies of its

Organizational Documents. The Company is not in violation of its Organizational Documents. Section 4.1(b) of the Disclosure Schedule sets forth a list of all of the current officers and directors of the Company. The execution, delivery and performance by the Company of this Agreement and each of the other Transaction Documents to which it is a party, 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 its managers, officers and members, and no other proceedings on the part of the Company is necessary to authorize this Agreement or such Transaction Documents or to consummate the transactions contemplated hereby or thereby. This Agreement and each other Transaction Document intended to be executed on or before the Agreement Date have been, and each other Transaction Document to which the Company is a party will be, duly executed and delivered by the Company and, assuming the due authorization, execution and delivery thereof by Buyer to the extent a party thereto, each constitutes or, with respect to such other Transaction Documents to be executed after the Agreement Date, will each constitute a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, subject to the General Enforceability Exceptions.

4.2 Subsidiaries

. The Company does not have, and has never had, any Subsidiaries, and does not currently own or control, directly or indirectly, any interest in any other corporation, partnership, trust, joint venture, limited liability company, association, or other business entity. The Company is not a participant in any joint venture, partnership or similar arrangement.

4.3 Capitalization; Indebtedness

.

(a) Authorized and Outstanding Equity Securities of the Company. The authorized equity securities of the Company consist solely of: (i) 5,714,285 Class CG Units (none of which are currently issued and outstanding); (ii) 4,950,118 Class CO Units (of which there are currently 4,950,118 Class CO Units issued and outstanding); and (iii) 535,596 Incentive Units (of which there are currently 535,596 Incentive Units issued and outstanding).

(b) Outstanding Membership Interests. The number and class and series of issued and outstanding equity securities held by each of TopCo and MidCo is set forth on Section 4.3(b) of the Disclosure Schedule, no equity securities are issued or outstanding that are not set forth on Section 4.3(b) of the Disclosure Schedule, and no equity securities will be issued or outstanding as of the Closing Date that are not set forth on Section 4.3(b) of the Disclosure Schedule. All such equity securities (x) have been duly authorized and validly issued, (y) were offered, issued, sold and delivered by the Company in compliance in all material respects with applicable Law, the Company's Organizational Documents, and all requirements set forth in applicable Contracts, and (z) are not subject to vesting, forfeiture, any right of rescission, right of first refusal or preemptive right under applicable Law, the Company's Organizational Documents or any Contract to which the Company is a party. There is no Liability for distributions accrued and unpaid by the Company.

(c) No Other Rights. There is no outstanding (x) equity appreciation right, option, restricted equity, "phantom" equity or any similar security or right that is derivative or provides any economic benefit based, directly or indirectly, on the value or price of any security of the Company or (y) warrant, call, right, commitment, conversion privilege or preemptive or other right or Contract to purchase or otherwise acquire any equity security or debt convertible into or exchangeable for equity securities of the Company or obligating the Company to grant, extend or enter into any such equity appreciation right, option, restricted equity, "phantom" equity, warrant, call, right, commitment, conversion privilege or preemptive or other right or Contract. Except for the Operating Agreement, there is no voting agreement, registration right, rights of first refusal, preemptive right, co-sale right or other similar right or restriction applicable to any outstanding security of the Company.

(d) Ungranted Membership Interests. The Company is not a party to or bound by any offer letter or Contract with any employee of the Company or any other Person that contemplates or commits to making a grant of any Membership Units or any other security of the Company, and no employee has otherwise been promised any option to purchase any Membership Units or any other security of the Company, which option has not been granted, or security has not been issued.

(e) Post-Closing Capitalization. Immediately following Buyer's acquisition of the Purchased Units at the Closing, the capitalization of the Company will be as set forth in Section 4.3(e) of the Disclosure Schedule.

(f) Indebtedness. Section 4.3(f) of the Disclosure Schedule sets forth a true, correct and complete list of all Indebtedness of the Company as of the Agreement Date, including, for each item of Indebtedness, the Contract(s) governing such item of Indebtedness. All Indebtedness may be prepaid at the Closing without penalty under the terms of the Contract(s) governing such Indebtedness.

4.4 Governmental Authorization

. The execution, delivery and performance by the Company of this Agreement and each other Transaction Document to which it is a party, and the consummation by the Company of the transactions contemplated hereby and thereby, do not and will not require any action by or in respect of, or filing with, any Governmental Authority, other than such filings and notifications as may be required to be made by the Company in connection with the transactions contemplated herein under the HSR Act and the expiration or early termination of the applicable waiting period under the HSR Act.

4.5 Non-Contravention

. The execution, delivery and performance by the Company of each Transaction Document to which it is a party, and the consummation by the Company of the transactions contemplated thereby, do not and will not (i) contravene or conflict with or constitute a violation of any Contract, Permit, or obligation to which the Company is a party or by which its assets are bound; (ii) contravene or conflict with or constitute a violation of any provision of any Law binding upon or applicable to the Company or to the Business or relating to or affecting the Membership Units; (iii) constitute a default or breach under or give rise to any right of termination, cancellation or acceleration of any right or obligation of the Company or to a loss of any benefit relating to or affecting the Business or to the Company to which the Company is entitled under any provision of any Contract binding upon the Company or any Permit; (iv) result in the creation or imposition of any Lien on any Company Asset; or (v) conflict with or result in a violation or breach of, or default under, any provision of the Organizational Documents of the Company.

4.6 Title to Assets; Sufficiency

. Except as set forth on Section 4.6 of the Disclosure Schedule, the Company has good and marketable title to (or, in the case of assets that are leased or licensed, valid leasehold interests or licenses in) all personal property and other assets (such assets, "**Company Assets**") reflected in the Financial Statements or acquired after September 30, 2020 (the "**Balance Sheet Date**"), free and clear of any Liens (other than Permitted Liens), other than assets sold or otherwise disposed of in the Ordinary Course of Business since the Balance Sheet Date. No one other than the Company (or, in the case of assets that are leased or licensed, the lessor or licensor thereof) owns or has any rights in or to the Company Assets. The Company Assets constitute all of the assets, properties and rights used in, relating to or necessary for the operation of the Business by Buyer, as operated by the Company during the twelve (12) month period prior to the Closing. All Company Assets are reasonably adequate for the uses to which they are being put, are in good condition and repair (ordinary wear and tear excepted) and are adequate for the conduct of the Business by Buyer, as operated by the Company prior to the Closing. There are no breaches or defaults by the Company under, and no events or circumstances have occurred which, with or without notice or lapse of time or both, would constitute a breach of or a default by the Company under, any instrument, agreement or other document that creates, evidences or constitutes any Lien on any

Company Asset or that evidences, secures or governs the terms of any Indebtedness or obligation secured by any Lien on any Company Asset.

4.7 Financial Statements

.

(a) Financial Statements. Section 4.7(a) of the Disclosure Schedules set forth a true, correct and complete copy of the following financial statements and notes (collectively, the "**Company Financial Statements**"): (i) the unaudited balance sheet of the Company as of December 31, 2019, and the related unaudited statement of operations, statement of changes in members' equity and statement of cash flows for the year then-ended, together with the notes thereto; and (ii) a true, complete and correct copy of the unaudited balance sheet of the Company as of October 31, 2020 (the "**Unaudited Interim Balance Sheet**"), and the related unaudited statement of operations, statement of changes in members' equity and statement of cash flows for the ten months then-ended. The Company Financial Statements present fairly in all material respects the financial position of the Company as of the respective dates thereof and the results of operations and cash flows of the Company for the periods covered thereby. The Company Financial Statements have been prepared in all material respects in accordance with GAAP applied on a consistent basis throughout the periods covered.

(b) Internal Controls. The Company has maintained systems of internal accounting controls sufficient to (i) provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements, (ii) maintain records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the Company, (iii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures of the Company are being made only in accordance with appropriate authorizations of management, (iv) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the assets of the Company and (v) implement disclosure controls and procedures designed to ensure that material information is made known to the management of the Company by others within the Company. Neither the Company, nor any of its officers or auditors has identified or been made aware of (A) any significant deficiency or material weakness in the system of internal accounting controls utilized by the Company, (B) any fraud, whether or not material, that involves the Company's management's role in the preparation of financial statements or the internal accounting controls utilized by the Company or (C) any claim or allegation regarding any of the foregoing or the Company Financial Statements.

(c) Insider Receivables and Insider Payables. Section 4.7(c) of the Disclosure Schedule provides an accurate and complete breakdown as of November 30, 2020 of: (i) all amounts (including any Indebtedness) owed to the Company by any Member, TopCo, MidCo or any Affiliate thereof ("**Insider Receivables**"); and (ii) all amounts owed by the Company to any Member, TopCo (other than the Company Note), MidCo, or any Affiliate thereof ("**Insider Payables**"). Except as set forth in Section 4.7(c) of the Disclosure Schedule, there will be no outstanding Insider Receivables or Insider Payables as of the Closing.

4.8 No Undisclosed Liabilities

. The Company does not have any Liabilities of any nature, whether accrued, absolute, contingent, matured, unmatured or otherwise (whether or not required to be reflected in financial statements prepared in accordance with GAAP, and whether due or to become due), other than: (i) Liabilities identified as such in the "liabilities" column of the Unaudited Interim Balance Sheet; (ii) accounts payable, including trade payables and accrued salaries and other employee compensation that have been incurred by the Company since the date of the Unaudited Interim Balance Sheet in the Ordinary Course of Business; (iii) Liabilities relating to future performance under the Company Contracts that are expressly set forth in and identifiable by reference to the text of such Company Contracts

(other than Liabilities arising out of or resulting from a breach by the Company thereunder); and (iv) the Company Transaction Expenses.

4.9 Litigation

. Except as set forth on Section 4.9 of the Disclosure Schedule, since the Company's formation there has not been, and there is presently no, action, suit, claim, investigation or proceeding (or any basis therefor) pending against, or to the Knowledge of the Company threatened against, or relating to or affecting, the Business, the Company or its activities before any Governmental Authority or by any other Person or entity, and there are no existing facts or circumstances that could reasonably be expected to result in such an action, suit, claim, investigation or proceeding. The Company is not subject to any outstanding Order which could interfere with the Company's ability to consummate the Transactions. There is no action, suit, investigation or proceeding by the Company currently pending or that the Company intends to initiate.

4.10 Permits

. The Company has all Permits used in, relating to, or necessary for the Business. Such Permits are valid and in full force and effect and will not be terminated or impaired or become terminable as a result of the Transactions.

4.11 Compliance with Laws

.

(a) The Company is not in violation of, has not violated since its inception, and, to the Knowledge of the Company, is not under investigation with respect to or has been threatened to be charged with or given notice of any violation of, any Law applicable to the Company or the conduct of the Business. No violation of any Law by the Company currently exists or has existed at any time. There are no legal or regulatory developments relating to or affecting the Company pending or, to the Knowledge of the Company, threatened, which might reasonably be expected to detract from the value of or otherwise interfere with, the Company or the Business. The Company is not, nor, since the Company's formation, has been (except as to routine security investigations) under administrative, civil or criminal investigation, indictment or information by a Governmental Authority and there are no facts or circumstances that could constitute a reasonable basis therefor.

(b) (i) No current or former officer, manager or employee of the Company, in each case during the course of or arising out of such Person's employment or service with the Company, has been the subject of a criminal proceeding or has been found by any Governmental Authority to have violated any applicable Law (excluding minor traffic violations), (ii) to the Knowledge of the Company, no petition under the federal bankruptcy or other similar applicable Law or any state or foreign insolvency or other similar applicable Law has been filed by or against, or a receiver or similar officer appointed for, any manager, officer, or employee of the Company within the last five (5) years, and (iii) to the Knowledge of the Company, no current manager, officer, or employee of the Company is the subject of any Order, or has entered into any agreement with any Governmental Authority, permanently or temporarily enjoining him or her, or otherwise limiting him or her, from engaging in any business, profession, or business practice and, in the case of clauses (ii) and (iii) hereof, the Company does not have Knowledge of any facts or circumstances that could constitute a reasonable basis therefor.

4.12 Absence of Changes

. Since the Balance Sheet Date:

(a) there has not been any Material Adverse Effect, and no event has occurred or circumstance has arisen that, in combination with any other events or circumstances, will or would reasonably be expected to, individually or in the aggregate, have or result in a Material Adverse Effect;

(b) there has not been any material loss, damage or destruction to, or any material interruption in the use of, the Company's material assets (whether or not covered by insurance); and

(c) the Company has not taken any action that would have been prohibited or otherwise restricted under Section 6.2 hereof, had such action been taken during the Pre-Closing Period.

4.13 Intellectual Property

.

(a) Definitions. For all purposes of this Agreement, the following terms shall have the following respective meanings:

(i) "**Company Intellectual Property**" means any and all Technology and Intellectual Property Rights owned or purported to be owned by, or used or held for use by, the Company, Pearl or any Subsidiary of Pearl.

(ii) "**Company Intellectual Property Rights**" means any and all Intellectual Property Rights owned or purported to be owned by, or used or held for use by, the Company, Pearl or any Subsidiary of Pearl.

(iii) "**Company Owned Intellectual Property**" means any Company Intellectual Property owned or purported to be owned by the Company, Pearl or any Subsidiary of Pearl or exclusively licensed to the Company, Pearl or any Subsidiary of Pearl.

(iv) "**Company Products**" means all products and services developed, manufactured, made commercially available, performed, marketed, distributed, sold, imported for resale or licensed by or on behalf of the Company, Pearl or any Subsidiary of Pearl since the Company's, Pearl's or such Subsidiary's inception, respectively, and all products and services which the Company, Pearl or any Subsidiary of Pearl intends to manufacture, make commercially available, perform, market, distribute, sell, import for resale, or license within twelve (12) months after the Agreement Date.

(v) "**Company Privacy Policy**" means any external or internal, past or present privacy policy of the Company including any policy relating to: (A) the privacy of users of any Company Product or of any Company Site (as defined below), (B) the collection, storage, disclosure, and transfer of any Customer Data or Personally Identifiable Information, or (iii) any employee information.

(vi) "**Customer Data**" means all data, meta data, information or other content (A) transmitted to the Company by users or customers of the Company Products, or (B) otherwise stored or hosted by or on behalf of the Company or the Company Products.

(vii) "**Generally Commercially Available Code**" means any generally commercially available software in executable code form, licensed to the Company, Pearl or any Subsidiary of Pearl on a perpetual license basis for a single up front license fee, for a cost of not more than $1,000 per user or work station, and not more than $5,000 in the aggregate for all users and work stations; provided that Generally Commercially Available Code shall exclude any development tools or development environments, or any other software that is or will to any extent be incorporated into, integrated or bundled with, linked with, used in the development or compilation of, or require any payment with respect to, any Company Product.

(viii) "**Intellectual Property Rights**" means any or all of the following and all rights in, arising out of, or associated therewith in each case throughout the world: (A) all

United States and foreign patents and utility models and applications therefor and all reissues, divisions, re-examinations, renewals, extensions, provisionals, continuations and continuations-in-part thereof, and equivalent or similar rights in inventions and discoveries including, without limitation, invention disclosures ("**Patents**"); (B) all rights in trade secrets and other rights in know-how and confidential or proprietary information; (C) all rights associated with works of authorship, including exclusive exploitation rights, copyrights, copyrights registrations and applications therefor and all other rights corresponding thereto, including moral rights ("**Copyrights**"); (D) all industrial designs and any registrations and applications therefor; (E) all World Wide Web addresses and domain names, uniform resource locators ("**URLs**"), other names and locators associated with the Internet, and applications and registrations therefor ("**Domain Names**"), (F) all trade names, logos, common law trademarks and service marks, trademark and service mark registrations and applications therefor and all goodwill associated therewith ("**Trademarks**"); and (G) any and all other intellectual property rights and/or proprietary rights.

(ix) "**Open Source Software**" means any software (in source or object code form) that is subject to (A) a license or other agreement commonly referred to as an open source, free software, copyleft or community source code license (including, but not limited to, any code or library licensed under the GNU Affero General Public License, GNU General Public License, GNU Lesser General Public License, BSD License, Apache Software License, or any other public source code license arrangement) or (B) any other license or other agreement that requires, as a condition of the use, modification or distribution of software subject to such license or agreement, that such software or other software linked with, called by, combined or distributed with such software be (w) disclosed, distributed, made available, offered, licensed or delivered in source code form, (x) licensed for the purpose of making derivative works, (y) licensed under terms that allow reverse engineering, reverse assembly, or disassembly of any kind, or (z) redistributable at no charge, including, without limitation, any license defined as an open source license by the Open Source Initiative as set forth on www.opensource.org.

(x) "**Personally Identifiable Information**" means any information that alone or in combination with other information held by or on behalf of the Company can be used to specifically identify, locate and/or contact a Person or an individual computer, device or application including, but not limited to, a natural person's name, street address, telephone number, e-mail address, photograph, social security number, driver's license number, passport number, credit or debit card number, customer or financial account number or IP address.

(xi) "**Registered Intellectual Property**" means all Intellectual Property Rights that are the subject of an application, certificate, filing, registration or other document issued by, filed with, or recorded by, any state, government or other public legal authority or domain name registrar at any time anywhere in the world.

(xii) "**Technology**" means any or all of the following: (A) works of authorship including algorithms, diagrams, formulae, APIs and computer programs and software, whether in source code or in executable code form, subroutines, user interfaces, architecture, schematics, configuration and documentation; (B) inventions (whether or not patentable), discoveries and improvements; (C) proprietary and confidential information, trade secrets and know how; (D) databases, data compilations and collections and technical data; (E) methods, protocols, techniques, and processes; (F) devices, prototypes, designs

and schematics; and (G) other forms of technology (whether or not embodied in any tangible form, and including all tangible embodiments of the foregoing).

(b) Registered Intellectual Property. Section 4.13(a)(ii) of the Disclosure Schedule (i) lists all Registered Intellectual Property that is Company Owned Intellectual Property ("**Company Registered Intellectual Property**") including any application, registration or serial numbers, (ii) lists any actions that must be taken by the Company, Pearl or any Subsidiary of Pearl within one hundred twenty (120) days of the Agreement Date with respect to any of the foregoing, including the payment of any registration, maintenance or renewal fees or the filing of any documents, applications or certificates, and (iii) lists any proceedings or actions before any court or tribunal (including the United States Patent and Trademark Office (the "**PTO**") or equivalent authority anywhere in the world) related to any Company Registered Intellectual Property. All registration, maintenance and renewal-related actions (including the payment of fees, or the filing of any documents or certificates) currently due (or which will be due on or before the Closing Date) in connection with such Company Registered Intellectual Property have been (or will be) timely taken. The Company Registered Intellectual Property is, and as and immediately following the Closing, will be valid, subsisting, and enforceable, and there are no facts or circumstances to the Knowledge of the Company that would render any Company Registered Intellectual Property invalid or enforceable. There are no pending or, to the Knowledge of the Company, threatened claims against the Company, Pearl or any Subsidiary of Pearl alleging that any of the Company Intellectual Property is invalid or unenforceable.

(c) Transferability of Company Intellectual Property. All Company Intellectual Property as of the Agreement Date is, and, as of and immediately following the Closing, will be fully transferable, alienable and licensable by Company without restriction and without payment of any kind to any Person.

(d) Title to Company Intellectual Property. The Company, Pearl or a Subsidiary of Pearl, as applicable, is the sole and exclusive owner of each item of Company Owned Intellectual Property, free and clear of any Liens other than non-exclusive, term-limited licenses granted under Standard Form Agreements. The Company, Pearl or a Subsidiary of Pearl, as applicable, has the sole and exclusive right to bring a claim or suit against a third party for infringement or misappropriation of the Company Owned Intellectual Property. Neither the Company, Pearl nor any Subsidiary of Pearl has (i) transferred to any Person ownership of, or granted any exclusive license with respect to, any Intellectual Property Rights that are or would have been, but for such transfer or grant, Company Intellectual Property Rights or (ii) permitted the rights of the Company, Pearl or any Pearl Subsidiary in any Intellectual Property Rights that are or were, at the time, material Company Intellectual Property to terminate, lapse or enter into the public domain. No Company Intellectual Property or Company Product is subject to any claim, proceeding or outstanding Order, or stipulation or Contract restricting in any material manner, the use, transfer, or licensing thereof by the Company, Pearl or any Subsidiary of Pearl, or which may affect the validity, use or enforceability of such Company Intellectual Property or Company Product.

(e) Third Party Intellectual Property Rights. Section 4.13(e) of the Disclosure Schedule sets forth all Contracts under which the Company, Pearl or any Subsidiary of Pearl is granted any right under any Intellectual Property Rights or with respect to any Technology of any other Person, in each case as related to the Business (collectively, "**Inbound Licenses**"), other than (i) licenses for Open Source Software listed in Section 4.13(e) of the Disclosure Schedule and (ii) licenses for Generally Commercially Available Code.

(f) Standard Form Agreements. Copies of the Company's, Pearl's and each Subsidiary of Pearl's standard form(s) of non-disclosure agreement and the Company's standard form(s),

including attachments, of non-exclusive licenses of the Company Products to end-users (collectively, the "**Standard Form Agreements**") have been made available to Buyer.

(g) Outbound License Agreements. Section 4.13(g) of the Disclosure Schedule lists all Contracts to which the Company, Pearl or a Subsidiary of Pearl is a party and under which the Company, Pearl or such Affiliate, as applicable, has licensed, provided or assigned or granted any right to any Company Intellectual Property to third parties ("**Outbound Licenses**"), other than Standard Form Agreements. No Company Intellectual Property has been supplied or provided by the Company, Pearl or any Subsidiary of Pearl to any Person, other than pursuant to the Outbound Licenses and Standard Form Agreements.

(h) No Infringement by the Company. The operation of the Business, Pearl and each Subsidiary of Pearl as it is currently conducted or currently contemplated to be conducted by the Company, Pearl and such Subsidiary of Pearl, including the design, development, use, import, branding, advertising, promotion, marketing, manufacture, delivery, sale and/or licensing of any Company Product, does not and will not, when conducted in substantially the same manner by Buyer following the Closing, infringe or misappropriate (and it has not in the past infringed or misappropriated) any Intellectual Property Rights of any third Person, violate (and it has not in the past violated) any right (including any right to privacy or publicity) of any third Person, or constitute (and it has not in the past constituted) unfair competition or trade practices under the Laws of any jurisdiction. Neither the Company, Pearl nor any Subsidiary of Pearl has received written notice from any Person claiming that such operation, any Company Product, or any Company Intellectual Property infringes or misappropriates any Intellectual Property Rights of any third Person, violates any rights (including any right to privacy or publicity) of any third Person or constitutes unfair competition or trade practices under the Laws of any jurisdiction (nor does the Company have Knowledge of any basis therefor).

(i) Restrictions on Business. Neither the Company, Pearl nor any Subsidiary of Pearl is restricted or limited from engaging in any line of business or from developing, using, making, selling, offering for sale any product, service or Technology. Neither this Agreement nor the Transactions will result in: (i) Buyer granting to any third Person any right to or with respect to any Intellectual Property Rights owned by, or licensed to, Buyer or any of its Subsidiaries, (ii) the Company, Pearl or any Subsidiary of Pearl granting to any third Person any right to or with respect to any Intellectual Property Rights owned by, or licensed to the Company, Pearl or such Subsidiary of Pearl or being required to provide any source code for any Company Product, (iii) Buyer or the Company being bound by, or subject to, any non-compete or other restriction on its freedom to engage in, participate in, operate or compete in any line of business, or (iv) Buyer or the Company being obligated to pay any royalties or other license fees with respect to Intellectual Property Rights of any third Person in excess of those payable by the Company in the absence of this Agreement or the Transactions.

(j) No Third Party Infringement. To the Company's Knowledge, no Person is infringing or misappropriating (and no Person has in the past infringed or misappropriated) any Company Intellectual Property.

(k) Proprietary Information Agreements. All current and former employees, consultants and contractors of the Company, Pearl and each Subsidiary of Pearl who have been involved in the creation or development of any Technology or Intellectual Property Rights for the Company, Pearl or a Subsidiary of Pearl, or have had access to Technology or Intellectual Property Rights of the Company, Pearl or a Subsidiary of Pearl, have executed a written agreement pursuant to which such employee, consultant or contractor has assigned to the Company, Pearl or such Subsidiary of Pearl, as applicable to all of such Person's rights, title and interest in and to any and all Technology relating to the Business, Pearl or such Subsidiary of Pearl, as applicable, and Intellectual Property Rights relating thereto, and waived for the

benefit of the Company, Pearl or such Subsidiary of Pearl, as applicable, all of such Person's moral rights in any such Technology and Intellectual Property Rights, to the fullest extent in accordance with applicable Law. Without limiting the foregoing, no current or former employee, consultant or contractor owns any Company Products (or any portion thereof) or Company Intellectual Property, nor has any employee, consultant or contractor made any assertions with respect to any alleged ownership. Without limiting the foregoing, all rights in, to and under all Intellectual Property Rights and Technology created by the Company's, Pearl's and each Subsidiary of Pearl's founders for or on behalf of or in contemplation of the Company, Pearl or any Subsidiary of Pearl (or the Company's, Pearl's or any Subsidiary of Pearl's business) prior to their commencement of employment with the Company, Pearl or such Subsidiary of Pearl, as applicable, have been duly and validly assigned to the Company, Pearl or such Subsidiary of Pearl, as applicable.

(l) Open Source Software. Section 4.13(l) of the Disclosure Schedule lists all Open Source Software that is or has been incorporated into, linked to, called by, distributed with, used in the development of or otherwise used in any Company Product in any way, or from which any part of any Company Product has been derived, or that has otherwise been made available by the Company, Pearl or any Subsidiary of Pearl to any third party, and accurately describes the manner in which such Open Source Software was or is incorporated, linked, called, distributed or otherwise used, including, without limitation, whether the Open Source Software is or has been modified and/or distributed by the Company, Pearl or any Subsidiary of Pearl and whether (and if so, how) such Open Source Software was incorporated into, linked to or called by any Company Product. Section 4.13(l) of the Disclosure Schedule also describes the applicable licenses for each such item of Open Source Software, and the Company Product(s) (if any) to which each such item of Open Source Software relates, and the licenses have been made available to Buyer. Neither the Company, Pearl nor any Subsidiary of Pearl has used Open Source Software in any manner that (i) requires the disclosure or distribution in source code form of any Company Intellectual Property, including any portion of any Company Product other than such Open Source Software, (ii) requires the licensing of any Company Intellectual Property or any portion of any Company Product, other than such Open Source Software, (iii) imposes any restriction on the consideration to be charged for the distribution of any Company Intellectual Property, (iv) creates any obligation for the Company, Pearl or any Subsidiary of Pearl with respect to Company Intellectual Property or grants to any third Person, any rights or immunities under Company Intellectual Property, or (v) imposes any other limitation, restriction or condition on the right of the Company, Pearl or any Subsidiary of Pearl to use or distribute any Company Intellectual Property, other than such Open Source Software. With respect to any Open Source Software that is used by the Company, Pearl or any Subsidiary of Pearl in the operation of its business (including all Open Source Software listed on Section 4.13(l) of the Disclosure Schedule), the Company, Pearl and such Subsidiary of Pearl is in compliance with all applicable licenses with respect thereto.

(m) Source Code. Neither the Company, Pearl nor any Subsidiary of Pearl, nor any other Person acting on any of their behalf, has disclosed, delivered or licensed to any Person, agreed to disclose, deliver or license to any Person, or permitted the disclosure or delivery to any escrow agent or other Person of, any source code for any Company Product.

(n) Personally Identifiable Information and Customer Data. Section 4.13(n) of the Disclosure Schedule describes the types of Personally Identifiable Information and Customer Data collected (and the process by which such information is collected) by or on behalf of the Company through Internet websites owned, maintained or operated by the Company in connection with the Business ("**Company Sites**"), and through any Company Products, and also lists each Company Privacy Policy and identifies, with respect to each Company Privacy Policy, the period of time during which such policy was or has been in effect, whether the terms of a later Company Privacy Policy apply to the data or information collected under such Company Privacy Policy, and, if so, the mechanism (e.g., opt-in, opt-out, notice) used to apply the later Company Privacy Policy to such data or information. The Company has complied with each

Company Privacy Policy, all applicable Privacy Laws, all contractual and fiduciary obligations, requirements of self-regulatory organizations, and consumer-facing statements of the Company in any marketing or promotional materials, relating to the collection, storage, transfer, retention, disposal and any other processing by the Company of any Personally Identifiable Information and Customer Data collected, used or maintained by or on behalf of the Company, and to the transmission of unsolicited communications (collectively, the "**Privacy Requirements**"). Neither this Agreement, nor the Transactions, nor the Company's possession or use (as such information has been used by the Company) of any Personally Identifiable Information, Customer Data, or any other data contained in the Company's databases will result in any violation of any Privacy Requirements.

(o) Protection of Personally Identifiable Information and Customer Data; Security. The Company has at all times taken commercially reasonable steps (including, without limitation, implementing and monitoring compliance with industry standard measures with respect to technical and physical security) consistent with industry standards and all applicable Privacy Requirements, to ensure the confidentiality, availability, security and integrity of the Company's information technology assets and the Personally Identifiable Information, Customer Data and all other content, data and information collected, processed, transmitted or maintained by or on behalf of the Company (collectively, "**Company Data**"), and to ensure that such Company Data are protected against damage, loss and against unauthorized access, modification, disclosure or other use. There has been no unauthorized access to or other misuse of any such information technology assets or Company Data. All such information technology assets and Company Data are and have at all times been collected, processed, transmitted, stored, and used, as applicable, in the U.S., and the Company is not subject to the jurisdiction of any non-U.S. Governmental Authority with respect to the collection, processing, transmission, storage or use thereof. There is no, nor has there ever been, any complaint to, or any audit, proceeding, investigation (formal or informal), or claim against, the Company or, to the Knowledge of the Company, any of its customers, initiated by any private Person or any Governmental Authority with respect to the security, confidentiality, transmission, availability, or integrity of such information technology assets or Company Data. The Company has and maintains adequate disaster recovery and security plans, procedures and facilities for the Business, which plans, procedures and facilities have been made available to the Buyer by the Company.

(p) Information Security Reviews. The Company has: (i) regularly conducted vulnerability testing, risk assessments, and external audits of, and tracks security incidents related to, the Company's systems and products (collectively, "**Information Security Reviews**"); (ii) timely corrected any material exceptions or vulnerabilities identified in such Information Security Reviews; (iii) made available true and accurate copies of all Information Security Reviews; and (iv) timely installed software security patches and other fixes to identified technical information security vulnerabilities. The Company provides its employees with regular training on privacy and data security matters.

(q) Data Processing Agreements. With respect to each third Person that services, outsources, processes, or otherwise uses Personally Identifiable Information collected, held, or processed by or on behalf of the Company, the Company has in accordance with Privacy Laws entered into valid, binding an enforceable written data processing agreements with any such third party to (i) comply with applicable Privacy Requirements with respect to Personally Identifiable Information, (ii) act only in accordance with the instructions of the Company, (iii) take appropriate steps to protect and secure Personally Identifiable Information from data security incidents, (iv) restrict use of Personal Information to those authorized or required under the servicing, outsourcing, processing, or similar arrangement, and (v) certify or guarantee the return or adequate disposal or destruction of Personally Identifiable Information. The Company has disclosed to Buyer all such data processing agreements to which it is a party.

(r) No Sale of Personally Identifiable Information of Third Parties. The Company has not supplied or provided access to Personally Identifiable Information processed by it to a third party for remuneration or other consideration.

(s) Products. Section 4.13(p) of the Disclosure Schedule contains a complete and accurate list (by name and version number) of all Company Products. Each Company Product performs in accordance with its documented specifications and as the Company has warranted to its customers.

(t) Bugs. Section 4.13(t) of the Disclosure Schedule sets forth the Company's, Pearl's and each Subsidiary of Pearl's current (as of the Agreement Date) list of known bugs maintained by its development or quality control groups with respect to any of the Company Products and Company Owned Intellectual Property. The Company, Pearl and each Subsidiary of Pearl has and enforces a policy to document all known bugs, errors and defects in the Company Products, and such documentation is retained and is available internally at the Company and has been made available to Buyer. There are no bugs, errors or defects in the Company Products that do, or may reasonably be expected to, adversely affect the value, functionality or fitness of the intended purpose of such Company Product or that would reasonably be expected to adversely affect the Company's, Pearl's or any Subsidiary of Pearl's ability to perform any of its contractual obligations; nor, in the five (5) years prior to the Agreement Date, has there been any, and there are presently no, claims asserted against the Company, Pearl or any Subsidiary of Pearl or any of their respective customers or distributors related to the Company Products or any Company Owned Intellectual Property; and neither the Company, Pearl nor any Subsidiary of Pearl has been or is required to recall any Company Products.

(u) Contaminants. Neither the Company, Pearl nor any Subsidiary of Pearl has included in any Company Products or Company Owned Intellectual Property any disabling codes or instructions or any "back door," "time bomb," "Trojan horse," "worm," "drop dead device," "virus" or other software routines or hardware components that permit unauthorized access or the unauthorized disablement or erasure of Company Products, Company Data, Company Owned Intellectual Property or data, information, content or other Technology of the Company, Pearl, any Subsidiary of Pearl or any third Person ("**Contaminants**"). The Company, Pearl and each Subsidiary of Pearl has taken commercially reasonable steps to protect the information technology systems used in connection with the operation of the Company, Pearl and each Subsidiary of Pearl from Contaminants.

(v) IP Sufficiency. The Company Owned Intellectual Property, together with any Intellectual Property Rights or Technology licensed to the Company pursuant to Inbound Licenses, includes all Intellectual Property Rights and Technology that are used in or necessary to conduct the Business as it currently is conducted or as currently proposed to be conducted by the Company within twelve (12) months following the Closing Date, including the design, development, manufacture, use, marketing, import for resale, distribution, licensing out and sale of any Company Product.

(w) Trade Secrets. The Company, Pearl and each Subsidiary of Pearl have taken all reasonable security measures to protect the confidentiality and value of all trade secrets and other confidential information within the Company Intellectual Property.

4.14 Contracts and Commitments

.

(a) Except as specifically contemplated by this Agreement or as set forth in Section 4.14(a) of the Disclosure Schedule, the Company is not a party to or bound by, whether written or oral, any of the following Contracts (each, a "**Material Contract**"):

(i) Contract providing for payments (whether fixed, contingent or otherwise) by the Company in an aggregate annual amount of $50,000.00 or more, or to the Company in an aggregate annual amount of $50,000.00 or more;

(ii) bonus, commission, pension, profit sharing, retirement or any other form of deferred compensation or incentive plan or agreement or any membership unit purchase, unit option, warrant or similar employee benefit plan or practice;

(iii) employment agreement for the employment of any officer, individual employee or other Person, contract or agreement with consultants or independent contractors, severance agreements, or any agreement with a change-of-control provision;

(iv) Contract relating to Indebtedness (including guaranty arrangements) or to mortgaging, pledging or otherwise placing a Lien on any of the Company Assets, the Membership Units, or any guaranty of an obligation of a third party;

(v) royalty, dividend or similar arrangement based on the revenues or profits of the Company or any contract or agreement involving fixed price or fixed volume arrangements;

(vi) Contract which contains any provisions requiring the Company to indemnify any other party, other than independent sales representative Contracts that are based upon and do not deviate in any material respect from the Standard Form Agreements;

(vii) Contract containing Inbound Licenses and/or Outbound Licenses, other than licenses for Open Source Software listed in Section 4.13(l) of the Disclosure Schedule, licenses for Generally Available Commercial Code and Standard Form Agreements;

(viii) Contract or group of related Contracts which are not cancellable by the Company without penalty on not less than thirty (30)-days' notice;

(ix) Contract relating to the ownership of or investment in any business or enterprise (including investments in joint ventures and minority equity investments);

(x) lead generation, dealer, distributor, reseller, OEM (original equipment manufacturer), VAR (value added reseller), sales representative or similar Contract under which any third party is authorized to sell, license, sublicense, lease, distribute, market or take orders for any Company Product or provide marketing services (including referral partners) for the foregoing, other than independent sales representative Contracts that are based upon and do not deviate in any material respect from the Standard Form Agreements;

(xi) Contract limiting the freedom of the Company, or that would limit the freedom of Buyer or any of its Affiliates after the Closing Date, to freely engage in any line of business or with any Person anywhere in the world or during any period of time or otherwise including provisions on joint price-fixing, market or customer sharing, exclusivity or market classification, or preferred pricing provisions, such as a "most favored nation" provision;

(xii) Contract with any Governmental Authority, university, college or research center;

(xiii) Contract relating to the lease of any real property or the lease of any tangible personal property;

(xiv) other than this Agreement and the Pearl Acquisition Agreement, acquisition agreement, whether by merger, share or asset sale or otherwise;

(xv) Contract relating to the sale, issuance, grant, exercise, award, purchase, repurchase or redemption of any equity securities (including Membership Units) or any options, warrants or other rights to purchase or otherwise acquire any such equity securities (including Membership Units), other securities or options, warrants or other rights for the foregoing;

(xvi) Contract with any labor union or any collective bargaining agreement or similar Contract with any labor union or labor organization or other person purporting to act as exclusive bargaining representative of any employees or Contingent Workers;

(xvii) Contract relating to the settlement or other resolution of any Action or threatened Action (including any agreement under which any employment-related claim is settled);

(xviii) Contract to provide or deliver any Company Product, or to support or maintain any Company Product, on, in conjunction with, or interoperating with any third party's products or services, and each commitment to develop, improve or customize any Company Product;

(xix) Contracts with any customer or other Person under which the Company agreed to develop or customize any product or services of the Business, or to provide support for, customize or develop any third-party product, service or platform if such Company obligations have not been fully satisfied and completed as of the Agreement Date;

(xx) Contract not executed in the Ordinary Course of Business, not consistent with fair market terms, conditions and prices or with applicable Laws and regulations or otherwise not made on arm's length terms and conditions; or

(xxi) other Contract material to the Company, taken as a whole.

(b) Each Contract that is listed or should have been listed in Section 4.14(a) of the Disclosure Schedule (or would have been required to be so listed if entered into after the Agreement Date but prior to Closing) to which the Company is a party or any of its properties or assets (whether tangible or intangible) are subject, together with the Standard Form Agreements and licenses for Generally Commercially Available Code (each, a "**Company Contract**") is a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, and is in full force and effect with respect to the Company and, to the Knowledge of the Company, any other party thereto subject to the General Enforceability Exceptions. Except as set forth in Section 4.14(b) of the Disclosure Schedule, the Company has not violated nor is in violation of, in any material respect, any provision of, nor has committed or failed to perform any act which, with or without notice, lapse of time or both, would constitute a material breach of, a default or an event of default under the provisions of, any Company Contract. To the Knowledge of the Company, (i) no Person other than the Company that is party to any Company Contract, has violated or is in violation of, in any material respect, any provision of, or has committed or failed to perform any act which, with or without notice, lapse of time or both, would constitute a material breach of,

a default or an event of default under the provisions of any Company Contract, (ii) there are no facts or circumstances that would reasonably be expected to result in a violation of, in any material respect, any provision of, or the failure to perform any act which, with or without notice, lapse of time or both, would constitute a material breach of, a default or an event of default under the provisions of any Company Contract by the Company or any other Person, and (iii) the Company has not received any written notice of any other party to any Company Contract intending to terminate, fail or refuse to renew, renegotiate or change the scope of rights or obligations or materially modify the terms thereof. To the Knowledge of the Company, none of the Company Contracts are subject to any claims, charges, set offs or defenses. As of the Agreement Date, there are no new Contracts that are being actively negotiated and that would be required to be listed in Section 4.14(a) of the Disclosure Schedule.

4.15 Taxes

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(a) The Company has, and as of the Closing Date shall have, prepared and timely filed (taking into account any extension of time within which to file) all income and other material required Tax Returns due on or before the Closing Date, and all such Tax Returns are true, correct and complete in all material respects and have been completed in accordance with applicable Law. The Company has paid all material Taxes owed (whether or not shown on any Tax Return) and has no material Liability for due and unpaid Taxes. There has been no audit or investigation by, or dispute with, any Governmental Authority involving the Company related to the Business or the Company nor has the Company received correspondence from any Tax authority related to such an audit, investigation or dispute. The Company is currently not the beneficiary of an extension of time within which to file any Tax Return required to be filed.

(b) The Company has withheld with respect to employees, agents, contractors, nonresidents, shareholders, lenders and other third parties all Taxes required to have been withheld, and such withheld amounts have been timely paid over and properly reported to the appropriate Governmental Authority.

(c) There are (and immediately following the Closing Date there will be) no Liens for material Taxes upon any of the Company Assets, except for Liens for Taxes not yet due and payable.

(d) There is no Tax deficiency outstanding, assessed or proposed against or with respect to the Company, nor has any outstanding waiver of any statute of limitations on or extension of the period for which the assessment or collection of any material Tax of or with respect to the Company been executed or requested. The Company has not applied for any Tax ruling or entered into a closing agreement with respect to material Taxes as described in Section 7121 of the Code or any similar provision of state or local Law. No power of attorney granted by the Company with respect to any material Taxes is currently in force.

(e) No written claim has ever been made that the Company is or may be subject to taxation in a jurisdiction in which it does not file Tax Returns by virtue of the operation of the Business or ownership of the Company Assets.

(f) The unpaid Taxes of the Company did not, as of the date of the Unaudited Interim Balance Sheet, exceed the accruals and reserves for Taxes (excluding accruals and reserves for deferred Taxes established to reflect timing differences between book and Tax income) set forth on the face of the Unaudited Interim Balance Sheet (rather than in any notes thereto).

(g) The Company has made available to Buyer copies of the Company's income Tax Returns and all other material Tax Returns relating to the Company since its formation that are true, correct and complete in all material respects.

(h) At all times prior to the Members' contribution of the outstanding membership interests of the Company to TopCo in exchange for membership interests in TopCo, the Company was treated as a partnership for U.S. federal (and applicable state and local) income Tax purposes. At all times after such contribution in the immediately preceding sentence, the Company has been treated as either a disregarded entity (as described in Treasury Regulations Section 301.7701-3) or a partnership for U.S. federal (and applicable state and local) income Tax purposes. The Company uses the accrual method of accounting for federal and applicable state income Tax purposes.

(i) The Company has not participated in any "listed transaction," as defined in Section 6706A(c)(2) of the Code and Treasury Regulations Sections 1.6011-4(b)(2).

(j) The Company has received from each Member who previously held an interest in the Company that was subject to a substantial risk of forfeiture as of the Agreement Date, if any, a copy of the election(s) made under Section 83(b) of the Code with respect to all such interests, and, to the Company's Knowledge, such elections were validly made and filed with the IRS in a timely fashion.

(k) The Company is not a party to or bound by any Tax sharing, Tax indemnity, Tax allocation or similar agreement, arrangement or understanding (excluding, for this purpose, any agreement entered into in the Ordinary Course of Business the primary purpose of which is unrelated to Taxes). The Company has never been a member of an affiliated group (within the meaning of Code Section 1504(a)) filing a consolidated federal income Tax Return or have any liability for the Taxes of any Person under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local, or non-U.S. law), as a transferee or successor, by Contract, or otherwise, other than under Chapter 63 of the Code.

(l) For purposes of Sections 897 and 1445 of the Code, either (i) fifty percent (50%) or more of the value of the gross assets of the Company do not consist of United States real property interests (within the meaning of Section 897(c) of the Code) or (ii) ninety percent (90%) or more of the value of the gross assets do not consist of United States real property interests (within the meaning of Section 897(c) of the Code) plus cash or cash equivalents.

(m) The Company is not a party or member to any joint venture, partnership or other arrangement or Contract treated or that could reasonably be expected to be treated as a partnership for federal income Tax purposes.

(n) The Company will not be required to include any material item of income in, or exclude any material item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any: (i) change in method of accounting of the Company for a taxable period ending on or prior to the Closing Date, (ii) use of an improper method of accounting for a taxable period ending on or prior to the Closing Date, (iii) "closing agreement" as described in Code Section 7121 (or any corresponding or similar provision of state, local or foreign Law) executed on or prior to the Closing Date by the Company, (iv) installment sale or open transaction disposition made by the Company on or prior to the Closing Date, (v) prepaid amount or any other income eligible for deferral under the Code or Treasury Regulations promulgated thereunder (including, without limitation, pursuant to Code Sections 455 or 456, Regulations Section 1.451-5 and Revenue Procedure 2004-34, 2004-33 I.R.B. 991) received by the Company on or prior to the Closing Date, (vi) election made by the Company under Code Section 108(i) prior to the Closing, or (vii) Tax incurred pursuant to Section 965 of the Code.

(o) The Company has not made an election to defer any Taxes under Section 2302 of the CARES Act (or any similar election under state or local Law). The Company has properly complied with all applicable Laws and duly accounted for any available Tax credits under Sections 7001 through 7005 of the Families First Coronavirus Response Act for 2020 (or any similar election under state or local Tax Law) and Section 2301 of the CARES Act.

4.16 Benefit Plans

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(a) Section 4.16(a) of the Disclosure Schedule sets forth a true, complete, and correct list of every Company Benefit Plan. For purposes of this Agreement, "**Company Benefit Plan**" means (A) an employee benefit plan within the meaning of Section 3(3) of ERISA whether or not subject to ERISA; (B) stock option plans, stock purchase plans, bonus or incentive plans, severance pay plans, programs or arrangements, deferred compensation arrangements or agreements, employment agreements, compensation plans, programs, agreements or arrangements, change in control plans, programs or arrangements, supplemental income arrangements, vacation plans, and all other employee benefit plans, agreements, and arrangements, not described in (A) above; and (C) plans or arrangements providing compensation to employee and non-employee directors, in each case in which the Company or any ERISA Affiliate sponsors, contributes to, or provides benefits under or through such plan, or has any obligation to contribute to or provide benefits under or through such plan, or if such plan provides benefits to or otherwise covers any current or former employee, officer or director of the Company or any ERISA Affiliate (or their spouses, dependents, or beneficiaries).

(b) True, complete and correct copies of the following documents, with respect to each Company Benefit Plan, where applicable, have previously been delivered to Buyer: (i) all documents embodying or governing such Company Benefit Plan (or for unwritten Company Benefit Plans a written description of the material terms of such Company Benefit Plan) and any funding medium for the Company Benefit Plan; (ii) the most recent IRS determination or opinion letter; (iii) the filed Form 5500 for the last three years; (iv) the most recent actuarial valuation report; (v) the most recent summary plan description (or other descriptions provided to employees) and all modifications thereto; and (vi) all non-routine correspondence to and from any governmental agency.

(c) The Company does not maintain or sponsor any benefit plan that is intended to qualify under Section 401(a) of the Code.

(d) (i) Each Company Benefit Plan is and has been established, operated, and administered in all material respects in accordance with applicable laws and regulations and with its terms, including, without limitation, ERISA, the Code, the Affordable Care Act, and applicable state insurance laws and regulations. (ii) No Company Benefit Plan is, or within the past six years has been, the subject of an application or filing under a government sponsored amnesty, voluntary compliance, or similar program, or been the subject of any self-correction under any such program. (iii) No litigation or governmental administrative proceeding, audit or other proceeding (other than those relating to routine claims for benefits) is pending or, to the Knowledge of the Company, threatened with respect to any Company Benefit Plan or any fiduciary or service provider thereof, and, to the Knowledge of the Company, there is no reasonable basis for any such litigation or proceeding. (iv) All payments and/or contributions required to have been timely made with respect to all Company Benefit Plans either have been made or have been accrued in accordance with the terms of the applicable Company Benefit Plan and applicable law. (v) The Company Benefit Plans satisfy in all material respects the minimum coverage, affordability and non-discrimination requirements under the Code.

(e) Neither the Company nor any ERISA Affiliate has ever maintained, contributed to, or been required to contribute to or had any liability or obligation (including on account of any ERISA

Affiliate) with respect to (whether contingent or otherwise) (i) any employee benefit plan that is or was subject to Title IV of ERISA, Section 412 of the Code, Section 302 of ERISA, (ii) a "multiemployer plan" within the meaning of Section 3(37) of ERISA, (iii) any funded welfare benefit plan within the meaning of Section 419 of the Code, (iv) any "multiple employer plan" (within the meaning of Section 210 of ERISA or Section 413(c) of the Code), or (v) any "multiple employer welfare arrangement" (as such term is defined in Section 3(40) of ERISA), and neither the Company nor any ERISA Affiliate has ever incurred any liability under Title IV of ERISA that has not been paid in full

(f) Neither the Company nor any ERISA Affiliate provides or has any obligation to provide health care or any other non-pension benefits to any employees after their employment is terminated (other than as required by Part 6 of Subtitle B of Title I of ERISA or similar state law) and the Company has never promised to provide such post-termination benefits.

(g) Each Company Benefit Plan may be amended, terminated, or otherwise modified (including cessation of participation) by the Company to the greatest extent permitted by applicable law, and no employee communications or provision of any Company Benefit Plan has failed to effectively reserve the right of the Company or the ERISA Affiliate to so amend, terminate or otherwise modify such Company Benefit Plan. (ii) Neither the Company nor any of its ERISA Affiliates has announced its intention to modify or terminate any Company Benefit Plan or adopt any arrangement or program which, once established, would come within the definition of a Company Benefit Plan. (iii) Each asset held under each Company Benefit Plan may be liquidated or terminated without the imposition of any redemption fee, surrender charge or comparable liability. (iv) No Company Benefit Plan provides major medical health or long-term disability benefits that are not fully insured through an insurance contract.

(h) Each Company Benefit Plan that constitutes in any part a nonqualified deferred compensation plan within the meaning of Section 409A of the Code has been operated and maintained in all material respects in operational and documentary compliance with Section 409A of the Code and applicable guidance thereunder. No payment to be made under any Company Benefit Plan is, or to the Knowledge of the Company, will be, subject to the penalties of Section 409A(a)(1) of the Code.

(i) No Company Benefit Plan is subject to the laws of any jurisdiction outside the United States.

(j) No Company Benefit Plan provides for any tax "gross-up" or similar "make-whole" payments.

(k) Neither the execution and delivery of this Agreement, the shareholder approval of this Agreement, nor the consummation of the Transactions could (either alone or in conjunction with any other event) (i) result in, or cause the accelerated vesting payment, funding or delivery of, or increase the amount or value of, any payment or benefit to any employee, officer, director or other service provider of the Company or any of its ERISA Affiliates; (ii) further restrict any rights of the Company to amend or terminate any Company Benefit Plan; (iii) result in any "parachute payment" as defined in Section 280G(b)(2) of the Code (whether or not such payment is considered to be reasonable compensation for services rendered).

4.17 Employees; Labor Relations

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(a) Section 4.17(a)(i) of the Disclosure Schedule contains a complete and accurate list as of the Agreement Date of the name of each current employee of the Company, together with the following for each employee: (i) date of hire; (ii) position; (iii) location of employment (city/town and state); (iv) annual base salary or hourly wage rate; (v) any incentive or bonus arrangement with respect to

such person; (vi) any benefits; (vii) any promises or commitments made to them with respect to changes or additions to their compensation or benefits; (viii) current accrued but unused vacation/paid time off; (ix) whether classified as exempt or non-exempt for wage and hour purposes; (x) average scheduled hours per week; (xi) any visa or work permit status and the date of expiration, if applicable; (xii) whether paid on a commission basis and the employee's potential commission; and (xiii) status (i.e., active or inactive and if inactive, the type of leave and estimated duration). The Company is not delinquent in payments to any of its employees or Contingent Workers for any wages, salaries, commissions, bonuses, fees or other direct compensation for any services performed for the Company or amounts required to be reimbursed to such employees or Contingent Workers. No labor union, labor organization, or any representative thereof represents, or has made any attempt to organize or represent, employees or Contingent Workers of the Company. The Company is not a party to any collective bargaining agreements, work rules or practices, letters of understanding or similar agreements with any labor union, labor organization, or other person purporting to act as exclusive bargaining representative of any employees or Contingent Workers. There are no strikes or lockouts or work stoppages or slowdowns pending or, to the Knowledge of the Company, threatened against or affecting the Business of the Company. The Company is not currently engaged in any negotiation with any labor union, labor organization, or other person purporting to act as exclusive bargaining representative of any employees or Contingent Workers. The Company has not engaged in any unfair labor practice. Since the Company's formation, no officer's or employee's employment with the Company has been terminated by the Company for any reason and no discussions in which the Company has participated have been held relating to such possible termination.

(b) The Company: (i) is in compliance, and has been in such compliance at all times, in all material respects with all applicable Laws, Contracts and Orders, or arbitration awards of any arbitrator or any court or other Governmental Authority respecting employment and labor matters, including fair employment practices, terms and conditions of employment, pay equity, restrictive covenants, wages, hours, discrimination, payment of minimum wages, meal and rest breaks, overtime, classification of workers as independent contractors and consultants, classification of employees as exempt or non-exempt for purposes of the Fair Labor Standards Act and state and local wage and hour laws, labor relations, leave of absence requirements, occupational health and safety, privacy, harassment, retaliation, work authorization and immigration, accessibility, workers' compensation, unemployment compensation, affirmative action, wrongful termination or violation of the personal rights of employees or prospective employees, and COVID-19-related Laws, standards, and guidance (including, without limitation, the Families First Coronavirus Response Act and any other applicable COVID-19 related leave law, whether state, local or otherwise); (ii) has withheld and reported all amounts required by any Law or Contract to be withheld and reported with respect to wages, salaries and other payments to any employee; (iii) has no Liability for any arrears of wages or any Taxes or any penalty for failure to comply with any of the foregoing; and (iv) has no Liability for any payment to any trust or other fund governed by or maintained by or on behalf of any Governmental Authority with respect to unemployment compensation benefits, social security or other benefits or obligations for any employee (other than routine payments to be made in the normal course of business and consistent with past practice). The Company is not a government contractor or subcontractor for purposes of any law with respect to the terms and conditions of employment.

(c) To the Knowledge of the Company, no employee of the Company at the level of senior manager or above: (i) intends to terminate his employment with the Company; (ii) has received an offer to join a business that may be competitive with the Business; or (iii) is a party to or is bound by any confidentiality agreement, noncompetition, nonsolicitation, or invention assignment agreement or other Contract (with any Person) that may have an adverse effect on: (A) the performance by such employee of any of his duties or responsibilities as an employee of the Company; or (B) the Business or operations. Except as set forth in Section 4.17(c) of the Disclosure Schedule, every former employee whose employment with the Company was terminated by the Company has signed a valid and enforceable release agreement. No employee or Contingent Worker is eligible to earn commission, incentive compensation, or

other post-employment or post-engagement compensation payments from the Company after the end of their employment or engagement with the Company.

(d) Section 4.17(d) of the Disclosure Schedule contains a complete and accurate list as of the Agreement Date of all of the current and former independent contractors, consultants, temporary employees, leased employees or other agents employed or used by the Company and classified by the Company as other than employees, or compensated other than through wages paid by the Company through the Company's payroll ("**Contingent Workers**"), showing for each Contingent Worker: (i) the name of such Contingent Worker, (ii) the date as of which such Contingent Worker was originally engaged by the Company, (iii) (as applicable) the date such engagement ended or the date such engagement is scheduled to end; (iv) fee or compensation arrangements; (v) any termination of contract provision, including required notice or payment due upon termination; and (vi) average hours worked per month. No Contingent Worker is eligible to participate in any Company Benefit Plan.

(e) Currently and since the formation of the Company, the Company is not, and has not been involved in any way in, any form of litigation, governmental audit, governmental investigation, administrative agency proceeding, private dispute resolution procedure, or internal or, to the Company's Knowledge, external investigation of alleged employee misconduct, in each case with respect to employment or labor matters (including, but not limited to, allegations of employment discrimination, retaliation, noncompliance with wage and hour laws, the misclassification of independent contractors, violation of restrictive covenants, sexual harassment, other unlawful harassment or unfair labor practices). Since the formation of the Company, no allegations of sexual harassment have been made to the Company against any employee or Contingent Worker of the Company and the Company has not otherwise become aware of any such allegations. There are no facts, to the Company's Knowledge, that would reasonably be expected to give rise to a claim of sexual harassment, other unlawful harassment or unlawful discrimination or retaliation against or involving the Company or any Company employee, director or Contingent Worker.

(f) All employees of the Company are employed at-will and no employee is subject to any employment contract with the Company, whether oral or written. Section 4.17(f) of the Disclosure Schedule identifies each employee of the Company who is subject to a non-competition, non-solicitation, confidentiality and/or invention assignment agreement with the Company and a form of each such agreement has been provided to Buyer.

(g) The Company has not experienced a "plant closing," "business closing," or "mass layoff" or similar group employment loss as defined in the federal Worker Adjustment and Retraining Notification Act (the "**WARN Act**") or any similar state, local or foreign law or regulation affecting any site of employment of the Company or one or more facilities or operating units within any site of employment or facility of the Company. During the ninety (90)-day period preceding the Agreement Date, no employee or Contingent Worker has suffered an "employment loss" as defined in the WARN Act with respect to the Company.

4.18 Brokers', Finders' Fees, etc

. The Company has not employed any broker, finder, investment banker or financial advisor (i) as to whom the Company, TopCo, MidCo, or any Member may have any obligation to pay any brokerage or finders' fees, commissions or similar compensation in connection with the Transactions, or (ii) who might be entitled to any fee or commission from Buyer, the Company or any of their respective Affiliates upon consummation of the Transactions.

4.19 Affiliate Transactions

. Neither (i) the Members, (ii) TopCo, (iii) MidCo, nor (iv) any present or former employee, officer or manager of the Company or any other individual related by blood or marriage to any of the foregoing, or any entity in which any such Person owns any outstanding equity interest, is a party to any Contract, lease, loan, contract, commitment or transaction with the Company or

which is pertaining to the Business or has any interest in any property, real or personal or mixed, tangible or intangible, used in or pertaining to the Business. Neither (i) the Members, (ii) TopCo, (iii) MidCo, nor (iv) any present or former employee, officer or manager of the Company or any other individual related by blood or marriage to any of the foregoing, or any entity in which any such Person owns any outstanding equity interest, owns directly or indirectly, on an individual or joint basis, any interest in, or serves as an officer or director or in another similar capacity of, any competitor, customer or supplier of the Company, or any organization which has a Contract with the Company.

4.20 Bank Accounts

. Section 4.20 of the Disclosure Schedule provides the following information with respect to each account maintained by or for the benefit of the Company at any bank or other financial institution: (a) the name of the bank or other financial institution at which such account is maintained; (b) the account number; (c) the type of account; and (d) the names of all Persons who are authorized to: (i) sign checks or other documents with respect to such account; (ii) access such account, view the account balance and view the transactions with respect to such account, including all Persons with online and remote access; and (iii) input or release payments from such account.

4.21 Real Property

. The Company has never owned any real property. The Company is not obligated or bound by any options, obligations or rights of first refusal or contractual rights to sell, lease or acquire any real property. The Company does not own any interest in real property, except for the leaseholds created under the real property leases, subleases, licenses and occupancy agreements identified in Section 4.21 of the Disclosure Schedule (collectively, the "**Lease Agreements**" and each, a "**Lease Agreement**"). Section 4.21 of the Disclosure Schedule sets forth a complete and accurate list of (i) all real property leased by the Company (the "**Properties**"), and (ii) the amount of any deposit or other security or guarantee granted by the Company in connection with the Lease Agreements. The Company has not assigned, transferred or pledged any interest in any of the Lease Agreements. Neither the whole nor any part of the Properties is subject to any pending suit for condemnation or other taking by any Governmental Authority, and, to the Knowledge of the Company, no such condemnation or other taking is threatened or contemplated. There are no leases, subleases, licenses, or other agreements granting to any Person the right of use or occupancy of any portion of the Properties (except under the Lease Agreements). The Company currently occupies all of the Properties for the operation of its business pursuant to a valid and subsisting Lease Agreement. The Company does not owe any brokerage commissions or finders' fees with respect to any such Properties nor would owe any such fees if any of the Lease Agreements related to such Properties were extended or renewed pursuant to any extension or renewal option continued in such Lease Agreement. The Company has performed all of its obligations under any termination agreements pursuant to which it has terminated any leases, subleases, licenses or other occupancy agreements for real property that are no longer in effect and has no continuing liability with respect to such terminated agreements. All of the Properties are in good operating condition and repair and otherwise suitable for the conduct of the Business and are, to the Company's Knowledge, free from structural, physical and mechanical defects, are maintained in a manner consistent with standards generally followed with respect to similar properties in the jurisdictions in which the Properties are located and are sufficient for the conduct of the Business. The Company's operations on the Properties do not violate any Lease Agreement, building code, zoning requirement or statute governing such Properties or the operations thereon, and any such non-violation is not dependent on so-called legal non-conforming use exceptions.

4.22 Compliance

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(a) Individual Compliance. The Company's officers, managers and employees (in their capacity as such on behalf of the Company) are, and since the Company's formation, have been, in compliance with each applicable Law.

(b) Foreign Corrupt Practices and Anti-Bribery. The Company has not, nor has any of its officers, managers and employees (in their capacity as such on behalf of the Company) with respect to any matter relating to the Company: (i) used any funds for unlawful contributions, loans, donations, gifts, entertainment or other unlawful expenses relating to political activity; (ii) made or agreed to make any unlawful payment to foreign or domestic government officials or employees or to foreign or domestic political parties or campaigns; or (iii) taken any action that would constitute a violation of any provision of the Foreign Corrupt Practices Act of 1977, as amended, 15 U.S.C. §§ 78dd 1 et seq. or any anti-bribery or anti-corruption law where the Company conducts business, if the Company was subject thereto.

(c) Neither the Company nor any Person acting on its behalf (including any Representative of the Company) has, directly or indirectly, violated any applicable export control Law, trade economic sanctions Law, import Law, or antiboycott Law, in the United States or any other jurisdiction in which the Company does Business, including: the Arms Export Control Act (22 U.S.C.A. § 2278), the Export Control Reform Act (50 U.S.C. § 4801 et seq.), the International Traffic in Arms Regulations (22 C.F.R. 120-130), the Export Administration Regulations (15 C.F.R. Part 730 et seq.), the Office of Foreign Assets Control Regulations (31 C.F.R. Chapter V), the Customs Laws of the United States (19 U.S.C. § 1 et seq.), the International Emergency Economic Powers Act (50 U.S.C. § 1701-1706), the U.S. Commerce Department antiboycott regulations (15 C.F.R. Part 760), the U.S. Treasury Department antiboycott requirements (26 U.S.C. § 999), any other trade control regulations issued by the agencies listed in Part 730 of the Export Administration Regulations, or any applicable non-U.S. Law of a similar nature. Neither the Company, its officers, managers, employees, nor any Person acting on its behalf (including any Representative of the Company) is a Sanctioned Party, defined as (a) a party listed on a prohibited or restricted party list published by the United States government, including the U.S. Office of Foreign Assets Control "**Specially Designated Nationals and Blocked Persons List**" or any other similar lists, including, but not limited to, the OFAC Consolidated List, or "blocked" or subject to other sanctions pursuant to any applicable Laws of the Treasury Department's Office of Foreign Assets Control, Bureau of Industry and Security of the U.S. Department of Commerce or the Directorate of Defense Trade Controls of the U.S. State Department or any applicable non-U.S. Law of a similar nature; (b) the government, including any political subdivision, agency, or instrumentality thereof, of any country against which a U.S. Governmental Authority maintains comprehensive economic sanctions or an embargo, which as of the Agreement Date include the Crimea region of Ukraine, Cuba, Iran, North Korea, Syria and Venezuela ("**Sanctioned Country**"); (c) an ordinary resident of, or entity registered in or established under the jurisdiction of a Sanctioned Country; (d) a party acting or purporting to act, directly or indirectly, on behalf of, or a party owned or controlled by, any of the parties listed in clauses (a), (b) or (c). Further, the Company, its officers, managers, employees, or any Person acting on its behalf, has not, directly or indirectly, conducted any business or other dealings involving any Sanctioned Party or Sanctioned Country.

(d) Neither the Company, nor its Representatives, Affiliates, or other Person associated with or acting on its behalf, has at any time taken or failed to take any action, or engaged in any activity, practice, or conduct that would result in a violation by the Company, or its Representatives, Affiliates, or other Person associated with or acting on its behalf, of the Anti-Corruption Laws in any jurisdiction where the Company or its Affiliates conduct business directly or indirectly. Without limiting the generality of this representation, neither the Company, nor its Representatives, Affiliates, or other Person associated with or acting on its behalf, has at any time, directly or indirectly: (i) used any corporate funds for unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity; (ii) authorized, offered, promised or made any unlawful payment to foreign or domestic officials; (iii) made or taken any action in furtherance of any bribe, rebate, payoff, influence payment, kickback or other similar unlawful payment; or (iv) otherwise taken any action which would cause it to be in violation of the Anti-Corruption Laws. The Company has in place, and have caused each of its Affiliates to maintain, a compliance program and internal controls and procedures appropriate to the applicable requirements of the Anti-Corruption Laws, if the Company were subject thereto in each of the jurisdictions in which its

business is currently conducted, either directly or indirectly. There are no actions, conditions or circumstances pertaining to any the Company's, or its Representatives', Affiliates', or other Persons' associated with or acting on its behalf, activities that would reasonably be expected to give rise to any future claims, allegations, charges, investigations, violations, settlements, prosecutions, civil or criminal actions, lawsuits, or other court or enforcement actions under the Anti-Corruption Laws. No employee, agent, Representative, Affiliate, or other Person associated with or acting on behalf of the Company is the subject of any pending or, to the Company's Knowledge, threatened claims, allegations, charges, investigations, violations, settlements, voluntary disclosures, prosecutions, civil or criminal actions, lawsuits, or other court or enforcement actions with respect to the Anti-Corruption Laws.

4.23 Environmental

. The Company is, and at all times has been, in compliance in all material respects with all applicable Environmental Laws. The Company holds and is, and at all times has been, in compliance in all material respects with all Environmental Permits required to operate at the Properties and to carry on their respective businesses as now conducted, all such Environmental Permits are identified in Section 4.23 of the Disclosure Schedule and are in full force and effect, and there are no Actions pending or, to the Knowledge of the Company, threatened, that seeks the revocation, cancellation, suspension or adverse modification of any such Environmental Permit. The Company has not received any written notice from any Governmental Authority or any other Person, and there are no Actions pending or, to the Knowledge of the Company, threatened against the Company, regarding any actual or alleged violation of Environmental Laws, or any liabilities or potential liabilities for investigation costs, cleanup costs, response costs, corrective action costs, personal injury, property damage, natural resources damages or attorney's fees under Environmental Laws, which remain unresolved. The Company has not assumed or provided indemnity against any material Liability of any other Person under any Environmental Laws. The Company has made available to Buyer accurate and complete copies of all environmental site assessments, compliance audits, notices of violation, consent orders, and other material environmental reports related to the current or former business of, or the operation of, the Company, or to any property or facility currently or formerly owned, leased or operated by the Company, that are in the possession or control of the Company.

4.24 Insurance

. Section 4.24 of the Disclosure Schedule identifies each insurance policy maintained by, at the expense of or for the benefit of the Company and identifies any material claims made thereunder. The Company has made available to Buyer accurate and complete copies of the insurance policies identified on Section 4.24 of the Disclosure Schedule. Each of the insurance policies identified in Section 4.24 of the Disclosure Schedule is in full force and effect, the Company is in compliance with the terms of such policies in all material respects and all premiums with respect thereto covering all periods up to the Agreement Date have been paid. Since the Company's formation, the Company has not received any notice or other communication regarding any actual or possible: (i) cancellation or invalidation of any insurance policy; (ii) refusal of any coverage or rejection of any claim under any insurance policy; or (iii) material adjustment in the amount of the premiums payable with respect to any insurance policy. Other than claims made in the Ordinary Course of Business, there are no pending claims under any such policies, including any claim for loss or damage to the properties, assets or business of the Company. Such policies are sufficient for compliance with all Laws and with all Contracts to which the Company is a party. There are no self-insurance arrangements affecting the Company.

4.25 Significant Business Relationships

. Section 4.25 of the Disclosure Schedule sets forth an accurate and complete list of the Company's top fifteen (15) customers and top fifteen (15) vendors, in each case by dollar amount of payments received or made, as applicable, by the Company, in each case, for both the year ended December 31, 2019 and the ten (10)-month period ended October 31, 2020, together with the amount of payments attributable to each such customer and vendor during such period. Since December 31, 2019, no customer or vendor listed in Section 4.25 of the Disclosure Schedule has terminated its relationship with the Company or demanded a material reduction or change in the pricing or other terms

of its relationship with the Company. The Company is not engaged in any material dispute with any customer or any vendor in Section 4.25 of the Disclosure Schedule and, to the Knowledge of the Company, no such customer or vendor intends to terminate, fail or refuse to renew, renegotiate or change the scope of rights or obligations, limit or reduce its business relations with the Company, or adversely change the pricing or other terms of its business with the Company.

4.26 Complete Copies of Materials

. The Company has made available to Buyer true, correct and complete copies of (a) all documents identified on the Disclosure Schedule, including all exhibits, schedules, amendments and the like, (b) the Company's Organizational Documents, as currently in effect and (c) the minute books containing records of all proceedings, consents, actions and meetings of the managers and members of the Company. The minute books of the Company have been made available to Buyer, are complete and correct and have been maintained in accordance with sound business practices. The minute books of the Company contain accurate and complete records of all meetings, and actions taken by written consent of, the members and the managers, and no meeting, or action taken by written consent, of any such members or managers has been held for which minutes have not been prepared and are not contained in such minute books. At the Closing, all of those books and records will be in the possession of the Company (directly or through counsel).

4.27 PPP Matters

. The Company received the PPP Loan under the Paycheck Protection Program established pursuant to the Coronavirus Aid, Relief and Economic Security Act (the "**CARES Act**"), which is the only loan received by the Company in connection with the CARES Act. As of the date of the Company's submission of the application for the PPP Loan (the "**PPP Application**"), the Company satisfied all eligibility requirements for the PPP Loan. All information included in the PPP Application was true, correct, and complete as of the date of its submission, and all certifications made pursuant to the PPP Application were true and made in good faith. The proceeds from the PPP Loan have been used in compliance with the requirements of the CARES Act. The Company has not used the PPP Loan proceeds in any manner, or taken any other action, that would cause the PPP Loan or any portion thereof to not be forgivable or that would otherwise violate the terms of the CARES Act or any other applicable Law.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF BUYER

As a material inducement to the Company and the Members to enter into this Agreement, Buyer hereby represents and warrants to the Company that:

5.1 Authorization; Enforceability

. Buyer is a corporation duly organized and is validly existing and in good standing under the laws of the State of Delaware and has the requisite corporate power and authority to carry on its business as it is now being conducted. Buyer is duly qualified or licensed to do business, and is in good standing (to the extent applicable), in each jurisdiction where the character of the properties owned, leased or operated by it or the nature of its business makes such qualification or licensing necessary, except where the failure to be so qualified or licensed would not, individually or in the aggregate, reasonably be expected to result in a material adverse effect on Buyer's ability to consummate the transactions contemplated herein or to perform its respective obligations under this Agreement and the Transaction Documents. Buyer has the necessary power and authority to execute and deliver this Agreement and the Transaction Documents to which it is a party, to perform its obligations hereunder and thereunder, and to consummate the Transactions and thereby. The execution, delivery and performance by Buyer of this Agreement and each of the other Transaction Documents to which it is a party, and the consummation by Buyer of the Transactions and thereby have been duly authorized by all necessary action on the part of Buyer, its directors, officers and members and no other proceedings on the part of Buyer is necessary to authorize this Agreement or such Transaction Documents or to consummate the Transactions

or thereby. This Agreement and each other Transaction Document to which Buyer is a party has been duly executed and delivered by Buyer and constitutes a valid and binding agreement of Buyer, enforceable against Buyer in accordance with its terms, subject to the General Enforceability Exceptions.

5.2 Governmental Authorization

. The execution, delivery and performance by Buyer of this Agreement and each other Transaction Document to which it is a party, and the consummation by Buyer of the transactions contemplated thereby, do not and will not require any action by or in respect of, or filing with, any Governmental Authority, other than such filings and notifications as may be required to be made by Buyer in connection with the transactions contemplated herein under the HSR Act and the expiration or early termination of the applicable waiting period under the HSR Act.

5.3 Non-Contravention

. Neither the execution and delivery of this Agreement or any of the Transaction Documents to which Buyer is a party, nor the consummation of the Transactions or thereby, shall conflict with, or (with or without notice or lapse of time, or both) result in a breach, impairment, violation of or an acceleration of an obligation or loss of material benefit, or constitute a default under (a) any provision of the certificate of incorporation or bylaws of Buyer, each as currently in effect, or (b) any Law applicable to Buyer or any of their respective material assets or properties, except in the case of clause (b) where such conflict, breach, impairment, violation or default would not reasonably be expected to result in a material adverse effect on Buyer's ability to consummate the transactions contemplated herein or to perform its respective obligations under this Agreement and the Transaction Documents.

5.4 Buyer SEC Documents

. Since December 31, 2018, Buyer has filed all annual, quarterly and other reports, registration statements and definitive proxy statements required to be filed by Buyer with the SEC (the "**Buyer SEC Documents**"). As of their respective filing dates, the Buyer SEC Documents complied in all material respects with the requirements of the Securities Act and the Exchange Act, as the case may be, and the rules and regulations of the SEC promulgated thereunder applicable to such Buyer SEC Documents.

5.5 Financing

. Buyer shall have at the Closing sufficient cash and available credit facilities from recognized financial institutions to (a) pay the Closing Cash Consideration and (b) pay all of its related fees and expenses.

5.6 Buyer Shares; Authorization and Delivery

. The Buyer Shares to be issued and sold as herein described have been authorized and reserved for issuance and are validly issued and fully paid and nonassessable.

5.7 Brokers', Finders' Fees, etc

. Buyer has not employed any broker, finder, investment banker or financial advisor (i) as to whom Buyer may have any obligation to pay any brokerage or finders' fees, commissions or similar compensation in connection with the Transactions, or (ii) who might be entitled to any fee or commission from Buyer, the Company or any of their respective Affiliates upon consummation of the Transactions.

ARTICLE VI

COVENANTS

6.1 Access and Investigation

. During the period from the Agreement Date and continuing until the earlier of the termination of this Agreement pursuant to Article IX or the Closing (the "**Pre-Closing Period**"), the Company shall, and shall cause its Representatives to: (a) provide Buyer and Buyer's Representatives with reasonable access during normal business hours to the Company's Representatives, personnel and assets and to all existing Books and Records, Tax Returns, work papers and other documents

and information relating to the Company; and (b) provide Buyer and Buyer's Representatives with copies of such existing Books and Records, Tax Returns, work papers and other documents and information relating to the Company, and with such additional financial, operating and other data and information regarding the Company, as Buyer may reasonably request, subject in all cases to reasonable restrictions imposed from time to time upon advice of counsel in respect of applicable Laws relating to the confidentiality of information (including any Antitrust Laws). During the Pre-Closing Period, Buyer may, following reasonable advance notice to the Company, make inquiries of Persons having business relationships with the Company (including suppliers, licensors, distributors and customers) and the Company shall facilitate (and shall cooperate fully with Buyer in connection with) such inquiries, in each case in compliance with all applicable Laws (including any Antitrust Laws). No investigation by Buyer or its Representatives or other information received by Buyer or its Representatives shall operate as a waiver or otherwise affect any representation, warranty or agreement given or made by the Company in this Agreement.

6.2 Operation of the Business of the Company

. During the Pre-Closing Period, the Company shall conduct its business and operations in the Ordinary Course of Business and in substantially the same manner as such business and operations have been conducted prior to the Agreement Date and the Company shall use reasonable best efforts to preserve intact its current business organization, keep available the services of its current officers and employees and maintain its relations and good will with all suppliers, distributors, customers, landlords, creditors, employees, merchants and other Persons having business relationships with the Company. Without limiting the generality of the foregoing, during the Pre-Closing Period, the Company shall not, unless specifically permitted in Schedule 6.2:

(a) cancel or fail to renew any of its respective insurance policies identified in Section 4.24 of the Disclosure Schedule or reduce the amount of any insurance coverage provided by such insurance policies;

(b) declare, accrue, set aside or pay any dividend or make any other distribution in respect of any Membership Units or other securities, or repurchase, redeem or otherwise reacquire any Membership Units or other securities; *provided, however*, that that the Company shall distribute all Company Cash in excess of the Minimum Company Cash to the Members prior to Closing;

(c) sell, issue or authorize the issuance of: (i) any Membership Units or other security; (ii) any option or right to acquire any Membership Units (or cash based on the value of Membership Units) or other security; or (iii) any instrument convertible into or exchangeable for any Membership Units (or cash based on the value of Membership Units) or other security;

(d) amend or waive any of its rights under, or permit the acceleration of vesting under, any compensation obligation;

(e) amend or permit the adoption of any amendment to the Company's Organizational Documents, or effect or permit the Company to become a party to any Acquisition Transaction (other than the Transactions), recapitalization, reclassification of shares, stock split, reverse stock split or similar transaction;

(f) form any Subsidiary or acquire any equity interest or other interest in any other entity;

(g) make any capital expenditure, except for capital expenditures that, when added to all other capital expenditures made on behalf of the Company during the Pre-Closing Period, do not exceed $25,000;

(h) (i) enter into, or permit any of the assets owned or used by it to become bound by, any Contract that is or would constitute a Material Contract; or (ii) amend, extend or prematurely terminate, or waive any material right or remedy under, any Contract that is or would constitute a Material Contract, in each case other than (A) any Contract, amendment, extension or renewal with a term of less than one year that involves $25,000 or less, and (B) any Contract, amendment, extension or renewal with end-users that are based upon and do not deviate in any material respect from the Standard Form Agreements.

(i) allow or suffer any material Permit to lapse, expire, be cancelled, suspended, limited, revoked or materially modified, or not be renewed (if due prior to Closing);

(j) (i) acquire, lease or license any right or other asset from any other Person for an aggregate value in excess of $25,000; (ii) sell or otherwise dispose of, or lease or license (or grant any other right with respect to), any right or other asset to any other Person; or (iii) waive or relinquish any right, except in the case of each of clauses (i)-(iii), in the Ordinary Course of Business;

(k) (i) lend money to any Person (except that the Company may make routine travel and business expense advances to current employees of the Company in the Ordinary Course of Business); or (ii) incur, assume or guarantee any Indebtedness, except borrowings under the AFG Line of Credit;

(l) release or waive any claims or rights or Liabilities, other than in the Ordinary Course of Business;

(m) (i) enter into any collective bargaining agreement or negotiations related to any such agreement; (ii) establish, adopt, amend, terminate or provide discretionary benefits under any Company Benefit Plan (or arrangement that would be an Company Benefit Plan if in effect on the Agreement Date); (iii) pay any bonus or profit-sharing payment, cash incentive payment or similar payment, except in accordance with Company bonus plans or commissions plans established prior to the Agreement Date and made available to Buyer; (iv) modify or make any commitment to modify the commissions, bonuses, fringe benefits or other employee benefits or compensation (including equity-based compensation, whether payable in cash or otherwise) payable to any of its employees, officers or managers; (v) modify or make any commitment to modify the base salary payable to any Key Employee or any other employee with annual base compensation in excess of $75,000.00; (vi) modify or make any commitment to modify the compensation or remuneration payable to any of its Contingent Workers; (vii) demote or replace any of its Key Employees or any other employee with annual base compensation in excess of $75,000.00 (retroactively or otherwise) except following reasonable consultation with Buyer; (viii) promote or change the title of any of its employees (retroactively or otherwise); (ix) fund, other than in the Ordinary Course of Business, or make any commitment to fund, any compensation obligation (whether by grantor trust or otherwise); (x) hire or make an offer to hire any Contingent Worker or new employee on a full-time, part-time, consulting or other basis with annual base compensation in excess of $150,000.00, other than hires to replace persons who terminate employment with the Company during the Pre-Closing Period; (xi) terminate the employment or services of any Key Employee or any other employee with annual base compensation in excess of $75,000.00 other than termination for cause and following reasonable consultation with Buyer; (xii) terminate the employment or services of any other employee or any Contingent Worker other than termination for cause; or (xiii) communicate with any employee regarding any compensation or benefits to be provided by Buyer after the Closing without the prior written consent of Buyer;

(n) change any of its methods of accounting or accounting practices in any material respect (other than as required by applicable Law or accounting or auditing standards or by Buyer);

(o) prepare or file any Tax Return inconsistent with past practice or, on any such Tax Return, take any position, make any election, or adopt any method that is inconsistent with positions taken, elections made or methods used in preparing or filing similar Tax Returns in prior periods (including positions, elections or methods that would have the effect of deferring income to periods ending after the Closing Date or accelerating deductions to periods beginning before the Closing Date), file any amended Tax Return or file a Tax Return of a type or in a jurisdiction not previously filed, settle or otherwise compromise any claim relating to Taxes, enter into any closing agreement or similar agreement relating to Taxes, otherwise settle any dispute relating to Taxes, surrender any right to claim a Tax refund, offset or other reduction in Tax liability, or request any ruling or similar guidance with respect to Taxes, in each case to the extent such action could materially affect Buyer, the Company or any of its Affiliates in a taxable period (or portion thereof) ending after the Closing Date;

(p) commence or settle any Action or threatened Action;

(q) accelerate the collection of any accounts receivable or delay the payment of any accounts payable beyond their regular due dates;

(r) except as required by applicable accounting or auditing standards and consistent with past practices, revalue any of its assets (whether tangible or intangible), write off as uncollectible, or establish any extraordinary reserve with respect to, any account receivable or other Indebtedness;

(s) sell, dispose of, assign, license, sublicense, covenant not to sue with respect to, or otherwise transfer or grant or receive any rights with respect to any Technology or Intellectual Property Rights, or abandon or permit to lapse or expire any Intellectual Property Rights or acquire any Intellectual Property Rights from any Person, except for granting or receiving non-exclusive licenses of Intellectual Property Rights in the Ordinary Course of Business;

(t) fail to take any action or pay any fees in a timely manner to maintain and preserve any Company Owned Intellectual Property, or otherwise allow any actions or fees to become delinquent or subject to surcharge with respect to any Company Owned Intellectual Property;

(u) set aside, transfer, use, Encumber, or distribute any Buy Center Cash, other than in connection with the Company's "Buy Center" program in the Ordinary Course of Business; and

(v) agree or commit to take any of the actions described in clauses "(a)" through "(u)" above.

Notwithstanding the foregoing, the Company may take any action described in clauses "(a)" through "(v)" above if: (i) Buyer gives its prior written consent to the taking of such action by the Company; or (ii) such action is expressly listed in Schedule 6.2.

6.3 Notification

. Each of the parties hereto shall refrain from taking any action which would render any representation or warranty contained in this Agreement inaccurate as of the Closing. During the Pre-Closing Period, the Company shall promptly notify Buyer in writing of the Company obtaining Knowledge of: (i) any event, condition, fact or circumstance that occurred or existed on or prior to the Agreement Date and that caused or constitutes a breach of or an inaccuracy in any material respect in any representation or warranty made by the Company, TopCo, or any Member in this Agreement; (ii) any event, condition, fact or circumstance that occurs, arises or exists after the Agreement Date and that would cause or constitute a breach of or an inaccuracy in any material respect in any representation or warranty made by the Company, TopCo, or any Member in this Agreement if (A) such representation or warranty had been made as of the time of the occurrence, existence or discovery of such event, condition, fact or circumstance

or (B) such event, condition, fact or circumstance had occurred, arisen or existed on or prior to the Agreement Date; (iii) any breach of any covenant or obligation of the Company, TopCo, or any Member such that the condition in Section 7.2 would not be satisfied; (iv) any notice or other communication from any third Person alleging that the consent of such third Person is or may be required in connection with the Transactions or any Transaction Document; and (v) any event, condition, fact or circumstance that would make the timely satisfaction of any of the conditions set forth in Article VII impossible or unlikely. No notification under this Section 6.3 shall be required with respect to matters consented to in writing by Buyer pursuant to the last paragraph of Section 6.2 or the actual taking of actions contemplated by Schedule 6.2.

6.4 No Negotiation

. During the Pre-Closing Period, neither the Company, TopCo, nor any Member shall, and neither the Company, TopCo, nor any Member shall authorize or permit any Representative or Affiliate of the Company, TopCo, or any Member to: (a) solicit, encourage, make or facilitate the initiation or submission of any expression of interest, inquiry, proposal or offer from any Person (other than Buyer) relating to a possible Acquisition Transaction; (b) participate in any discussions or negotiations or enter into any agreement, understanding or arrangement with, or provide any non-public information to, any Person (other than Buyer or its Representatives) relating to or in connection with a possible Acquisition Transaction; or (c) entertain or accept any proposal or offer from any Person (other than Buyer) relating to a possible Acquisition Transaction. The Company, each of TopCo and MidCo, and each Member shall immediately cease and cause to be terminated, all existing discussions or negotiations with any Persons conducted with respect to, or that could lead to, a possible Acquisition Transaction. The Company, TopCo, and each Member shall promptly (and in any event within 24 hours of receipt thereof) notify Buyer orally and in writing of any inquiry, indication of interest, proposal, offer or request for non-public information relating to a possible Acquisition Transaction that is received by the Company, TopCo, or such Member during the Pre-Closing Period, which notice shall include: (i) the identity of the Person making or submitting such inquiry, indication of interest, proposal, offer or request, and the terms and conditions thereof; and (ii) an accurate and complete copy of all written materials, and an accurate and complete summary of all other non-written communications, in each case that are provided in connection with such inquiry, indication of interest, proposal, offer or request. The Company, TopCo, and each Member agrees that the rights and remedies for noncompliance with this Section 6.4 shall include having such provision specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach shall cause irreparable injury to Buyer and that money damages would not provide an adequate remedy to Buyer.

6.5 Further Action.

(a) The Company, TopCo, each of the Members, and Buyer shall use their respective reasonable best efforts to take any actions reasonably necessary or appropriate to consummate the transactions contemplated herein and fulfill the conditions to the Closing set forth herein as promptly as practicable following the Agreement Date, including, with respect to the Company, delivering to Buyer such certificates and other documents as required to satisfy each of the conditions set forth in Article VII. The Company, TopCo, each of the Members, and Buyer shall take any further actions reasonably necessary or desirable to carry out the purposes of this Agreement or any other Transaction Document as may be requested by the other parties hereto.

(b) In furtherance and not in limitation of the terms of Section 6.5(a), (i) each of Buyer and the Company shall file, or cause to be filed, a Notification and Report Form pursuant to the HSR Act with respect to the transactions contemplated herein within five (5) Business Days following the Agreement Date and (ii) each of Buyer and the Company shall, to the extent permitted under applicable Law, (A) cooperate and coordinate, subject to all applicable privileges (including the attorney-client privilege), with the other in connection with any filings, analyses, appearances, presentations, memoranda, briefs, arguments, opinions, submissions and proposals submitted by or on behalf of Buyer or the Company

relating to proceedings under the HSR Act or any applicable Antitrust Laws in connection with the transactions contemplated herein, (B) supply the other or its outside counsel with any information that may be required or requested by any Governmental Authority in connection with such filings or submissions, (C) supply any additional information that may be required or requested by the Federal Trade Commission, the Department of Justice, or other Governmental Authorities in which any such filings or submissions are made under any applicable Antitrust Laws as promptly as practicable, and (D) use their respective reasonable best efforts consistent with applicable Law to cause the expiration or termination of the applicable waiting periods under any applicable Antitrust Laws as soon as reasonably practicable; provided that for each of clauses (A)–(D) above, each of the Company and Buyer shall provide the other party with advance copies and an opportunity to provide its comment to any materials to be submitted to any Governmental Authority. Each of the parties hereto may, as it deems advisable and necessary, reasonably designate any competitively sensitive material provided to the other party as "Outside Counsel Only." Such materials and the information contained therein shall be given only to the outside legal counsel of the recipient and will not be disclosed by such outside counsel to employees, officers, or directors of the recipient, unless express written permission is obtained in advance from the source of the materials. Each of Buyer and the Company shall provide to the other copies of all correspondence between it (or its outside counsel) and any Governmental Authority relating to the transactions contemplated herein or any of the matters described in this Section 6.5. Each of Buyer and the Company shall promptly inform the other of any substantive oral communication with, and provide copies of any written communications with, any Governmental Authority regarding any such filings or any such transaction, unless prohibited by reasonable request of any Governmental Authority. Neither Buyer nor the Company shall independently participate in any meeting or substantive conference call with any Governmental Authority in respect of any such filings, investigation or other inquiry without giving the other prior notice of the meeting or substantive conference call and, to the extent permitted by such Governmental Authority, the opportunity to attend or participate.

(c) In furtherance of this Section 6.5(c) and subject to the limitations set forth in this Section 6.5(c), if any objections are asserted with respect to the transactions contemplated herein under the HSR Act, any other applicable Antitrust Law or any other applicable Law or if any Action is instituted (or threatened to be instituted) by the Federal Trade Commission, the Department of Justice, or any other Governmental Authority challenging the transactions contemplated herein or that would otherwise prohibit or materially impair or delay the consummation of the transactions contemplated herein, the Company and Buyer shall use their respective reasonable best efforts to resolve any such objections or lawsuits or other proceedings (or threatened Actions) so as to permit consummation of the transactions contemplated herein as soon as reasonably practicable. Notwithstanding anything to the contrary herein, neither Buyer nor any of its Affiliates shall be required, in order to resolve any such objections or Actions (or threatened Actions) or otherwise, to (i) litigate or contest any Action challenging any of the transactions contemplated herein as violative of any Antitrust Law, (ii) (A) sell, lease, license, transfer, dispose of, divest or otherwise encumber, or hold separate pending any such action, or (B) propose, negotiate or offer to effect, or consent or commit to, any such sale, lease, license, transfer, disposal, divestiture of, or other Lien on, or holding separate of, before or after the Closing, any assets, licenses, operations, rights, product lines, businesses, or interest therein of Buyer or the Company (or any of their respective Subsidiaries or other Affiliates), (iii) take or agree to take any other action or agree or consent to any limitations or restrictions on freedom of actions with respect to, or its ability to retain, or make changes in, any such assets, licenses, operations, rights, product lines, businesses, or interest therein of Buyer or the Company (or any of their respective Subsidiaries or other Affiliates), (iv) take or agree to take any other action or agree or consent to the holding separate of the Membership Units or any limitation or regulation on the ability of Buyer or any of its Affiliates to exercise full rights of ownership of the shares of Membership Units, or (v) take or agree to take any other action that is not conditioned on the consummation of the Transactions (any one or more of the foregoing actions, an "**Antitrust Restraint**"). Buyer may compel the Company to take any Antitrust Restraint (or agree to take such Antitrust Restraint) if such Antitrust Restraint is effective only after the Closing, and the Company may not take any Antitrust Restraint in connection with the matters contemplated

by this Section 6.5(c) without the prior written consent of Buyer; *provided, however*, that the Company shall not be required, in order to resolve any such objections or Actions (or threatened Actions) or otherwise, to litigate or contest any Action challenging any of the transactions contemplated herein as violative of any Antitrust Law.

6.6 Confidentiality

. At all times on and after the Agreement Date, the Members, TopCo, and the Company shall (a) treat and hold, and shall cause their respective Affiliates and Representatives to treat and hold, as confidential any information concerning the Company, the Business, this Agreement and the terms hereof and otherwise pertaining to the Transactions, including any notes, analyses, compilations, studies, forecasts, interpretations or other documents that are derived from, contain, reflect or are based upon any such information (the "**Confidential Information**"), (b) refrain from using any of the Confidential Information, except (i) by the Company in the Ordinary Course of Business and (ii) by Topco or the Members in connection with evaluating or consummating the Transactions or as otherwise reasonably may be necessary in connection with the evaluation or administration of its direct or beneficial ownership of the Membership Units, *provided* that neither TopCo nor the Members shall disclose the Confidential Information except to its respective Representative with a *bona fide* need to know and subject to contractual, regulatory or ethical non-disclosure and use obligations, and (c) with respect to TopCo and the Members only, deliver promptly to Buyer, at the request and option of Buyer, all tangible embodiments (and all copies) of the Confidential Information which are in its possession or under its control, other than such Confidential Information constituting financial information of the Company that TopCo or a Member would reasonably need to retain in connection with clause (b)(ii) above. Notwithstanding the foregoing, Confidential Information shall not include information that is generally available to the public other than as a result of a breach of this Section 6.6 or other act or omission of TopCo, the Members, or any of their respective Affiliates or Representatives. In the event that the Company, TopCo, the Members, or any of their respective Affiliates or Representatives are requested or required to produce information or documents in any legal proceeding, interrogatory, subpoena, civil investigative demand, or similar process to disclose any Confidential Information, the Company, TopCo, or the Members, as applicable, shall notify Buyer promptly of the request or requirement so that Buyer may seek an appropriate protective Order or waive compliance with the provisions of this Section 6.6. If, in the absence of a protective Order or the receipt of a waiver hereunder, the Company, TopCo, the Members, or any of their respective Affiliates or Representatives are, on the advice of counsel, compelled to disclose any Confidential Information to any tribunal or else stand liable for contempt, the Company, TopCo, the Members, or their respective Affiliates or Representatives (as applicable) may disclose the Confidential Information to the tribunal; *provided*, that the Company, TopCo, the Members, or their respective Affiliates or Representatives (as applicable) shall use their reasonable best efforts to obtain, at the written request of Buyer, an Order or other assurance that confidential treatment shall be accorded to such portion of the Confidential Information required to be disclosed as Buyer shall designate.

6.7 Tax Matters

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(a) Preparation of Tax Returns.

(i) The Members' Representative, at the Members' cost and expense, shall file or cause to be filed, all income Tax Returns with respect to the Company for all taxable periods ending on or before the Closing Date (taking into account extensions) for which items of income, deduction, credits, gains or losses are passed through to the Members under applicable Law (the "**Pass-Through Returns**"). All Pass-Through Returns shall be prepared in accordance with existing procedures, practices, and accounting methods of the Company, unless otherwise required by applicable Law. Each Pass-Through Return shall be submitted to Buyer for Buyer's review and comment at least twenty (20) days prior to the due date of such Pass-Through Return (taking into account extensions), and the

Members' Representative shall consider in good faith any reasonable comments made by Buyer on any such Tax Return prior to filing such Pass-Through Return. The Members shall pay all Taxes due based upon any such Tax Return.

(ii) Buyer and the Company shall prepare or cause to be prepared, and Buyer shall cause the Company to file, all Tax Returns of the Company for Pre-Closing Tax Periods that are due after the Closing Date, other than Pass-Through Returns. All such Tax Returns shall be prepared in accordance with existing procedures, practices, and accounting methods of the Company, unless otherwise required by applicable Law. Each such income Tax Return or other material Tax Return shall be submitted to the Members' Representative for the Members' Representative's review and comment (A) in the case of any income Tax Return, at least twenty (20) days prior to the due date of such income Tax Return (taking into account extensions) and (B) in the case of any other material Tax Return that shows an amount for which the Members are responsible for pursuant to the terms of this Agreement, as soon as reasonably practicable prior to the due date of such Tax Return (taking into account extensions), and Buyer shall consider in good faith any reasonable comments made by the Members' Representative in any such Tax Return prior to filing such Tax Return. The Members' Representative shall pay to Buyer those Taxes shown as due on any such Tax Return (and with respect to any Tax Returns for any Straddle Period allocated to the Company in a manner consistent with Section 6.7(c)) no later than five (5) Business Days before Buyer is required to file such Tax Returns with the applicable Governmental Authority (taking into account any extensions timely filed by the Company), except to the extent the amount of any such Taxes was included in the Closing Indebtedness Amount, as finally determined.

(b) Cooperation. The parties to this Agreement shall provide assistance to each other as reasonably requested in preparing and filing Tax Returns and responding to any audits or other proceedings relating to Taxes, provide reasonably detailed notice of any such audits or other proceedings sufficient to apprise each other of the nature of the claim, make available to each other as reasonably requested all relevant information, records, and documents, including workpapers, relating to Taxes of the Company, and retain any books and records that could reasonably be expected to be necessary or useful in connection with any preparation of any Tax Return, or for any audits or other proceedings relating to Taxes.

(c) Straddle Periods. In the case of any Straddle Period, the amount of any Taxes of the Company (i) based on or measured by income or receipts, sales or use, employment, or withholding for the Pre-Closing Tax Period shall be determined based on an interim closing of the books as of the close of business on the Closing Date (and for such purpose, the taxable period of any partnership or other pass-through entity or non-U.S. entity in which the Companies hold a beneficial interest shall be deemed to terminate at such time) and (ii) the amount of other Taxes of the Company for a Straddle Period for the Pre-Closing Tax Period shall be deemed to be the amount of such Tax for the entire taxable period multiplied by a fraction, the numerator of which is the number of days in the Straddle Period prior to and including the Closing Date and the denominator of which is the number of days in such Straddle Period.

(d) Tax Contests. Buyer shall promptly notify the Members' Representative upon the receipt of any notice, or becoming aware, of any audit or other similar examination with respect to any Taxes for which the Members would reasonably be expected to be liable pursuant to this Agreement, including with respect to any Pre-Closing Tax Period (a "**Tax Contest**"); *provided,* that no failure or delay of Buyer in providing such notice shall reduce or otherwise affect the obligations of the Members pursuant to this Agreement, except to the extent that the Members' Representative demonstrates that the defense of such Tax Contest is prejudiced by such failure or delay. Buyer shall control, or cause the Company to control the conduct of any Tax Contest; *provided*, that if a Tax Contest relates solely to a Pass-Through

Return, the Members' Representative shall have the right to assume control, at Members' expense, of such Tax Contest if (x) within fifteen (15) days of receiving notice of the Tax Contest the Members' Representative notifies Buyer of its intent to take control of such Tax Contest and (y) the resolution of such Tax Contest could not have a material adverse effect for the Company in a taxable period (or portion thereof) beginning after the Closing Date (as reasonably determined by Buyer); *provided, further*, that (i) Buyer, at its cost and expense, shall have the right to participate in any such Tax Contest and (ii) the Members' Representative shall not settle any such Tax Contest without Buyer's written consent, not to be unreasonably withheld, conditioned or delayed. If the Members' Representative does not elect to control such Tax Contest, or for any other Tax Contest that relates to a Pre-Closing Tax Period, Buyer shall control such Tax Contest; *provided*, that the Members' Representative, at the Members' cost and expense, shall have the right to participate in any such Tax Contest. In the event of any conflict between the provisions of this Section 6.7(d) and the provisions of Section 10.6, the provisions of this Section 6.7(d) shall control.

(e) Transfer Taxes. The Members shall pay any transfer, sales, use, reporting, recording, filing and other similar fees, Taxes or charges imposed on any of the Members, TopCo, the Company, Buyer or any of Buyer's Affiliates as a result of the Transactions, including any penalties and interest with respect thereto (collectively, "**Transfer Taxes**"). The Members and TopCo agree to cooperate with Buyer in the filing of any returns with respect to the Transfer Taxes, including promptly supplying any information in their possession reasonably requested by Buyer that is reasonably necessary to complete such returns. The Members shall promptly reimburse Buyer for any Transfer Taxes payable by Buyer upon receipt of notice that such Transfer Taxes are payable.

(f) Miscellaneous. Unless otherwise required by applicable Law, neither Buyer nor any of Buyer's Affiliates (including the Company and any of its subsidiaries after the Closing) shall (i) make (or cause to be made) or change or (cause to be changed) any material Tax election of the Company that has retroactive effect to any Pre-Closing Tax Period, (ii) file any private letter ruling or similar request with respect to Taxes or Tax Returns of the Company for any Pre-Closing Tax Period, or (iii) initiate (or cause to be initiated) any voluntary disclosure or similar process with a taxing authority with respect to Taxes of the Company for any Pre-Closing Tax Period, in each case without the prior written consent of the Members' Representative, which consent shall not be unreasonably withheld, conditioned or delayed.

(g) Other Tax Matters.

(i) Within ten (10) Business Days after the Closing Date, MidCo shall validly execute and file an IRS Form 8832 electing to classify itself as an association taxable as a corporation for U.S. federal income Tax purposes, with an effective date prior to the Closing Date (the "**Check-the-Box Election**"), and MidCo shall deliver, or cause to be delivered, evidence reasonably satisfactory to Buyer that the Check-the-Box Election has been filed and is effective prior to the Closing Date, including a copy of such Check-the-Box Election.

(ii) The parties hereto agree that for purposes of determining the income, profit, loss, deduction or any other items of the Company for the taxable year that includes the Closing Date, the Company will determine such items by using the interim closing method under Section 706 of the Code and Treasury Regulations Section 1.706-4, using the "calendar day" convention, effective as of the end of the Closing Date.

(iii) In connection with any audit or other similar examination with respect to any Taxes or Tax Returns of the Company for a Pre-Closing Tax Period, the Company shall make, or shall cause the "partnership representative" of the Company within the meaning of Section 6223 of the Code to make, an election under Section 6226 of the Code

(or any similar or comparable provision of state, local or foreign Law) for any "imputed underpayment" as defined in Section 6225 of the Code (or any comparable provision of state, local or foreign law) attributable to the Company.

6.8 Reasonable Efforts

. Prior to the Closing: (a) the Company, TopCo, and each Member shall use their respective reasonable best efforts to cause the conditions set forth in Article VII to be satisfied on a timely basis; and (b) Buyer shall use its reasonable best efforts to cause the conditions set forth in Article VIII to be satisfied on a timely basis.

6.9 Further Assurances

. Following the Closing, each of the parties hereto shall, and shall cause their respective Affiliates and Representatives to, execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the Transactions.

6.10 Release

. For and in consideration of the amounts to be paid to the Members in connection with the Redemption and the Transactions and the other Transaction Documents, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, effective as of the Closing, each Member and TopCo, on behalf of themselves and their assigns, heirs, beneficiaries, creditors, Representatives, agents and Affiliates (the "**Releasing Parties**"), hereby fully, finally and irrevocably release, acquit and forever discharge the Business, the Company, Buyer, and their respective Representatives, shareholders, Affiliates, parents, Subsidiaries, joint ventures, predecessors, successors, assigns, and insurers (collectively, the "**Released Parties**") from any and all commitments, actions, debts, claims, suits, causes of action, damages, demands, Liabilities, obligations, costs, Losses and compensation of every kind and nature whatsoever, past, present, or future, at law or in equity, whether known or unknown, contingent or otherwise, which such Releasing Parties, or any of them, had, has, or may have had at any time in the past accruing prior to or as of the Closing Date against the Released Parties, or any of them, including, but not limited to, any claims which relate to or arise out of such Releasing Party's pre-Closing relationship with the Business, the Company, or his or her rights or status as a present or former member, officer or manager of the Company (collectively, "**Released Causes of Action**"); *provided, however*, that the Released Causes of Action shall not include (x) any rights and claims of any Releasing Party arising under the provisions of this Agreement or any Transaction Document, in each case arising after the Closing, (y) for any Releasing Party who is an employee of the Company, any rights or claims of such Releasing Party to employment compensation or benefits from the Company that are payable, accrue or vested as of the Closing Date, and (z) any rights and claims of any Releasing Party arising after the Closing under the provisions of the AFG Line of Credit. Each Member and TopCo represents to the Released Parties that (i) as of the Closing Date TopCo and such Member has not assigned any Released Causes of Action, (ii) TopCo or such Member has had access to adequate information regarding the terms of this Agreement, the scope and effect of the releases set forth herein, and all other matters encompassed by this Agreement to make an informed and knowledgeable decision with regard to entering into this Agreement, after receiving the advice of legal counsel, and (iii) TopCo or such Member has not relied upon Buyer or the other Released Parties in deciding to enter into this Agreement and have instead made their own independent analysis and decision to enter into this Agreement. The Releasing Parties acknowledge that each of them has been advised to consult with legal counsel and is familiar with the provisions of California Civil Code Section 1542, a statute that otherwise prohibits the release of unknown claims, which reads as follows: **"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."** Each Releasing Party hereby expressly waives and relinquishes all rights and benefits under such section and any law of any jurisdiction of similar effect with respect to the Released Causes of Action, including, without limitation, releases of unknown claims.

6.11 Intentionally Omitted

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6.12 Payoff Letters; Release of Liens

. The Company shall obtain one or more payoff letters, in form and substance reasonably satisfactory to Buyer, duly executed and delivered by each holder of Indebtedness, and duly and validly executed copies of all other agreements, instruments, certificates and other documents, including the appropriate Lien termination filings, each in form and substance reasonably satisfactory to Buyer, that are necessary or appropriate to evidence the release of all Liens related to any Indebtedness (the "**Payoff Letters**").

6.13 Public Announcements

. Unless otherwise required by applicable Law (based upon the reasonable advice of counsel), from and after the Agreement Date no Member, nor TopCo or the Members' Representative shall make any public announcements in respect of this Agreement or the Transactions or otherwise communicate with any news media without the prior written consent of Buyer.

6.14 Consents

. The Company shall use its reasonable best efforts to give all notices to, and obtain all consents from, all third parties that are described in Section 4.5 of the Disclosure Schedule. If any consent, approval or authorization necessary to preserve any right or benefit under any Contract to which the Company is a party is not obtained prior to the Closing, the Members and TopCo shall, subsequent to the Closing, cooperate with Buyer and the Company in attempting to obtain such consent, approval or authorization as promptly thereafter as practicable.

6.15 Expenses

. Whether or not the Transactions are consummated, all third party expenses shall be the obligation of the respective party incurring such fees and expenses. The Initial Consideration Spreadsheet will reflect all Company Transaction Expenses incurred or expected to be incurred by the Company as a result of the negotiation and effectuation of this Agreement and the Transactions (it being understood that the Company Transaction Expenses shall be deducted in the calculation of the Purchase Price).

6.16 No Transfer of Buyer Shares

. For one hundred and eighty (180) days from and after the Closing Date, neither TopCo nor any of the Members shall, and shall not cause, direct, or permit any of their respective Affiliates or Representatives to, (i) offer, sell, contract to sell, pledge, grant any option to purchase, lend or otherwise dispose of any Buyer Shares acquired pursuant to this Agreement, or any options or warrants to purchase any such Buyer Shares, or any securities convertible into, exchangeable for or that represent the right to receive any such Buyer Shares (such options, warrants or other securities, collectively, "**Derivative Instruments**"), or (ii) engage in any hedging or other transaction or arrangement (including, without limitation, any short sale or the purchase or sale of, or entry into, any put or call option, or combination thereof, forward, swap or any other derivative transaction or instrument, however described or defined) which is designed to or which reasonably could be expected to lead to or result in a sale, loan, pledge or other disposition (whether by TopCo, any Member or any Representative thereof), or transfer of any of the economic consequences of ownership, in whole or in part, directly or indirectly, of any such Buyer Shares or Derivative Instruments of Buyer Shares, whether any such transaction or arrangement (or instrument provided for thereunder) would be settled by delivery of Buyer Shares or other securities, in cash or otherwise without the prior written consent of Buyer.

6.17 No Transfers of TopCo or MidCo Equity Securities

. During the Pre-Closing Period, no Member shall and TopCo shall not, nor shall any Member or TopCo cause, direct, or permit any of its Affiliates or Representatives to, (i) offer, sell, contract to sell, pledge, grant any option to purchase, lend or otherwise dispose of any equity securities of TopCo or MidCo, or any Derivative Instruments of TopCo or MidCo, including, without limitation, any such equity securities or Derivative Instruments of TopCo or MidCo now owned or hereafter acquired by such Member or TopCo (as applicable), or (ii) engage in any hedging or other transaction or arrangement (including, without limitation, any short sale or the purchase

or sale of, or entry into, any put or call option, or combination thereof, forward, swap or any other derivative transaction or instrument, however described or defined) which is designed to or which reasonably could be expected to lead to or result in a sale, loan, pledge or other disposition (whether by such Member or TopCo or any Representative of such Member or TopCo), or transfer of any of the economic consequences of ownership, in whole or in part, directly or indirectly, of any equity securities or Derivative Instruments of TopCo or MidCo, whether any such transaction or arrangement (or instrument provided for thereunder) would be settled by delivery of equity securities of TopCo or MidCo or other securities, in cash or otherwise without the prior written consent of Buyer.

6.18 Buyer RSUs

. Prior to the Closing Date, Buyer shall provide letter agreements to the Key Employees providing for the grant of restricted stock units following Closing pursuant to Buyer's 2017 Omnibus Incentive Compensation Plan with an aggregate value of $6,000,000 ("**Management RSUs**"). Following the Closing Date, Buyer shall make available additional restricted stock units pursuant to Buyer's 2017 Omnibus Incentive Compensation Plan with an aggregate value of up to $2,000,000, to be granted to new hires of the Company as mutually agreed upon by the Company and Buyer ("**New Hire RSUs**" and, together with the Management RSUs, the "**Buyer RSUs**").

6.19 Insurance

. Following the Closing, the Company and Buyer will engage in a good faith review of the Company's existing insurance policies, including the scope and limits thereof, and will discuss reasonable modifications thereto to address deficiencies identified in such review.

6.20 Lines of Credit

. On the Closing Date, Buyer and the Company will enter into a $15,000,000 line of credit agreement for the purposes of financing the Company's "Buy Center" vehicle purchases (the "**Buyer Line of Credit**"). Beginning no later than five (5) Business Days after the Closing Date, all of the Company's "Buy Center" purchases will be financed with proceeds from the Buyer Line of Credit. As Buy Center purchases entered into prior to such date, which were financed by the Company with proceeds from the AFG Line of Credit, are sold, the Company shall pay down the AFG Line of Credit in a prompt and orderly fashion after such date until the principal amount thereof is reduced to zero and all accrued and unpaid interest and fees thereunder have been paid in full.

ARTICLE VII

CONDITIONS PRECEDENT TO BUYER'S OBLIGATIONS

The obligations of Buyer under this Agreement shall be subject to the satisfaction, on or before the Closing, of each of the following conditions (any of which may be waived only by a specific writing executed by Buyer):

7.1 Representations and Warranties

.

(a) Each of the Company Fundamental Representations shall be true and correct in all respects as of the Agreement Date and as of the Closing Date as if made on and as of the Closing Date (other than any such representations and warranties which by their terms are made as of a specific earlier date, which shall have been true and correct as of such earlier date).

(b) Each of the representations and warranties made by the Company in this Agreement (other than the Company Fundamental Representations) shall be true and correct in all respects (in the case of any such representation or warranty qualified by materiality or Material Adverse Effect) or in all material respects (in the case of any such representation or warranty not qualified by materiality or Material Adverse Effect) as of the Agreement Date and as of the Closing Date as if made on and as of the

Closing Date (other than any such representations and warranties which by their terms are made as of a specific earlier date, which shall have been true and correct as of such earlier date).

7.2 Covenants

. The Company, TopCo, and each Member shall have performed and complied in all material respects with all covenants and obligations under this Agreement required to be performed and complied with by the Company, TopCo, and the Members prior to the Closing. The Company, TopCo, and each Member shall have delivered to Buyer all certificates and other documents that it is required to deliver to Buyer pursuant to this Agreement prior to the Closing.

7.3 Governmental Consent

. All transfers of Permits and all approvals of or notices to any Governmental Authority the granting or delivery of which is necessary for the consummation of the transactions contemplated herein, or for the continued operation of the Business, shall have been obtained or made, as applicable. All filings with and approvals of any Governmental Authority required to be made or obtained in connection with the transactions contemplated herein shall have been made or obtained and shall be in full force and effect and the applicable waiting period under the HSR Act shall have expired or early termination of such waiting period shall have been granted by the applicable Governmental Authority.

7.4 No Material Adverse Effect

. Since the Agreement Date, there shall not have occurred any Material Adverse Effect, and no event or other Effect shall have occurred or circumstance or other Effect shall exist that, in combination with any other events, circumstances or other Effects, would reasonably be expected to have or result in a Material Adverse Effect.

7.5 Effective Agreements

. Each Transaction Document shall be in full force and effect.

7.6 No Restraints

. No temporary restraining order, preliminary or permanent injunction or other Order preventing or otherwise impeding the consummation of the Transactions shall have been issued by any court of competent jurisdiction or other Governmental Authority and remain in effect, and there shall not be any Law enacted or deemed applicable to the Transactions that makes consummation of the Transactions illegal or otherwise prevents or impedes the consummation of the Transactions.

7.7 No Other Actions

. No Governmental Authority and no other Person shall have commenced any Action: (a) challenging the Transactions or any of the other Transactions or seeking the recovery of Losses in connection with the Transactions or any of the other Transactions; (b) seeking to prohibit or limit the exercise by Buyer of any material right pertaining to its ownership of the Company; (c) that would be reasonably likely to have the effect of preventing, delaying, making illegal or otherwise interfering with the any of the Transactions; or (d) seeking to compel the Company, Buyer or any Affiliate of Buyer to dispose of or hold separate any material assets as a result of the Transactions.

7.8 Third Party Consents

. The consents of the third parties listed on Section 4.5 of the Disclosure Schedule shall have been obtained by the Company at its expense, and Buyer shall have received evidence reasonably acceptable to Buyer that such approvals, consents and filings have been made or obtained, as appropriate, and copies of all such consents and approvals shall have been made available to Buyer.

7.9 Termination of Agreements

. The Company shall have terminated each of those agreements listed on Schedule 7.9 and each such agreement shall be of no further force or effect.

7.10 Modification of Agreements

. The Company shall have modified each of those agreements listed on Schedule 7.10 as requested by Buyer.

7.11 Officer's Certificate

. Buyer will have received a certificate executed by the Chief Executive Officer of the Company certifying: (a) the names of the officers of the Company authorized to sign this Agreement and the Transaction Documents, together with the true signatures of such officers; (b) evidence that all of the members and managers of the Company have duly authorized the Transactions and the Transaction Documents and authorized appropriate officers of the Company to execute and deliver this Agreement and the Transaction Documents executed by the Company pursuant hereto, and to consummate the Transactions; (c) the Organizational Documents; and (d) that as of the Closing Date the conditions set forth in Sections 7.1, 7.2, 7.3, and 7.4 have been satisfied (the "**Company Closing Certificate**").

7.12 Certificate of Good Standing

. A certificate of good standing from the Secretary of State of the State of Delaware which is dated within two Business Days prior to Closing with respect to the Company.

7.13 Transaction Documents

. The other Transaction Documents to which the Company, TopCo and each Member is a party shall have been duly executed by the Company, TopCo, or such Member (as applicable) and delivered to Buyer.

7.14 Employment Matters; Restrictive Covenant Agreements

.

(a) Buyer shall have received from each Key Employee a duly executed counterpart to a Restrictive Covenant Agreement and no Key Employee shall have evidenced any intention to terminate or renounce or repudiate the terms of his or her Restrictive Covenant Agreement.

(b) Each of the Key Employees and at least ninety percent (90%) of all other employees of the Company as of the Agreement Date shall remain employed by the Company as of the Closing Date.

(c) Mr. Thompson shall not have evidenced any intention to terminate or renounce or repudiate the terms of the Thompson Offer Letter.

(d) The Company shall have reclassified each employee with a job title listed on Schedule 7.14(d) (the "**Reclassified Employees**") as a non-exempt employee under applicable federal, state and local laws and shall be utilizing a time-tracking system for purpose of tracking the hours worked by Reclassified Employees (and other non-exempt employees), and shall pay Reclassified Employees (and other non-exempt employees) in accordance with applicable federal, state and local laws.

7.15 Form W-9

. Buyer shall have received an original and duly executed IRS Form W-9 (or other proof of exemption from withholding under Section 1445 and 1446(f) of the Code in connection with the Transactions reasonably satisfactory to Buyer) from TopCo and each Member as contemplated in Section 1.5(a)(ix).

7.16 Invention Assignment Agreements

. Buyer shall have received copies of executed confirmatory assignments of Company Intellectual Property from (a) each of the Company's current employees, (b) the current Contingent Workers identified as "vehicle bookout" independent contractors, and (c) the former employees, who have not previously executed an invention assignment agreement, listed on Schedule 7.16, in each case in a form that is reasonably satisfactory to Buyer and having terms that are consistent with the form of intellectual property assignment and confidentiality agreement that is signed by Buyer employees.

7.17 Company Cash Distribution

. The Company shall have distributed all Company Cash (excluding, for the avoidance of doubt, any Buy Center Cash) in excess of the Minimum Company Cash to

the Members prior to Closing and Buyer shall have received evidence reasonably acceptable to Buyer that such distribution has been completed.

ARTICLE VIII

CONDITIONS PRECEDENT TO THE OBLIGATIONS OF THE COMPANY, TOPCO AND MEMBERS

The obligations of the Company, TopCo, and the Members under this Agreement shall be subject to the satisfaction, on or before the Closing, of each of the following conditions (any of which may be waived only by a specific writing executed by the Members' Representative):

8.1 Representations and Warranties

.

(a) Each of the Buyer Fundamental Representations shall be true and correct in all respects as of the Agreement Date and as of the Closing Date as if made on and as of the Closing Date (other than any such representations and warranties which by their terms are made as of a specific earlier date, which shall have been true and correct as of such earlier date).

(b) Each of the representations and warranties made by Buyer in this Agreement (other than the Buyer Fundamental Representations) shall be true and correct in all respects (in the case of any such representation or warranty qualified by materiality or Material Adverse Effect) or in all material respects (in the case of any such representation or warranty not qualified by materiality or Material Adverse Effect) as of the Agreement Date and as of the Closing Date as if made on and as of the Closing Date (other than any such representations and warranties which by their terms are made as of a specific earlier date, which shall have been true and correct as of such earlier date).

8.2 Covenants

. Buyer shall have performed and complied in all material respects with all covenants and obligations under this Agreement required to be performed and complied with by Buyer prior to the Closing. Buyer shall have delivered to the Members' Representative all certificates and other documents that it is required to deliver to the Company pursuant to this Agreement.

8.3 Governmental Consent

. All transfers of Permits and all approvals of or notices to any Governmental Authority the granting or delivery of which is necessary for the consummation of the transactions contemplated herein, or for the continued operation of the Business, shall have been obtained or made, as applicable. All filings with and approvals of any Governmental Authority required to be made or obtained in connection with the transactions contemplated herein shall have been made or obtained and shall be in full force and effect and the applicable waiting period under the HSR Act shall have expired or early termination of such waiting period shall have been granted by the applicable Governmental Authority.

8.4 Officer's Certificate

. The Members' Representative shall have received a certificate duly executed on behalf of Buyer by an officer of Buyer and containing the representation and warranty of Buyer that the conditions set forth in Sections 8.1 and 8.2 have been satisfied (the "**Buyer Closing Certificate**").

8.5 No Restraints

. No temporary restraining order, preliminary or permanent injunction or other Order preventing or otherwise impeding the consummation of the Transactions shall have been issued by any court of competent jurisdiction or other Governmental Authority and remain in effect, and there shall not be any Law enacted or deemed applicable to the Transactions that makes consummation of the Transactions illegal or otherwise prevents or impedes the consummation of the Transactions.

8.6 Transaction Documents

. The Transaction Documents to which Buyer is a party shall have been duly executed by Buyer and delivered to the Members' Representative.

ARTICLE IX

TERMINATION

9.1 Termination Events

. This Agreement may be terminated prior to the Closing:

(a) by the mutual written consent of Buyer and the Company;

(b) by either Buyer or the Company, if the Closing has not taken place on or before 5:00 p.m. (Eastern time) on March 9, 2021 (the "**End Date**"); *provided*, that (i) Buyer shall not be permitted to terminate this Agreement pursuant to this Section 9.1(b) if the failure to consummate the sale of the Purchased Units by the End Date results from, or is caused by, a material breach by Buyer of any of its representations, warranties, covenants or agreements contained herein, and (ii) the Company shall not be permitted to terminate this Agreement pursuant to this Section 9.1(b) if the failure to consummate the sale of the Purchased Units by the End Date results from, or is caused by, a material breach by the Company, TopCo, or any Member of any of its representations, warranties, covenants or agreements contained herein;

(c) (i) by Buyer or the Company if a court of competent jurisdiction or other Governmental Authority shall have issued a final and nonappealable Order, or shall have taken any other action, having the effect of permanently restraining, enjoining or otherwise prohibiting the sale of the Purchased Units as contemplated herein; or (ii) by Buyer if a Governmental Authority provides notice that it is seeking, or intends to seek, the imposition of an Antitrust Restraint as a condition to the expiration or termination of any applicable waiting period under the HSR Act or other applicable Antitrust Law;

(d) by Buyer if: (i) any of the representations and warranties of TopCo, the Members, or the Company contained in this Agreement shall be inaccurate as of the Agreement Date, or shall have become inaccurate as of a date subsequent to the Agreement Date, such that the condition set forth in Section 7.1 would not be satisfied; (ii) any of the covenants of the Company, TopCo, or the Members contained in this Agreement shall have been breached such that the condition set forth in Section 7.2 would not be satisfied; or (iii) any Material Adverse Effect shall have occurred, or any event or other Effect shall have occurred or circumstance or other Effect shall exist that, in combination with any other events, circumstances or other Effects, would reasonably be expected to have or result in a Material Adverse Effect; *provided, however*, that, in the case of clauses "(i)" and "(ii)" only, if an inaccuracy in any of the representations and warranties of the Company, TopCo, or the Members as of a date subsequent to the Agreement Date or a breach of a covenant by the Company, TopCo, or any Member is curable by the Company, TopCo, or such Member through the use of reasonable efforts within ten (10) Business Days after Buyer notifies the Company in writing of the existence of such inaccuracy or breach (the "**Member Cure Period**"), then Buyer may not terminate this Agreement under this Section 9.1(d) as a result of such inaccuracy or breach prior to the expiration of the Member Cure Period, *provided* the Company, TopCo, or the applicable Member, during the Member Cure Period, continues to exercise reasonable efforts to cure such inaccuracy or breach (it being understood that Buyer may not terminate this Agreement pursuant to this Section 9.1(d) with respect to such inaccuracy or breach if such inaccuracy or breach is cured prior to the expiration of the Member Cure Period);

(e) by the Company if: (i) any of Buyer's representations and warranties contained in this Agreement shall be inaccurate as of the Agreement Date, or shall have become inaccurate as of a date subsequent to the Agreement Date, such that the condition set forth in Section 8.1 would not be satisfied; or (ii) if any of Buyer's covenants contained in this Agreement shall have been breached such that the

condition set forth in Section 8.2 would not be satisfied; *provided, however*, that if an inaccuracy in any of Buyer's representations and warranties as of a date subsequent to the Agreement Date or a breach of a covenant by Buyer is curable by Buyer through the use of reasonable efforts within ten (10) Business Days after the Company notifies Buyer in writing of the existence of such inaccuracy or breach (the "**Buyer Cure Period**"), then the Company may not terminate this Agreement under this Section 9.1(e) as a result of such inaccuracy or breach prior to the expiration of the Buyer Cure Period, *provided* Buyer, during the Buyer Cure Period, continues to exercise reasonable efforts to cure such inaccuracy or breach (it being understood that the Company may not terminate this Agreement pursuant to this Section 9.1(e) with respect to such inaccuracy or breach if such inaccuracy or breach is cured prior to the expiration of the Buyer Cure Period).

9.2 Termination Procedures

. If Buyer wishes to terminate this Agreement pursuant to Section 9.1, Buyer shall deliver to the Company a written notice stating that Buyer is terminating this Agreement and setting forth a brief description of the basis on which Buyer is terminating this Agreement. If the Company wishes to terminate this Agreement pursuant to Section 9.1, the Company shall deliver to Buyer a written notice stating that the Company is terminating this Agreement and setting forth a brief description of the basis on which the Company is terminating this Agreement.

9.3 Effect of Termination

. If this Agreement is terminated pursuant to Section 9.1, all further obligations of the parties under this Agreement shall terminate; *provided, however*, that: (a) neither the Company, TopCo, any Member, nor Buyer shall be relieved of any obligation or Liability arising from any willful breach by such party of any provision of, contained in this Agreement; (b) the parties shall, in all events, remain bound by and continue to be subject to the provisions set forth in Article XI; and (c) the parties shall, in all events, remain bound by and continue to be subject to Sections 6.6, 6.13, and 6.15.

ARTICLE X

INDEMNIFICATION

10.1 Survival of Representations, Covenants and Agreements

.

(a) General Survival. Subject to Section 10.1(c), the representations and warranties of the Company made in this Agreement and the Company Closing Certificate (in each case other than the Company Core IP Representations and the Company Fundamental Representations) shall survive the Closing until 11:59 pm (Eastern time) on the date that is twelve (12) months following the Closing Date (the "**Expiration Date**"); *provided, however*, that if, at any time on or prior to the Expiration Date, any Buyer Indemnified Party delivers a written notice in accordance with the terms hereof, alleging the existence of an inaccuracy in or a breach of any of such representations and warranties and asserting a claim for recovery under Section 10.2 based on such alleged inaccuracy or breach, then the claim asserted in such notice shall survive the Expiration Date until such time as such claim is fully and finally resolved. The representations and warranties of Buyer contained in this Agreement, the Transaction Documents or in any certificate or other instrument delivered pursuant to this Agreement shall terminate at the Closing.

(b) Fundamental Representations. Notwithstanding anything to the contrary contained in Section 10.1(a), but subject to Section 10.1(c), (i) the Company Core IP Representations shall survive the Closing until 11:59 pm (Eastern time) on the third anniversary of the Closing Date and (ii) the Company Fundamental Representations shall survive until the thirtieth (30th) day following the expiration of the longest statute of limitations applicable to the subject matter thereof; *provided, however*, that if, at any time on or prior to the expiration of all applicable statutes of limitation referred to in this sentence, any Buyer Indemnified Party delivers a written notice in accordance with the terms hereof, alleging the existence of an inaccuracy in or a breach of any Company Fundamental Representation and asserting a claim for recovery under Section 10.2 based on such alleged inaccuracy or breach, then the claim asserted

in such notice shall survive the applicable expiration date until such time as such claim is fully and finally resolved.

(c) Fraud. Notwithstanding anything to the contrary contained in Section 10.1(a) or Section 10.1(b), the limitations set forth in Section 10.1(a) and Section 10.1(b) shall not apply in the event of any fraud, intentional misrepresentation or willful breach by or on behalf of the Company, TopCo, or any Member.

(d) PPP Loan Indemnification. Notwithstanding anything to the contrary contained in Section 10.1(a) or Section 10.1(b), the representations and warranties set forth in Section 4.27, and the indemnification obligations of the Members in Section 10.2(a)(vii) shall survive the Closing until 11:59 pm (Eastern time) on the date that is six (6) years following the date on which the PPP Loan has been discharged in full (whether by forgiveness or repayment) or such later date that is the final date of the period during which the U.S. Small Business Administration may conduct audits or reviews of the PPP Loan pursuant to the CARES Act (such date, the "**PPP Termination Date**").

(e) Covenants. Any covenant or obligation of the Company, TopCo, the Members, or the Members' Representative in this Agreement shall survive the Closing until the date fully performed.

(f) General. Except to the extent that a different time period is expressly set forth herein for a particular cause of action, actions hereunder may be brought at any time prior to the maximum period allowable under Section 8106(c) of Title 10 of the State of Delaware Code.

10.2 Indemnification

.

(a) Indemnification of Buyer Indemnified Parties. From and after the Closing, each Member (severally and not jointly, in accordance with its Pro Rata Portion) shall indemnify and hold harmless Buyer and its respective officers, directors, employees, agents and Affiliates (including, from and after the Closing, the Company), and their respective direct and indirect partners, members, shareholders, directors, officers, employees and agents (collectively, the "**Buyer Indemnified Parties**") from and against any and all Losses directly or indirectly arising out of, related to, accrued or incurred in connection with:

(i) any breach of or inaccuracies in any representation or warranty made by the Company, TopCo, or the Members in this Agreement or in any certificate delivered to Buyer at the Closing (other than Losses arising out of, related to, accrued or incurred in connection with any breach of or inaccuracies in any representation or warranties in Article II, for which only the applicable Member responsible for such breach shall indemnify and hold harmless the Buyer Indemnified Parties);

(ii) any breach or nonperformance of any covenant or obligation in this Agreement to be performed by the Members, TopCo, or the Company hereunder (other than Losses arising out of, related to, accrued or incurred in connection with any breach or nonperformance of any covenant or obligation in this Agreement to be performed by a Member in his, her, or its capacity as a Member, for which only the applicable Member responsible for such breach or nonperformance shall indemnify and hold harmless the Buyer Indemnified Parties);

(iii) regardless of the disclosure of any matter set forth in the Disclosure Schedule, any inaccuracy in any information, or breach of any representation or warranty, set forth in a Consideration Spreadsheet, including any failure to properly calculate the Company Cash, Company Cash Deficiency, Company Transaction Expenses, the Closing

Indebtedness Amount, the Purchase Price, the Purchase Price Escrow Pro Rata Portion, or the Pro Rata Portion;

(iv) (A) any fraud or intentional misrepresentation committed by the Company, the Members, TopCo, or any of its or their Representatives or Affiliates in connection with the Transactions or (B) any willful breach of this Agreement or any Transaction Documents committed by the Company, the Members, TopCo, or any of its or their Representatives or Affiliates;

(v) without duplication of any amounts treated as Indebtedness that reduced the Purchase Price, any Pre-Closing Taxes;

(vi) any Member-Related Claims;

(vii) the PPP Loan, including any obligation to repay the PPP Loan in whole or in part when due;

(viii) without duplication of any indemnifiable loss of the Company satisfied in full pursuant to the Pearl Acquisition Agreement, any indemnifiable loss of the Company under the Pearl Acquisition Agreement, including as a result of or arising from (A) any breach of the representations and warranties of Pearl set forth therein or in the other Transaction Documents, Schedules or certificates delivered in connection therewith (each capitalized term as defined in the Pearl Acquisition Agreement), (B) any breach or nonfulfillment of any covenant or agreement on the part of Pearl under the Pearl Acquisition Agreement or the other Transaction Documents (as defined in the Pearl Acquisition Agreement), (C) the Excluded Liabilities (as defined in the Pearl Acquisition Agreement), or (D) all Taxes arising from the transactions contemplated by the Pearl Acquisition Agreement;

(ix) the matters set forth on Schedule 10.2(a)(ix) (collectively, "**Specified Matters**").

(x) any costs and expenses of enforcement to recover Losses due to any Buyer Indemnified Party under this Article X.

(b) Materiality. For purposes of determining whether or not there has been an inaccuracy or breach of a representation or warranty as well as the amount of any Loss incurred in connection with any inaccuracy or a breach of a representation or warranty for which a Buyer Indemnified Party is entitled to indemnification pursuant to Section 10.2(a)(i), all references to "material" or "Material Adverse Effect" or other similar qualifiers included in such representations and warranties shall be disregarded.

10.3 Limitations

.

(a) Deductible. Subject to Section 10.3(c), no Buyer Indemnified Party shall be entitled to any indemnification payment pursuant to Section 10.2(a)(i) for any inaccuracy in or breach of any representation or warranty in this Agreement until such time as the total amount of all Loss (including the Loss arising from such inaccuracy or breach and all other Loss arising from any other inaccuracies or breaches of any representations or warranties) that have been directly or indirectly suffered or incurred by any one or more of such Buyer Indemnified Parties exceeds $ $701,250 in the aggregate (the "**Deductible Amount**"). If the total amount of such Loss exceeds the Deductible Amount, then the Buyer Indemnified

Parties shall be entitled to be indemnified against and compensated and reimbursed for the portion of such Loss exceeding the Deductible Amount.

(b) Recourse to Escrow Fund. Subject to Section 10.3(c), recourse by the Buyer Indemnified Parties to the Retention Escrow Fund and R&W Insurance Policy shall be the Buyer Indemnified Parties' sole and exclusive remedy under this Agreement against Members for monetary Loss resulting from the matters referred to in Section 10.2(a)(i).

(c) Applicability of Escrow Amount Cap; Indemnification Cap.

(i) Notwithstanding anything in this Article X to the contrary, the limitations set forth in Section 10.3(a) and Section 10.3(a) shall not apply (and shall not limit the indemnification or other obligations of any Member): (A) in the event of any claim of fraud, intentional misrepresentation or willful breach by or on behalf of the Company, TopCo, or any Member; or (B) for inaccuracies in or breaches of the Company Fundamental Representations or the Company Core IP Representations.

(ii) The total amount of indemnification payments that each Member can be required to make to the Buyer Indemnified Parties pursuant to Section 10.2(a) (in excess of the amount, if any, that was withheld with respect to such Member as a contribution to the Retention Escrow Fund and paid to Buyer or any other Buyer Indemnified Party out of the Retention Escrow Fund) shall be limited to an amount equal to (A) the aggregate cash actually paid and Buyer Shares actually issued to such Member (or to TopCo for the benefit of such Member) pursuant to his, her, or its Redemption Agreement (prior to deduction of any Taxes, if any), *plus* (B) the aggregate amount actually paid to such Member pursuant to Annex I of the Operating Agreement (the "**Member Cap**"), *provided, however*, that the maximum liability with respect to inaccuracies or breaches of the Company Core IP Representations, to the extent the Buyer Indemnified Parties do not receive payment in respect thereof from the R&W Insurance Policy, shall not exceed an amount equal to 50% of the Member Cap. For the avoidance of doubt, the foregoing shall not limit or otherwise restrict the right of any Buyer Indemnified Party to pursue remedies (X) under any Transaction Document against the parties thereto or (Y) in connection with any claim of fraud, intentional misrepresentation or willful breach by or on behalf of the Company, TopCo or any Member (for which there shall be no limitation of liability hereunder).

(iii) Except with respect to (X) any claim of fraud, intentional misrepresentation or willful breach by or on behalf of the Company, TopCo, or any Member, and (Y) inaccuracies in or breaches of any Company Fundamental Representations, for the matters referred to in Section 10.2(a)(i), the following order of priority shall apply for recovery: (1) first, after the Deductible Amount (except with respect to Company Core IP Representations, to which the Deductible Amount does not apply), from the Retention Escrow Fund until such funds are exhausted; (2) second, to the extent covered by R&W Insurance Policy, from the R&W Insurance Policy by collecting insurance proceeds therefrom, provided that with respect to inaccuracies or breaches of any Company Core IP Representation, if the retention under the R&W Insurance Policy is not satisfied, Loss shall be recovered from the Members to the extent necessary to satisfy the retention prior to recovery from the R&W Insurance Policy; and (3) third, with respect to inaccuracies in or breaches of any Company Core IP Representation, directly from the Members.

(iv) With respect to (X) any claim of fraud, intentional misrepresentation or willful breach by or on behalf of the Company, TopCo, or any Member; (Y) inaccuracies in or breaches of any Company Fundamental Representations; and (Z) any of the matters referred to in Sections 10.2(a)(ii) through 10.2(a)(x), inclusive, the Buyer Indemnified Parties may, in their sole and absolute discretion, seek to recover amounts in respect of such claims, without order of priority, (1) directly from the Members, (2) from the Retention Escrow Fund or (3) to the extent covered by R&W Insurance Policy, from the R&W Insurance Policy by collecting insurance proceeds therefrom.

(d) The right to indemnification based on representations, warranties, covenants and obligations in this Agreement will not be affected by any investigation conducted with respect to, or any knowledge acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement, with respect to the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant or obligation. The waiver of any condition based on the accuracy of any representation or warranty, or on the performance of or compliance with any covenant or obligation, will not affect the right to indemnification based on such representations, warranties, covenants and obligations.

(e) Notwithstanding any other provision of this Agreement to the contrary, but subject to Section 10.3(f) below, this Article X shall be the sole and exclusive remedy of the Buyer Indemnified Parties from and after the Closing for any claims arising under, or in connection with, this Agreement, including claims of any inaccuracy in or breach of any representation, warranty or covenant in this Agreement or any certificate delivered pursuant hereto; *provided, however*, that this Section 10.3(e) shall not be deemed a waiver by any party of any right to specific performance or injunctive relief; *provided, further*, that this Section 10.3(e) shall not prevent or limit any claim in the event of fraud, intentional misrepresentation or willful breach by or on behalf of the Company, TopCo, or any Member.

(f) Nothing in this Agreement shall limit the right of Buyer or any other Buyer Indemnified Party to pursue remedies under any Transaction Document against the parties thereto.

(g) All payments (if any) made to a Buyer Indemnified Party in connection with a breach of this Agreement will be treated as adjustments to the Purchase Price for Tax purposes and such agreed treatment will govern for purposes of this Agreement, unless otherwise required by Law.

(h) No Buyer Indemnified Party is to be entitled to recover any Losses pursuant to this Article X to the extent such Buyer Indemnified Party has recovered the full cash amount of such Losses pursuant to another provision of this Agreement or otherwise, so as to avoid duplication or “double counting” of the same Losses. For the avoidance of doubt, if a Buyer Indemnified Party is entitled to indemnification under more than one provision of this Agreement with respect to Losses, then such Buyer Indemnified Party shall be entitled to only one indemnification or recovery for such Losses to the extent it arises out of the same set of circumstances and events. This Section 10.3(h) is intended solely to preclude a duplicate recovery by a Buyer Indemnified Party. Nothing herein shall preclude a Buyer Indemnified Party from seeking the maximum amount of potential indemnifiable Losses in accordance with the terms of this Agreement.

10.4 No Contribution

. TopCo and each Member waives, and acknowledges and agrees that TopCo or such Member shall not have and shall not exercise or assert (or attempt to exercise or assert), any right of contribution, right of indemnity or advancement of expenses or other right or remedy against the Company in connection with any indemnification obligation or any other Liability to which TopCo or such Member may become subject under or in connection with this Agreement or any other Transaction Document. Effective as of the Closing, the Members’ Representative, on behalf of itself , TopCo, and each

Member, and TopCo and each Member expressly waives and releases any and all rights of subrogation, contribution, advancement, indemnification or other claim against Buyer or the Company.

10.5 Claims Procedures

. Other than in respect of claims to be made under the R&W Insurance Policy as set forth in this Article X, any claim for indemnification pursuant to this Article X (and, at the option of any Buyer Indemnified Party, any claim pursuant to Section 10.2(a)(iv)) shall be brought and resolved as follows:

(a) If any Buyer Indemnified Party has or claims in good faith to have incurred or suffered, or believes in good faith that it may incur or suffer, Loss for which it is or may be entitled to indemnification under this Article X or for which it is or may otherwise be entitled to a monetary remedy relating to this Agreement, the Transactions or any of the Transactions or thereby, such Buyer Indemnified Party may deliver a claim certificate (a "**Claim Certificate**") to the Members' Representative. Each Claim Certificate shall: (i) contain a brief description of the facts and circumstances supporting the Buyer Indemnified Party's claim; and (ii) if practicable, contain a non-binding, preliminary, good faith estimate of the amount to which the Buyer Indemnified Party might be entitled. Such Buyer Indemnified Party may update a Claim Certificate from time to time to reflect any change in circumstances following the date thereof. If a claim under this Article X may be brought under different or multiple sections, clauses or sub-clauses of Article X (or with respect to different or multiple representations, warrants or covenants), then, subject to the conditions, qualifications and limitations and other provisions of this Article X, the Buyer Indemnified Party shall have the right to bring such claim under any or each such section, clause, subclauses, representation, warranty or covenant (each a "**Subject Provision**") that it chooses, and the Buyer Indemnified Party will not be precluded from seeking indemnification under any Subject Provision by virtue of the Buyer Indemnified Party not being entitled to seek indemnification under any other Subject Provision.

(b) Notwithstanding the foregoing, to the extent permitted under this Article X, any Buyer Indemnified Party may make a claim directly against the Members by delivering a Claim Certificate to such Member. Such Buyer Indemnified Party may update a Claim Certificate from time to time to reflect any change in circumstances following the date thereof.

(c) After the giving of any Claim Certificate pursuant hereto, the amount of indemnification to which a Buyer Indemnified Party shall be entitled under this Article X shall be determined (i) by the written agreement between the Buyer Indemnified Party and the Members' Representative, (ii) by a final judgment or decree of any court of competent jurisdiction or (iii) by any other means to which the Buyer Indemnified Party and the Members' Representative shall agree. For purposes of this Agreement, the judgment or decree of a court shall be deemed final when the time for appeal, if any, shall have expired and no appeal shall have been taken or when all appeals taken shall have been finally determined.

(d) Subject to Section 10.7 and the limitations set forth in Section 10.3, in the event that any Losses are determined to be owed to any Buyer Indemnified Party, each Member shall promptly, and in no event later than five (5) Business Days after the determination of Losses hereunder, wire transfer to Buyer an amount equal to the product of (x) such Member's Pro Rata Portion, *multiplied by* (y) the aggregate amount of such Losses (other than Losses arising out of, related to or incurred or accrued in connection with any breach of or inaccuracies in any representation or warranties made by a Member in Article II or any fraud, intentional misrepresentation or willful breach by a Member, for which the applicable Member responsible for such breach or act shall wire transfer to Buyer an amount equal to the entire aggregate amount of such Loss).

(e) Notwithstanding anything to the contrary in this Agreement, the parties hereby acknowledge and agree, that in addition to any other right hereunder, if any Losses are determined to be owed to any Buyer Indemnified Party, then, subject to the limitations contained in Section 10.3, Buyer may, in its sole discretion, from time to time elect to set-off the amount of such Losses from any amount that is payable pursuant to Annex I of the Operating Agreement, including for the avoidance of doubt, if such amount becomes payable following the expiration of any of the survival periods set forth in Section 10.1 hereof.

10.6 Third Party Claims

.

(a) Third Party Claims. If any Buyer Indemnified Party receives notice of the assertion or commencement of any claim or Action (whether against the Company, Buyer or any other Person) made or brought by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement or a Representative of any of the foregoing (a "**Third Party Claim**") against such Buyer Indemnified Party with respect to which the Members are obligated to provide indemnification under this Agreement, the Buyer Indemnified Party shall give the Members' Representative reasonably prompt written notice thereof. The failure to promptly give such written notice shall not, however, relieve the Members of their indemnification obligations, except and only to the extent that the Members are actually and materially prejudiced thereby. Such notice by the Buyer Indemnified Party shall describe the Third Party Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that have been or may be sustained by the Buyer Indemnified Party. With respect to any Third Party Claim for which any Buyer Indemnified Party is seeking indemnification hereunder, the Buyer Indemnified Party shall have the right to defend (at the expense of the Members) or to settle or compromise such claim; *provided* that any such settlement or compromise made without the Members' Representative's consent (not to be unreasonably conditioned, delayed or withheld) shall not be determinative of the amount of any Losses under this Agreement. The Members' Representative (at the expense of the Members) shall be entitled, at its sole option and expense, to participate in, but not to determine or conduct, the defense of any such Third Party Claim; *provided*, *further*, that, for the sake of clarity, it is agreed that the Members shall not have the ability, without the prior written consent of such Buyer Indemnified Party, to petition, make any motion to, or take any other procedural action in connection with such Third Party Claim.

(b) Cooperation. The Members' Representative, TopCo, the Members, and the Buyer Indemnified Party shall each use commercially reasonable efforts in good faith to cooperate with each other in all reasonable respects in connection with the defense of any Third Party Claim, including, upon the reasonable request of Buyer, providing copies of records within the Company's, Member's, or TopCo's possession or control relating to such Third Party Claim and making available, without expense (other than reimbursement of actual out-of-pocket expenses), Representatives of the Company, Members, or TopCo as may be reasonably necessary for the preparation of the defense of such Third Party Claim.

10.7 Release from Escrow

.

(a) Within five (5) Business Days after the Expiration Date, Buyer will notify the Members' Representative in writing of the amount that Buyer determines in good faith to be necessary to satisfy all claims for indemnification that have been asserted against the Retention Escrow Fund, but not resolved on or prior to 11:59 p.m. (Eastern time) on the Expiration Date (each such claim a "**Continuing Claim**" and such amount, the "**Retained Escrow Amount**"). Subject to Section 10.7(d), within five (5) Business Days following the Expiration Date, Buyer and the Members' Representative shall execute and deliver joint written instructions to the Escrow Agent instructing the Escrow Agent to release from the Retention Escrow Fund an amount in the aggregate equal to (i) the amount held in the Retention Escrow Fund as of the Expiration Date (as reduced from time to time pursuant to the terms of this Agreement)

minus (ii) the Retained Escrow Amount, for distribution to each Member, it being acknowledged and agreed that such amount shall be released to the Payment Agent for distribution to the Members in accordance with their respective Pro Rata Portions. Upon the full and final resolution of any Continuing Claims, all remaining funds in the Retention Escrow Fund shall be distributed to the Members in accordance with the procedures set forth in this Section 10.7(a).

(b) Upon the forgiveness (in whole or in part) of the PPP Loan following a PPP Forgiveness Application submitted in accordance with the terms hereof, and confirmation of the discharge of the forgiven amount of such PPP Loan from the PPP Lender (the date of such occurrence, "**PPP Forgiveness Date**"), Buyer and the Members' Representative shall execute and deliver joint written instructions to the PPP Lender instructing the PPP Lender to promptly use the PPP Loan Escrow Amount to discharge any remaining obligations or liabilities outstanding in respect of the PPP Loan after giving effect to any forgiveness effected, and thereafter cause the full amount of any remaining amount of the PPP Loan Escrow Amount to be distributed to the Members, subject to Section 10.7(d).

(c) Within five (5) Business Days after the date that is three (3) years following the Closing Date (the "**Specified Matters Expiration Date**"), Buyer will notify the Members' Representative in writing of the amount that Buyer determines in good faith to be necessary to satisfy all Continuing Claims that have been asserted against the Specified Matters Escrow Fund, but not resolved on or prior to 11:59 p.m. (Eastern time) on the Specified Matters Expiration Date (such amount, the "**Specified Matters Retained Escrow Amount**"). Subject to Section 10.7(d), within five (5) Business Days following the Specified Matters Expiration Date, Buyer and the Members' Representative shall execute and deliver joint written instructions to the Escrow Agent instructing the Escrow Agent to release from the Specified Matters Escrow Fund an amount in the aggregate equal to (i) the amount held in the Specified Matters Escrow Fund as of the Specified Matters Expiration Date (as reduced from time to time pursuant to the terms of this Agreement) *minus* (ii) the Specified Matters Retained Escrow Amount, for distribution to each Member, it being acknowledged and agreed that such amount shall be released to the Payment Agent for distribution to the Members in accordance with their respective Pro Rata Portions. Upon the full and final resolution of any Continuing Claims in respect of any Specified Matters, all remaining funds in the Specified Matters Escrow Fund shall be distributed to the Members in accordance with the procedures set forth in this Section 10.7(c).

(d) With respect to any amount to be released to the Members pursuant to the Escrow Agreement or Section 10.7(b), as applicable: (i) each distribution to be made from the Retention Escrow Fund, the PPP Loan Escrow Fund, or the Specified Matters Escrow Fund to a particular Member shall be effected in accordance with the payment delivery instructions and in the amounts set forth in the applicable Consideration Spreadsheet; and (ii) all written instructions to be delivered to the Escrow Agent with respect to any distribution from the Escrow Fund shall be consistent with this Section 10.7(d).

ARTICLE XI
MISCELLANEOUS PROVISIONS

11.1 Amendment and Modification

. Prior to Closing, this Agreement may be amended, modified, and supplemented only by written agreement of Buyer and the Company. From and after Closing, this Agreement may be amended, modified and supplemented only by written agreement of Buyer and the Members' Representative.

11.2 Waiver of Compliance

. The rights and remedies of the parties to this Agreement are cumulative and not alternative. Neither the failure nor any delay by any party in exercising any right, power, or privilege under this Agreement will operate as a waiver of such right, power, or privilege, and no single or partial exercise of any such right, power, or privilege will preclude any other or further exercise

of such right, power, or privilege or the exercise of any other right, power, or privilege. To the maximum extent permitted by applicable Law, (a) no claim or right arising out of this Agreement or the documents referred to in this Agreement can be discharged by one party, in whole or in part, by a waiver or renunciation of the claim or right unless in writing signed by the other party; (b) no waiver that may be given by a party will be applicable except in the specific instance for which it is given; and (c) no notice to or demand on one party will be deemed to be a waiver of any obligation of such party or of the right of the party giving such notice or demand to take further action without notice or demand as provided in this Agreement.

11.3 Notices

. All notices, requests, consents and other communications hereunder shall be deemed given: (i) when delivered if delivered personally (including by courier); (ii) on the third day after mailing, if mailed, postage prepaid, by registered or certified mail (return receipt requested); (iii) on the day after mailing if sent by a nationally recognized overnight delivery service which maintains records of the time, place, and recipient of delivery; or (iv) upon receipt of a confirmed transmission, if sent by telex, telecopy, email or facsimile transmission, in each case to the parties at the following addresses or to other such addresses as may be furnished in writing (in accordance with this Section 11.3) by one party to the others:

if to the Members, TopCo, or the Members' Representative, then to:

Bruce Thompson
CarOffer, LLC
2701 E. Plano Parkway, Suite 100
Plano, TX 75074
Email: bruce@caroffer.com

with a copy (which shall not constitute notice) to:

Munck Wilson Mandala, LLP
12770 Coit Road, Suite 600
Dallas, TX 75251
Attn: Randall G. Ray
Email: rray@munckwilson.com

if to Buyer, then to:

CarGurus, Inc.
2 Canal Park, 4th Floor
Cambridge, MA 02141
Attn: General Counsel
Email: legal@cargurus.com

with a copy to (which shall not constitute notice):

Goodwin Procter LLP
100 Northern Avenue
Boston, MA 02210
Attn: Robert E. Bishop and Nathan E. Hagler
Email: rbishop@goodwinlaw.com and nhagler@goodwinlaw.com

11.4 Binding Nature; Assignment

. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, but neither this

Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto without prior written consent of the other parties. Notwithstanding the foregoing, Buyer may assign or transfer all or any part of its rights and obligations under this Agreement to an Affiliate of Buyer without written consent, provided that no such assignment or transfer shall relieve Buyer of its obligations under this Agreement. Nothing contained herein, express or implied, is intended to confer on any person other than the parties hereto or their successors and permitted assigns, any rights, claims, benefits, remedies, obligations or Liabilities under or by reason of this Agreement.

11.5 Entire Agreement

. This Agreement, along with the other Transaction Documents and the schedules and exhibits hereto and thereto, embodies the entire agreement and understanding of the parties hereto in respect of the subject matter contained herein and therein; *provided, however*, that this provision shall in no way limit a party's rights against any other party in connection with fraud, intentional misrepresentation or willful breach.

11.6 Expenses

. Except as otherwise expressly provided herein, each party to this Agreement will pay its own costs and expenses in connection with the negotiation of this Agreement, the performance of its obligations hereunder, and the consummation of the transactions contemplated herein.

11.7 Press Releases and Announcements

. No press release related to this Agreement or the transactions contemplated herein, or other public announcement or announcement to the employees, customers, or suppliers of the Company, will be issued by the Company, TopCo, or any Member without the prior written approval of Buyer, except as otherwise required by Law.

11.8 Governing Law

. This Agreement shall be construed in accordance with, and governed in all respects by, the internal laws of the State of Delaware (without giving effect to principles of conflicts of laws).

11.9 Jurisdiction; Service of Process

. Any legal proceeding, suit or other Action relating to this Agreement or the enforcement of any provision of this Agreement (including an legal proceeding, suit or other Action based upon fraud, intentional misrepresentation or willful breach) shall be brought or otherwise commenced exclusively in the Delaware Court of Chancery, and to the extent the Delaware Court of Chancery rejects jurisdiction, in any state or federal court located in the County of New Castle, State of Delaware. Each party to this Agreement: (i) expressly and irrevocably consents and submits to the exclusive jurisdiction in the Delaware Court of Chancery, and to the extent the Delaware Court of Chancery rejects jurisdiction, each state and federal court located in the County of New Castle, State of Delaware (and each appellate court located in the County of New Castle, State of Delaware) in connection with any such action, suit or Action; (ii) agrees that the Delaware Court of Chancery and each state and federal court located in the County of New Castle, State of Delaware shall be deemed to be a convenient forum; and (iii) agrees not to assert (by way of motion, as a defense or otherwise), in any such action, suit or Action commenced in the Delaware Court of Chancery or any state or federal court located in the County of New Castle, State of Delaware, any claim that such party is not subject personally to the jurisdiction of such court, that such action, suit or Action has been brought in an inconvenient forum, that the venue of such legal proceeding, suit or other Action is improper or that this Agreement or the subject matter of this Agreement may not be enforced in or by such court.

11.10 Waiver of Jury Trial

. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

11.11 Interpretation

. All references to immediately available funds or dollar amounts contained in this Agreement means United States dollars except where specifically provided to the contrary. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. The parties acknowledge and agree that (i) each party and its counsel have reviewed the terms and provisions of this Agreement and have contributed to its revision, (ii) the normal rule of construction, to the effect that any ambiguities are resolved against the drafting party, shall not be employed in the interpretation of it, and (iii) the terms and provisions of this Agreement shall be constructed fairly as to all parties hereto and not in favor or against any party, regardless of which party was generally responsible for the preparation of this Agreement. All references to schedules and exhibits refer to the schedules and exhibits of this Agreement, unless otherwise expressly provided. The term “including” means “including without limitation.”

11.12 Specific Performance

. Each of the parties hereto acknowledges and agrees that the other parties hereto would be irreparably damaged in the event any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, each of the parties hereto agrees that, in addition to any other remedy to which such party may be entitled at law or in equity, they each shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement, the terms and provisions hereof.

11.13 Severability

. If any provision of this Agreement or the application of any such provision to any person or circumstance shall be held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision hereof. The parties further agree to replace any such invalid or unenforceable provisions of this Agreement with valid and enforceable provisions which will achieve, to the extent possible, the economic, business and other purposes of the invalid or unenforceable provisions.

11.14 Counterparts

. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Any such counterpart may be executed by facsimile signature or other electronic means of delivery (including via portable document format (.pdf)) with only verbal confirmation, and when so executed and delivered shall be deemed an original and such counterpart(s) together shall constitute only one original.

11.15 Members’ Representative

.

(a) TopCo and each Member by the adoption of this Agreement and by their signature hereunder irrevocably and unconditionally authorizes the Members’ Representative (i) to take any and all additional action as is contemplated to be taken or otherwise may be taken by or on behalf of the Company, TopCo, or the Members by or under the terms of this Agreement, including any waivers of Closing conditions or waivers of other TopCo or Member rights and any agreement to terminate or alter this Agreement, (ii) to take all action necessary to the defense and/or settlement of any claims for which the Members may be required to indemnify the Buyer Indemnified Parties pursuant to Article X hereof, and (iii) to give and receive all notices required to be given or received by TopCo or the Members under this Agreement.

(b) All decisions and actions by the Members’ Representative, including, without limitation, any agreement between the Members’ Representative and Buyer relating to the defense or settlement of any claims for which the Members may be required to indemnify the Buyer Indemnified Parties pursuant to Article X hereof, shall be binding upon TopCo and all Members, and neither the Company, TopCo, nor any Member shall have the right to object, dissent, protest or otherwise contest the same.

(c) The Members' Representative shall not have any liability to TopCo or any Member for any act done or omitted hereunder as Members' Representative while acting in good faith and in the exercise of reasonable judgment, and any act done or omitted pursuant to the advice of counsel shall be conclusive evidence of such good faith. The Members shall severally but not jointly indemnify the Members' Representative and hold it harmless against any loss, Liability or expense incurred without gross negligence or bad faith on the part of the Members' Representative and arising out of or in connection with the acceptance or administration of its duties hereunder. The Members' Representative shall be entitled to be reimbursed for reasonable expenses incurred in the performance of its duties (including, without limitation, the reasonable fees of counsel) by the Members, *provided* that the Members' Representative shall first seek recourse with respect to such reasonable expenses from the Representative Expense Fund to the extent of the balance thereof.

(d) The Members' Representative shall have reasonable access to relevant information about the Business for purposes of performing its duties and exercising his rights hereunder; *provided* that the Members' Representative shall treat confidentially and not disclose any nonpublic information from or about the Business or Buyer to anyone (except on a need-to-know basis to individuals who agree to treat such information confidentially) and execute a non-disclosure agreement in the form provided by Buyer.

(e) By his, her or its adoption of this Agreement, TopCo and each Member agrees, in addition to the foregoing, that:

(i) Buyer shall be entitled to rely conclusively on the instructions and decisions of the Members' Representative as to the settlement of any claims for indemnification by Buyer pursuant to Article X hereof, or any other actions required or permitted to be taken by the Members' Representative hereunder, and no party hereunder shall have any cause of action against Buyer for any action taken by Buyer in reliance upon the instructions or decisions of the Members' Representative;

(ii) all actions, decisions and instructions of the Members' Representative shall be conclusive and binding upon TopCo and all of the Members, and neither TopCo nor any Member shall have any cause of action against the Members' Representative for any action taken, decision made or instruction given by the Members' Representative under this Agreement, except for fraud or willful misconduct by the Members' Representative in connection with the matters described in this Section 11.15;

(iii) the provisions of this Section 11.15 are independent and severable, are irrevocable and coupled with an interest and shall be enforceable notwithstanding any rights or remedies that TopCo or any Member may have in connection with the Transactions; and

(iv) the provisions of this Section 11.15 shall be binding upon the executors, heirs, legal representatives, personal representatives, successor trustees and successors of TopCo and each Member, and any references in this Agreement to TopCo or to a Member shall mean and include the successors to the rights of TopCo or such Member (as applicable) hereunder, whether pursuant to testamentary disposition, the laws of descent and distribution or otherwise.

11.16 Provisions Regarding Legal Representation; Attorney Client Privilege

.

(a) Each of the parties hereto acknowledges that Munck Wilson Mandala, LLP ("**MWM**") has acted as joint counsel to the Company and the Members in connection with the negotiation

of this Agreement and consummation of the Transactions. Buyer hereby consents and agrees to MWM representing any of the Members after the Closing, including with respect to disputes in which the interests of the Members may be directly adverse to Buyer. Buyer and the Company further consent and agree to the communication by MWM to the Members in connection with any such representation of any fact known to MWM arising by reason of MWM's representation of the Company prior to the Closing. In connection with the foregoing, Buyer hereby irrevocably waives and agrees not to assert, and agrees to cause the Company to irrevocably waive and not to assert, any claim that it has or may have a conflict of interest arising from or in connection with MWM's representation of the Company or any of the Members prior to the Closing.

(b) Buyer further agrees, on behalf of itself and, after the Closing, on behalf of the Company, that all communications in any form or format whatsoever between or among any of MWM, the Company, or any of the Members, or any of their respective Representatives, that relate to the negotiation, documentation and consummation of the transactions contemplated by this Agreement (other than communications related to the preparation of the Schedules) or, beginning on the Agreement Date and ending on the Closing, any dispute arising under this Agreement (the "**Deal Communications**") shall be deemed to be retained, owned and controlled collectively by the Members and shall not pass to or be claimed by Buyer or, after the Closing, the Company. All Deal Communications that are attorney-client privileged (the "**Privileged Deal Communications**") shall remain privileged after the Closing and the privilege and the expectation of client confidence relating thereto shall belong solely to and controlled by the Members and, except as provided below, shall not pass to or be claimed by Buyer or the Company.

(c) Notwithstanding the foregoing, in the event that the Buyer or the Company (the "**Buyer Parties**") requests access to the Privileged Deal Communications after the Closing, the Members agree that they will not unreasonably withhold, condition, or delay their consent to such access. The Members hereby agree that it would be unreasonable to withhold, condition, or delay their consent to access the Privileged Deal Communications if such access is necessary to permit the Buyer or the Company to (i) defend against any Action involving a third party, including a Governmental Authority, other than the Members or (ii) respond to any request or order, from a Governmental Authority, (a "**Legal Request**") to access or obtain a copy of all or a portion of the Privileged Deal Communications. Each of the parties hereto further understands and agrees that any future access to or disclosure of Privileged Deal Communications to the Buyer Parties will not prejudice or otherwise constitute a waiver of any claim of privilege. In the event of any Legal Request, Buyer or the Company shall promptly notify the Members in writing (prior to the disclosure by the Buyer Parties of any Privileged Deal Communications to the extent practicable) so that the Members can seek a protective order and Buyer agrees to use all commercially reasonable efforts (at the sole cost and expense of the Members) to assist therewith.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

BUYER:

CARGURUS, INC.

By: /s/ Jason Trevisan
Name: Jason Trevisan
Title: Chief Financial Officer

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

COMPANY:

CAROFFER, LLC

By: /s/ Bruce Thompson
Bruce Thompson, Chief Executive Officer

TOPCO:

CAROFFER INVESTORS HOLDING, LLC

By: /s/ Bruce Thompson
Bruce Thompson, Chief Executive Officer

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

HEALTH DIAGNOSTICS, LLC
a Delaware limited liability company

By: /s/ Bradford G. Peters
Bradford G. Peters, Managing Member

BLACKFIN CAPITAL, LLC,
a Delaware limited liability company

By: /s/ Bradford G. Peters
Bradford G. Peters. Managing Member

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

JOHN PAUL DEJORIA FAMILY TRUST

By: /s/ John Paul DeJoria
John Paul DeJoria, Trustee

JPD 2019 GIFT TRUST

By: /s/ John Paul DeJoria
John Paul DeJoria, Trustee

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

ORIENT EXPLORATION, LLC,
a Delaware limited liability company

By: /s/ Michael Lance
Michael Lance, President

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

REFFORAC HOLDINGS, LLC,
a Florida limited liability company

By: /s/ Mark S. Krejci
Mark S. Krejci, Manager

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

/s/ Matthew Lance
MATTHEW LANCE

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

SCHNITZER INTERESTS, LTD.,
a Texas limited partnership

By: KDGP LLC,
a Texas limited liability company
its general partner

By: /s/ Jack Kins
Jack Kins, Vice President

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

WONRAC, LLC,
a Texas limited liability company

By: /s/ Steven R. Burns
Steven R. Burns, Managing Member

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

T5 HOLDINGS, L.P.,
a Texas limited partnership

By: T1 Management Group, L.L.C.,
a Texas limited liability company,
its general partner

By: /s/ Bruce Thompson
Bruce Thompson, President

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

D BAR E, LTD.
a Texas limited partnership
By: Bellvis Management, L.L.C.,
a Texas limited liability company,
its general partner

By: /s/ Dwight H. Emanuelson Jr.
Dwight H. Emanuelson Jr., Managing Member

DWIGHT H. EMANUELSON JR. AND CLAIRE S. EMANUELSON TIC

/s/ Dwight H. Emanuelson, Jr.
Dwight H. Emanuelson, Jr.

/s/ Claire S Emanuelson
Claire S Emanuelson

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

PAUL B. STEVENSON TTEE U/A DTD 8/4/1993 DWIGHT H. EMANUELSON JR. BY CLAIRE S. EMANUELSON ET AL

By: /s/ Paul B. Stevenson
Paul B. Stevenson, Trustee

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

/s/ Christian Mustad
CHRISTIAN MUSTAD

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

RL FREY, INC.,
an Oregon corporation

By: /s/ Ronald Frey
Ronald Frey, President

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

/s/ Mark Bland

MARK BLAND

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

/s/ Ziad Chartouni
ZIAD CHARTOUNI

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

/s/ Nicholas Gerlach
NICHOLAS GERLACH

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

/s/ Sherif Jitan
SHERIF JITAN

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

/s/ Scott Johnston
SCOTT JOHNSTON

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBERS:

/s/ David L. White
DAVID L. WHITE

[Signature Page to Membership Unit Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Membership Unit Purchase Agreement as of the date first written above.

MEMBER REPRESENTATIVE:

/s/ Bruce Thompson

BRUCE THOMPSON

[Signature Page to Membership Unit Purchase Agreement]

EXHIBIT 10.1

EXECUTION COPY

CAROFFER, LLC

SECOND AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

Dated as of December 9, 2020

THE COMPANY INTERESTS REPRESENTED BY THIS SECOND AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS. SUCH COMPANY INTERESTS MAY NOT BE SOLD, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF AT ANY TIME WITHOUT EFFECTIVE REGISTRATION UNDER SUCH ACT AND LAWS OR EXEMPTION THEREFROM, AND COMPLIANCE WITH THE OTHER SUBSTANTIAL RESTRICTIONS ON TRANSFERABILITY SET FORTH HEREIN.

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CAROFFER, LLC

SECOND AMENDED AND RESTATED

LIMITED LIABILITY COMPANY AGREEMENT

THIS SECOND AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT, dated as of December 9, 2020 (the "**Effective Date**"), is entered into by and among **CarOffer, LLC**, a Delaware limited liability company, the Member and the CO Indirect Holders. Capitalized terms used herein without definition shall have the meanings assigned to such terms in Article I and Annex I.

WHEREAS, the Company was initially formed upon the filing of a Certificate of Formation with the Secretary of State of the State of Texas on February 19, 2019 pursuant to the Texas Business Organizations Code;

WHEREAS, prior to the Effective Date, the following transactions were completed (collectively, the "**Restructuring**"): (i) the Company caused CarOffer Investors Holding, LLC, a Delaware limited liability company ("**TopCo**"), to be formed; (ii) TopCo formed CarOffer MidCo, LLC, a Delaware limited liability company ("**MidCo**"); (iii) the CO Indirect Holders contributed all of the outstanding membership interests of the Company to TopCo in exchange for membership interests in TopCo, resulting in TopCo owning all of the outstanding equity interests of the Company; (iv) pursuant to a duly adopted Plan of Conversion and a Certificate of Conversion filed with each of the Secretary of State of the State of Texas and the Secretary of State of the State of Delaware, the Company converted from a Texas limited liability company to a Delaware limited liability company under the Delaware Act (the "**Conversion**") effective as of December 9, 2020 (the "**Conversion Date**"); (v) pursuant to the Conversion, and as provided herein, all of the outstanding membership interests of the Company were either cancelled and extinguished or recapitalized and converted into an aggregate of 4,950,118 Class CO Units and 535,596 Incentive Units; (vi) TopCo contributed approximately one percent (1%) of the of the membership interests of the Company, consisting of 54,858 Class CO Units, to MidCo in exchange for 100% of the membership interests of MidCo, resulting in TopCo owning ninety-nine percent (99%) of the membership interests of the Company as of the Effective Date, consisting of 4,895,260 Class CO Units and 535,596 Incentive Units, and MidCo owning one percent (1%) of the membership interests of the Company as of the Effective Date, consisting of 54,858 Class CO Units; and (vii) the Company issued TopCo that certain Promissory Note, dated December 9, 2020 in an amount equal to the Net Closing Payment (as defined in the Purchase Agreement) (the "**Promissory Note**");

WHEREAS, pursuant to a Membership Interest Purchase Agreement, dated as of December 9, 2020, by and among Parent, TopCo, MidCo, the CO Indirect Holders and the CO Member Representative (as amended, restated or otherwise modified from time to time, the "**Purchase Agreement**"), Parent agreed to purchase from the Company certain Class CG Units as set forth therein (the "**Transaction**");

WHEREAS, prior to the Restructuring, the CO Indirect Holders constituted all of the members of the Company and had entered into the Amended and Restated Company Agreement of the Company, effective as of March 19, 2019, and as amended by Amendment No. 1 thereto effective as of May 1, 2019, Amendment No. 2 thereto effective as of June 17, 2019, and Amendment No. 3 thereto effective as November 24, 2020 (the "**Prior Agreement**");

WHEREAS, following the Restructuring and prior to the Closing, TopCo and MidCo constituted all of the members of the Company;

WHEREAS, pursuant to the Conversion and the terms of this Agreement, effective as of the Conversion Date, each of the outstanding Class A Interests held by TopCo as of immediately prior to the Conversion Date was automatically cancelled and extinguished without any further action on the part of the Company or TopCo;

WHEREAS, pursuant to the Conversion and the terms of this Agreement, effective as of the Conversion Date, each of the Class B Interests and Non-Incentive Class C Interests held by TopCo as of immediately prior to the Conversion Date was recapitalized and automatically converted into one (1) Class CO Unit without any further action on the part of the Company or TopCo;

WHEREAS, pursuant to the Conversion and the terms of this Agreement, effective as of the Conversion Date, each of the Incentive Class C Interests held by TopCo as of immediately prior to the Conversion Date was recapitalized and automatically converted into one (1) Incentive Unit without any further action on the part of the Company or TopCo;

WHEREAS, in connection with the Transaction, TopCo and MidCo, as the CO Members, and Parent, as the future CG Member, have agreed to certain call and put arrangements as more fully described in Annex I, which are incorporated into this Agreement by reference as the valid and binding obligations of the parties hereto and Parent as the future CG Member;

WHEREAS, immediately following the consummation of the Transaction and the repayment of the Promissory Note, TopCo will purchase and redeem from the members of TopCo certain membership interests of TopCo pursuant to the terms of the Membership Interest Redemption Agreements entered into on or about the date hereof between TopCo and its members (the "**Redemption**"); and

WHEREAS, effective as of the Effective Date, the Members desire to amend and restate the terms of the Prior Agreement, which is superseded entirely by this Agreement.

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

ARTICLE 1

DEFINITIONS

The following definitions shall be applied to the terms used in this Agreement for all purposes, unless otherwise clearly indicated to the contrary.

"**Additional Member**" means a Person admitted to the Company as a Member pursuant to Section 10.2.

"**Adjusted Capital Account Deficit**" means with respect to any Capital Account as of the end of any Taxable Year, the amount by which the balance in such Capital Account is less than zero. For this purpose, such Person's Capital Account balance shall be:

(i) reduced for any items described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6), and

(ii) increased for any amount such Person is obligated to contribute or is treated as being obligated to contribute to the Company pursuant to Treasury Regulation Section 1.704-1(b)(2)(ii)(c) (relating to partner liabilities to a partnership) or 1.704-2(g)(1) and 1.704-2(i) (relating to minimum gain).

"**Admission Date**" has the meaning set forth in Section 9.7.

"**Affiliate**" of any Person means any Person that directly or indirectly controls, is controlled by, or is under common control with the Person in question.

"**Aggregate Class CG Purchase Amount**" means at any time, the sum of (a) the Gross Consideration (as defined in the Purchase Agreement) plus (b) if the First Call Right is exercised, the First Call Consideration, plus (c) if the Second Call Right is exercised, the Second Call Consideration, plus (d) if the Put Right is exercised, the Put Consideration.

"**Agreement**" means this Second Amended and Restated Limited Liability Company Agreement of the Company, as may be amended from time to time.

"**Approved Sale**" has the meaning set forth in Section 12.8(a).

"**Arbitrator**" has the meaning set forth in Section 13.9(b).

"**Assignee**" means a Person to whom a Company Interest has been Transferred in accordance with the terms of this Agreement but who has not become a Substituted Member pursuant to Article 10.

"**Assumed Tax Rate**" has the meaning set forth in Section 4.1(b)(ii).

"**Base Rate**" means, on any date, a variable rate per annum equal to the rate of interest most recently published by The Wall Street Journal as the "prime rate" at large U.S. money center banks.

"**Board**" has the meaning set forth in Section 5.1.

"**Capital Account**" means the capital account maintained for a Member pursuant to Section 3.3.

"**Capital Contribution**" means any cash, cash equivalents, promissory obligations or other property (valued at Fair Market Value), which a Member contributes to the Company as described in Sections 3.2(c) and 3.2(d).

"**Capital Stock**" shall mean any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation) including, without limitation, partnership or membership interests or units (including any components thereof such as capital accounts, priority returns or the like) in a limited partnership or limited liability company, and any and all warrants, rights or options to purchase any of the foregoing.

"**CG Board Member**" has the meaning set forth in Section 5.3(b)(ii).

"**Class A Interests**" means the Class A Interests of the Company as of immediately prior to the Effective Time and having the rights and preferences specified in the Prior Agreement.

"**Class B Interests**" means the Class B Interests of the Company as of immediately prior to the Effective Time and having the rights and preferences specified in the Prior Agreement.

"**Class C Interests**" means the Class C Interests of the Company as of immediately prior to the Effective Time and having the rights and preferences specified in the Prior Agreement.

"**Class CG Original Issue Price**" means, with respect to each Class CG Unit as of a given time, the quotient of (i) the Aggregate Class CG Purchase Amount as of such date, divided by (ii) the number of outstanding Class CG Units as of such time.

"**Class CG Units**" means the Company Interests described in Section 3.2(a)(ii) and having the rights and preferences specified herein.

"**Class CO Units**" means the Company Interests described in Section 3.2(a)(i) and having the rights and preferences specified herein.

"**Closing**" means the "Closing" of the Transaction as defined in the Purchase Agreement.

"**CO Board Member**" has the meaning set forth in Section 5.3(b)(i).

"**CO Indirect Holder**" means a Holder who is a direct or indirect beneficial holder of Capital Stock in TopCo following the Restructuring.

"**CO Member**" means a Member who is a member of the Company, other than Parent and its Transferees and Parent's Affiliates (other than IncentiveCo) to whom Parent assigns any of its rights hereunder. For the avoidance of doubt, each of TopCo, MidCo and IncentiveCo shall be treated as a CO Member.

"**CO Member Representative**" has the meaning set forth in Annex I.

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

"**Company**" means CarOffer, LLC, a Delaware limited liability company, formed pursuant to the Conversion, as such limited liability company may be from time to time constituted, and including its successors.

"**Company Interest**" means, as at a particular time, the interest of a Member in profits, losses and Distributions and other rights, powers and authority in and with respect to the Company at such time that are specified with respect to interests in this Agreement and includes the Class CG Units, the Class CO Units, and the Incentive Units.

"**Conversion**" has the meaning set forth in the Recitals.

"**Conversion Date**" has the meaning set forth in the Recitals.

"**Convertible Securities**" any evidences of indebtedness or other securities directly or indirectly convertible into or exchangeable for Units, other than Options.

"**Corporate Conversion**" has the meaning set forth in Section 12.7(a).

"**Delaware Act**" means the Delaware Limited Liability Company Act, 6 Del.L. § 18-101, et seq., as it may be amended from time to time, and any successor to the Delaware Act.

"**Distribution**" means each distribution made by the Company to a Member, whether in cash, property or securities of the Company and whether by liquidating distribution or otherwise; *provided* that

none of the following shall be a Distribution: (a) any redemption or repurchase by the Company of any securities, or (b) any recapitalization or exchange of securities of the Company, or any subdivision (by Unit split or otherwise) or any combination (by reverse Unit split or otherwise) of any outstanding Units.

"**Effective Date**" has the meaning set forth in the Recitals.

"**Effective Time**" means the time at which the closing of the Transaction under the Purchase Agreement occurs.

"**Election Period**" has the meaning set forth in Section 9.8(c).

"**Eligible Incentive Unit**" means an Incentive Unit, the Participation Threshold of which is zero (taking into account any adjustments described in clauses (i) and (ii) of Section 3.8(d)).

"**Equity Securities**" means (i) Units or other equity interests in the Company (including other classes or groups thereof having such relative rights, powers and duties as may from time to time be established by the Board, including rights, powers and/or duties senior to existing classes and groups of Units and other equity interests in the Company), (ii) Convertible Securities or other obligations, evidences of indebtedness or other securities or interests convertible or exchangeable into other equity interests in the Company, and (iii) Options or other rights to purchase or otherwise acquire other equity interests in the Company.

"**Event of Withdrawal**" means the death, retirement, resignation, expulsion, bankruptcy or dissolution of a Member or the occurrence of any other event that terminates the continued membership of a Member in the Company.

"**Exempt Equity Issuance**" has the meaning set forth in Section 9.8(a).

"**Fair Market Value**" of any asset, property or equity interest means the amount which a seller of such asset, property or equity interest would receive in a sale of such asset, property or equity interest in an arms-length transaction with an unaffiliated third party consummated on a date determined by the Board (which may be the date on which the event occurred which necessitated the determination of the Fair Market Value) (and after giving effect to any transfer taxes payable in connection with such sale), in each case, as such amount is determined by the Board (or, if pursuant to Section 12.3, the liquidators) in its good faith judgment in such manner as its deems reasonable and using all factors, information and data deemed to be pertinent.

"**Family Group**" means a Holder's spouse, parents, siblings and descendants (whether by birth or adoption) and any trust or other estate planning vehicle established solely for the benefit of such Holder and/or such Holder's spouse and/or such Holder's descendants (by birth or adoption), parents, siblings or dependents, or any charitable trust the grantor of which is such Holder and/or member of such Holder's Family Group.

"**First Call Consideration**" has the meaning set forth in Annex I.

"**First Call Right**" has the meaning set forth in Annex I.

"**Fiscal Year**" means the Company's annual accounting period established pursuant to Section 7.2.

"**Fully-Diluted Unit Capitalization**" means, at any time of determination, the number of then outstanding Units plus the number of Units issuable upon the exercise or conversion of any Options or

Convertible Securities and irrespective of any vesting restrictions, plus the number of Incentive Units authorized herein but not issued.

"**GAAP**" means United States generally accepted accounting principles.

"**Governmental Entity**" means the United States of America or any other nation, any state or other political subdivision thereof, or any entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

"**Holder**" means any record or beneficial holder of Equity Securities, including any Person that holds Equity Securities indirectly through one or more Subsidiaries, including the CO Indirect Holders, but specifically excluding the holders of Capital Stock in Parent.

"**Imputed Underpayment Amount**" means (i) any "imputed underpayment" within the meaning of Code Section 6225 (or any corresponding or similar provision of federal, state, local and/or foreign tax law) paid (or payable) by the Company as a result of an adjustment with respect to any Company item (including, without limitation, any "partnership-related item" within the meaning of Code Section 6241(2) (or any corresponding or similar provision of federal, state, local and/or foreign tax law)), including any costs, interest, penalties or additions to tax with respect to any such adjustment, (ii) any amount not described in clause (i) (including any costs, interest, penalties or additions to tax with respect to such amounts) paid (or payable) by the Company as a result of the application of the provisions of Code Sections 6221-6241 (or any corresponding or similar provision of federal, state, local and/or foreign tax law), and/or (iii) any amount paid (or payable) by any entity treated as a partnership for U.S. federal income tax purposes in which the Company holds (or has held) a direct or indirect interest other than through entities treated as corporations for U.S. federal income tax purposes to the extent that the Company bears the economic burden of such amounts, whether by law or agreement, as a result of the application of the provisions of Code Sections 6221-6241 (or any corresponding or similar provision of federal, state, local and/or foreign tax law), including any costs, interest, penalties or additions to tax with respect to such amounts.

"**Incentive Class C Interests**" means the Class C Interests classified as Incentive Class C Interests and having the rights and preferences specified in the Prior Agreement.

"**Incentive Agreement**" means an agreement regarding, among other matters, the vesting of any Incentive Units, IncentiveCo Incentive Units or TopCo Incentive Interests between the Company, IncentiveCo or TopCo, as applicable, and a Management Member as in effect from time to time.

"**Incentive Units**" means the Company Interests described in Section 3.2(a)(iii).

"**IncentiveCo**" mean a limited liability company to be established by Parent, the sole managers of which will be designees of Parent.

"**IncentiveCo Incentive Units**" means incentive units in IncentiveCo that are intended to be "profits interests" within the meaning of IRS Revenue Procedures 93-27 and 2001-43.

"**Income Amount**" has the meaning set forth in Section 4.1(b)(i).

"**Indemnified Person**" has the meaning set forth in Section 6.4(a).

"**IPO**" has the meaning set forth in Section 12.7(a).

"**IRS Notice**" has the meaning set forth in Section 3.8(g).

"**Liquidation**" shall mean any liquidation, dissolution or winding up, voluntary or involuntary, of the Company.

"**Liquidity Event**" means, whether occurring through one transaction or a series of related transactions, any of the following: (i) a merger or consolidation of the Company the effect of which is that the Members as of immediately prior to such transaction or series of related transactions are no longer, in the aggregate, the beneficial owners, directly or indirectly, of a majority of the voting power (or economic interests) of the outstanding Capital Stock of the Company or the surviving entity (or if such surviving entity is a Subsidiary of another Person, the ultimate parent entity) after giving effect to such transaction or series of related transactions; (ii) any sale or other distribution (including by way of license) by the Company or its Subsidiaries of a material portion of their assets on a consolidated basis to a third party or a group of third parties acting in concert (other than the non-exclusive license of software in the ordinary course of business); (iii) any purchase by any party (or group of affiliated parties), of Equity Securities (either through a negotiated purchase or a tender offer), the effect of which is that the Members as of immediately prior to such transaction or series of related transactions are no longer, in the aggregate, the beneficial owners, directly or indirectly, of a majority of the voting power (or economic interests) of the outstanding Equity Securities (other than direct issuance of Equity Securities by the Company where the principal business purpose is capital raising), but expressly excluding the consummation of the Transaction at the Effective Time; (iv) the redemption or repurchase of securities representing a majority of the voting power (or economic interests) of the outstanding Equity Securities; (v) any other change of control of more than fifty percent (50%) of the outstanding voting power (or economic interests) of the Company the effect of which is that the Members as of immediately prior to such transaction or series of related transactions are no longer, in the aggregate, the beneficial owners, directly or indirectly, of a majority of the voting power (or economic interests) of the outstanding Capital Stock of the Company (other than direct issuance of Equity Securities by the Company where the principal business purpose is capital raising); or (vi) a Liquidation. Notwithstanding the foregoing, in no event will the Transaction be deemed to constitute a Liquidity Event.

"**Liquidity Event Proceeds**" means the net amounts received resulting from a Liquidity Event after deducting (a) all costs and expenses of the Company and its Subsidiaries directly related to the Liquidity Event, (b) the amount (if any) to discharge all debts and obligations of the Company required to be paid as a result of the Liquidity Event, and (c) any reasonable reserves that are required for the fixed, contingent or future liabilities or obligations of the Company and its Subsidiaries directly related to the Liquidity Event, plus any amounts attributable to any release or reduction of such reserves.

"**Management Member**" has the meaning set forth in Section 3.8(a).

"**Manager**" has the meaning set forth in Section 5.1.

"**Member**" means each Person named on the Schedule of Members as of the Effective Date and any Person admitted to the Company as a Substituted Member or Additional Member; but in each case, only so long as such Person is shown on the Schedule of Members as the owner of one or more Units.

"**Minimum Gain**" means the partnership minimum gain determined pursuant to Treasury Regulation Section 1.704-2(d).

"**NewCo**" has the meaning set forth in Section 12.7(a).

"**Non-Incentive Class C Interests**" means the Class C Interests classified as Non-Incentive Class C Interests and having the rights and preferences specified in the Prior Agreement.

"**Options**" means any rights, options, or warrants to subscribe for, purchase or otherwise acquire any Units.

"**Original Cost**" of any Incentive Unit will means the price paid therefor (in each case, as proportionally adjusted for all Unit splits, Unit dividends, and other recapitalizations or similar adjustments affecting such Incentive Unit subsequent to any such purchase), which for the avoidance of doubt may be zero dollars ($0.00).

"**Parent**" means CarGurus, Inc., a Delaware corporation.

"**Parent Group**" means Parent, its Affiliates (excluding the Company and its Subsidiaries) and any of their respective partners, members, managers, directors, employees, stockholders, agents, any successor by operation of law (including by merger) of any such Person, and any entity that acquires all or substantially all of the assets of any such Person in a single transaction or series of related transactions.

"**Parent Notice**" means written notice from Parent notifying the Transferring Holder that Parent intends to exercise its Right of First Refusal as to some or all of the Transfer Units with respect to any Proposed Transfer.

"**Parent Secondary Notice**" means written notice from Parent notifying the Rights Holders and the Transferring Holder that Parent does not intend to exercise its Right of First Refusal as to all Transfer Units with respect to any Proposed Transfer by a Transferring Holder and stating the number of Transfer Units, if any, with respect to which Parent intends to exercise its Right of First Refusal.

"**Participating Member**" has the meaning set forth in Section 9.3(a).

"**Participating Unit**" means, with respect to any Distribution (or other allocation of proceeds) pursuant to Section 4.1(a) hereof, any Unit other than (i) an Incentive Unit that is not an Eligible Incentive Unit or (ii) an Incentive Unit that is not a Vested Unit.

"**Participation Threshold**" means, with respect to certain outstanding Incentive Units, an amount determined, and adjusted from time to time, in accordance with Section 3.8 hereof.

"**Partnership Representative**" has the meaning set forth in Section 8.3.

"**Person**" means an individual or a corporation, partnership, limited liability company, trust, unincorporated organization, association or other entity.

"**Preemptive Rights Notice**" has the meaning set forth in Section 9.8(b).

"**Prior Agreement**" has the meaning set forth in the Recitals.

"**Profits**" means items of Company income and gain determined according to Section 3.3.

"**Prohibited Transfer**" has the meaning set forth in Section 9.4(c).

"**Proposed Transfer**" means a proposed Transfer of Units.

"**Proposed Transfer Notice**" means written notice from a Member setting forth the terms and conditions of a Proposed Transfer.

"**Prospective Transferee**" means any Person to whom a Member proposes to make a Proposed Transfer.

"**Purchase Agreement**" has the meaning set forth in the Recitals.

"**Put Consideration**" has the meaning set forth in Annex I.

"**Put Right**" has the meaning set forth in Annex I.

"**Recitals**" mean the recitals to this Agreement.

"**Repurchase Notice**" has the meaning set forth in Section 3.9(c).

"**Repurchase Option**" has the meaning set forth in Section 3.9(a).

"**Requisite Members**" means the holders of a majority of the outstanding Class CO Units and Class CG Units, voting together as a single class.

"**Right of Co-Sale**" means the right, but not an obligation, of a Rights Holder to participate in a Proposed Transfer by a Transferring Holder on the terms and conditions specified in the Proposed Transfer Notice.

"**Right of First Refusal**" means the right, but not an obligation, of Parent, or its permitted transferees or assigns, to purchase some or all of the Transfer Units with respect to a Proposed Transfer pursuant to Section 9.2, on the terms and conditions specified in the Proposed Transfer Notice.

"**Rights Holder**" means any Member who holds Class CO Units or Class CG Units and who is an "accredited investor" (as such term is defined in Rule 501 promulgated under the Securities Act).

"**Second Call Consideration**" has the meaning set forth in Annex I.

"**Second Call Right**" has the meaning set forth in Annex I.

"**Securities Act**" means the Securities Act of 1933, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations. Any reference herein to a specific section, rule or regulation of the Securities Act shall be deemed to include any corresponding provisions of future law.

"**Securities and Exchange Commission**" means the United States Securities and Exchange Commission, including any governmental body or agency succeeding to the functions thereof.

"**Solvent Reorganization**" means any solvent reorganization of the Company, including by merger, consolidation, recapitalization, transfer or sale of equity interests or assets, or contribution of assets and/or liabilities, or any liquidation, exchange of securities, conversion of entity, migration of entity, formation of new entity, or any other transaction or group of related transactions (in each case other than to or with a third party that is not the Company or any of its Subsidiaries or any of their respective Affiliates (which Affiliates may include an entity formed for the purpose of such Solvent Reorganization)), in which:

(i) all Members that are holders of the same class or series of Units are offered the same consideration in respect of such class or series of Units;

(ii) the pro rata indirect economic interests of the holders of Units in the business of the Company and its Subsidiaries, relative to each other and all other holders, directly or indirectly, of equity securities in the Company and its Subsidiaries (other than those held by the Company or its Subsidiaries), are preserved; and

(iii) the rights of the holders of Units under this Agreement are preserved in all material respects (it being understood by way of illustration and not limitation that the relocation of a covenant or restriction from one instrument to another shall be deemed a preservation if the relocation is necessitated, by virtue of any law or regulation applicable to the Company or any of its Subsidiaries following such Solvent Reorganization, as a result of any change in jurisdiction or form of entity in connection with the Solvent Reorganization; *provided* that such covenants and restrictions are retained in instruments that are, as nearly as reasonably practicable and to the extent consistent with business and transactional objectives, equivalent to the instruments in which such restrictions or covenants were contained prior to the Solvent Reorganization).

"**Subsidiary**" means, with respect to any Person, any corporation, limited liability company, partnership, association or business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity (other than a corporation), a majority of membership, partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by any Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity (other than a corporation) if such Person or Persons control any managing member or general partner of such limited liability company, partnership, association or other business entity.

"**Substituted Member**" means a Person that is admitted as a Member of the Company pursuant to Section 10.1.

"**Tax Distributions**" has the meaning set forth in Section 4.1(b)(i).

"**Tax Estimation Period**" has the meaning set forth in Section 4.1(b)(ii).

"**Taxable Year**" means the Company's accounting period for federal income tax purposes determined pursuant to Section 7.2.

"**Termination Date**" has the meaning set forth in Section 3.9(a).

"**TopCo Incentive Interest**" means a Class C Interest in TopCo (as defined in the TopCo LLC Agreement) held by a Management Member.

"**TopCo LLC Agreement**" means that certain Limited Liability Company Agreement of TopCo dated on or about December 9, 2020, as the same may be amended and/or restated from time to time.

"**Transaction**" has the meaning set forth in the Recitals.

"**Transfer**" of Units means to sell, transfer, assign, pledge, encumber or otherwise dispose of (whether directly or indirectly (including, for the avoidance of doubt, by Transfer or issuance of any Capital

Stock of any Member or of any Person that is a holder of Capital Stock of a Member, in each case, that is not a natural person), whether with or without consideration and whether voluntarily or involuntarily or by operation of law) any interest (legal or beneficial) in any Units.

"**Transfer Units**" has the meaning set forth in Section 9.2(a).

"**Transferring Holder**" has the meaning set forth in Section 9.2(a).

"**Treasury Regulations**" means the income tax regulations promulgated under the Code, as amended.

"**Unit**" means, collectively, the Class CO Units, the Class CG Units and the Incentive Units and such other Units evidencing Company Interests as may be authorized, designated or issued by the Board in accordance with this Agreement from time to time after the Effective Date.

"**Unvested Units**" has the meaning set forth in Section 3.8(f).

"**Vested Units**" has the meaning set forth in Section 3.8(f).

"**Withholding Payments**" has the meaning set forth in Section 3.7(a).

ARTICLE 2

ORGANIZATIONAL MATTERS

2.1 Formation of Company. The Company was formed on February 19, 2019 pursuant to the provisions of the Texas Business Organizations Code and converted to a limited liability company under the Delaware Act on the Conversion Date.

2.2 Limited Liability Company Agreement. The Members hereby execute this Agreement for the purpose of establishing the affairs of the Company and the conduct of its business in accordance with the provisions of the Delaware Act. The Members hereby agree that during the term of the Company set forth in Section 2.6 the rights and obligations of the Members with respect to the Company will be determined in accordance with the terms and conditions of this Agreement and the Delaware Act. On any matter upon which this Agreement is silent, the Delaware Act shall control. No provision of this Agreement shall be in violation of the Delaware Act and to the extent any provision of this Agreement is in violation of the Delaware Act, such provision shall be void and of no effect to the extent of such violation without affecting the validity of the other provisions of this Agreement; *provided*, *however*, that where the Delaware Act provides that a provision of the Delaware Act shall apply "unless otherwise provided in a limited liability company agreement" or words of similar effect, the provisions of this Agreement shall in each instance control; *provided further*, that notwithstanding the foregoing, Section 18-210 of the Delaware Act shall not apply to or be incorporated into this Agreement.

2.3 Name. The name of the Company shall be "CAROFFER, LLC". The Board, subject to the limitations set forth herein, in its sole discretion may change the name of the Company at any time and from time to time. Notification of any such change shall be given to all of the Members. The Company's business may be conducted under its name and/or any other name or names deemed advisable by the Board.

2.4 Purpose. The purpose and business of the Company shall be any business which may lawfully be conducted by a limited liability company formed pursuant to the Delaware Act.

2.5 Principal Office; Registered Office. The principal office of the Company shall be at 2701 E. Plano Parkway, #100, Plano, Texas 75074, or such other place as the Board may from time to time designate. The Company may maintain offices at such other place or places as the Board deems advisable. Notification of any change in the principal office of the Company shall be given to all of the Members. The address of the registered office of the Company in the State of Delaware shall be c/o Capitol Services, Inc., 1675 South State Street, Suite B, Dover, Delaware 19901, and the registered agent for service of process on the Company in the State of Delaware at such registered office shall be Capitol Services, Inc..

2.6 Term. The term of the Company commenced upon the filing of a Certificate of Formation with the Secretary of State of the State of Texas on February 19, 2019 pursuant to the Texas Business Organizations Code and shall continue in existence until termination and dissolution thereof in accordance with the provisions of Article 12.

2.7 No State-Law Partnership. The Members intend that the Company not be a partnership (including, without limitation, a limited partnership) or joint venture for any purposes other than as set forth in Section 2.8, and that no Member be a partner or joint venturer of any other Member by virtue of this Agreement, and neither this Agreement nor any other document entered into by the Company or any Member relating to the subject matter hereof shall be construed to suggest otherwise.

2.8 Tax Treatment. The Members intend that the Company shall be treated as a partnership for federal and applicable state or local income tax purposes, and that each Member and the Company shall file all tax returns and shall otherwise take all tax and financial reporting positions in a manner consistent with, and actions necessary, to obtain such treatment (unless contrary treatment is intended pursuant to Section 12.7).

ARTICLE 3

CAPITALIZATION; CAPITAL CONTRIBUTIONS

3.1 Recapitalization.

(a) Effective as of the Conversion Date:

(i) each of the Class A Interests held by the CO Members has been cancelled and extinguished without any further action on the part of the Company or the holder thereof;

(ii) each of the Class B Interests held by the CO Members has been recapitalized and converted into one (1) Class CO Unit without any further action on the part of the Company or the holder thereof;

(iii) each of the Non-Incentive Class C Interests held by the CO Members has been recapitalized and converted into one (1) Class CO Unit without any further action on the part of the Company or the holder thereof; and

(iv) each of the Incentive Class C Interests held by the CO Members is hereby recapitalized and converted into one (1) Incentive Unit without any further action on the part of the Company or the holder thereof.

(b) After giving effect to the Restructuring and this Section 3.1, the outstanding capitalization of the Company is as set forth on the Schedule of Members and as described in Section 3.2.

(c) Immediately following the consummation of the Transaction, and concurrently with the repayment of the Promissory Note and the closing of the Redemption, the Class CO Units and the Incentive Units shall be recapitalized (the "**Closing Recapitalization**") such that 2,721,546 Class CO Units and 192,739 Incentive Units will be cancelled and extinguished without any further action on the part of the Company or the holder thereof; and

(d) Immediately following the Closing Recapitalization, the outstanding capitalization of the Company will be as set forth on the Schedule of Members and described in Section 3.2.

Notwithstanding anything contained in this Agreement to the contrary, after the Effective Time, each Class CO Unit purchased by Parent or its Affiliates from a CO Member pursuant to the First Call Right, the Second Call Right or the Put Right will, effective as of immediately following the closing of such purchase, automatically be recapitalized and converted into one (1) Class CG Unit without any further action on the part of the Company or the holder thereof.

3.2 Capitalization.

(a) Each Member shall hold a Company Interest. Each Member's Company Interest shall be denominated in Units, and the relative rights, privileges, preferences and obligations with respect to each Member's Company Interest and Units shall be determined under this Agreement and the Delaware Act based upon the number and the class of Units held by such Member with respect to his, her or its Company Interest. The number and the class of Units held by each Member on the Effective Date is set forth opposite each Member's name on the Schedule of Members. The classes of Units as of the Effective Date are as follows: Class CO Units, Class CG Units and Incentive Units. The Members shall have no right to vote on any matter, except as specifically set forth in this Agreement, or as may be required under the Delaware Act. Any such vote shall be at a meeting of the Members entitled to vote or in writing as provided herein.

(i) Class CO Units. Class CO Units shall have all the rights, privileges and obligations as are specifically provided for in this Agreement for Class CO Units, and as may otherwise be generally applicable to all classes of Units, unless such application is specifically limited to one or more other classes of Units. Each holder of Class CO Units shall have one (1) vote per Class CO Unit in respect of each matter on which the holders of Class CO Units are entitled vote. The Company shall initially be authorized to issue up to 4,950,118 Class CO Units, and from and after the Closing Recapitalization, the Company shall be authorized to issue up to 2,228,572 Class CO Units.

(ii) Class CG Units. Class CG Units shall have all the rights, privileges and obligations as are specifically provided for in this Agreement for Class CG Units, and as may otherwise be generally applicable to all classes of Units, unless such application is specifically limited to one or more other classes of Units. Each holder of Class CG Units shall have one (1) vote per Class CG Unit in respect of each matter on which the holders of Class CG Units are entitled vote. The Company shall initially be authorized to issue up to 5,714,285 Class CG Units.

(iii) Incentive Units. Incentive Units shall consist of those Units issued or to be issued under Section 3.8 and the applicable Incentive Agreements relating to such Incentive Units. Incentive Units shall have all the rights, privileges, preferences, and obligations as are specifically provided for in such Incentive Agreements and in this Agreement for Incentive Units, and as may otherwise be generally applicable to all classes of Units, unless such application is specifically limited to one or more other classes of

Units. Notwithstanding anything to the contrary contained herein or in such Incentive Agreements, no holder of Incentive Units shall be entitled to any vote in respect of such Incentive Unit on any matter subject to a vote of the Members, except as otherwise required by non-waivable provision of applicable law. The Company shall initially be authorized to issue up to 535,596 Incentive Units, and from and after the Closing Recapitalization, the Company shall be authorized to issue up to 571,428 Incentive Units.

(b) All Units issued hereunder shall be uncertificated unless otherwise determined by the Board. The Company shall maintain and keep at its principal office or such other place approved by the Board a schedule of Members (the "**Schedule of Members**"), which shall set forth (i) the name and address of each Member, (ii) the aggregate amount of Capital Contributions that have been made (or deemed made) by each Member in respect of the Units, (iii) the aggregate number of Units of each class held by each Member and, (iv) in the case of a Member that holds Incentive Units, the Participation Threshold applicable to such Incentive Units. Upon any change in the number or ownership of outstanding Units (whether upon an issuance, Transfer, repurchase, redemption, recapitalization or cancellation of Units or otherwise) or the amount of the Capital Contributions made (or deemed made) by any Member, the Company shall as promptly as practicable update and amend the Schedule of Members to reflect any of the foregoing (and any such amendment or update shall not be deemed an amendment of this Agreement for any purpose and shall not require the consent of any Person). Absent manifest error, the Schedule of Members as of any determination time (subject to any required updates and amendments pursuant to the immediately preceding sentence) shall be the conclusive record of the outstanding Units and the record owners thereof. No Member, other than Parent and the CO Member Representative, shall have the right to review or inspect the Schedule of Members without the approval of the Board; provided, however, that upon request by a Member, the Company will confirm that information contained on the Schedule of Members as it pertains solely to such Member.

(c) Each Member named on the Schedule of Members has made Capital Contributions (or deemed Capital Contributions) to the Company as set forth on the Schedule of Members in exchange for the Units specified thereon.

(d) Each Member who is issued Units by the Company pursuant to the authority of the Board pursuant to Section 5.1 shall make the Capital Contributions to the Company determined by the Board in exchange for such Units.

(e) No Member shall be required to make any Capital Contribution in excess of its commitment as set forth on the Schedule of Members.

3.3 Capital Accounts. A separate capital account (each, a "**Capital Account**") shall be established for each Member and shall be maintained in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv) and this Section 3.3 shall be interpreted and applied in a manner consistent with such regulations. No Member shall have any obligation to restore any portion of any deficit balance in such Member's Capital Account, whether upon liquidation of its interest in the Company, liquidation of the Company or otherwise. In accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(f), the Company may adjust the Capital Accounts of its Members to reflect revaluations (including any unrealized income, gain or loss) of the Company's property (including intangible assets such as goodwill), whenever it issues additional interests in the Company (including any interests issued with a zero initial Capital Account), or whenever the adjustments would otherwise be permitted under such Treasury Regulation. In the event that the Capital Accounts of the Members are so adjusted, (i) the Capital Accounts of the Members shall be adjusted in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g) for allocations of depreciation, depletion, amortization and gain or loss, as computed for book purposes, with respect to such property and (ii) the Members' distributive shares of depreciation, depletion, amortization and gain or loss,

as computed for tax purposes, with respect to such property shall be determined so as to take account of the variation between the adjusted tax basis and book value of such property in the same manner as under Section 704(c) of the Code. In the event that Code Section 704(c) applies to property of the Company, the Capital Accounts of the Members shall be adjusted in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g) for allocations of depreciation, depletion, amortization, and gain and loss, as computed for book purposes with respect to such property. The Capital Accounts shall be maintained for the sole purpose of allocating items of income, gain, loss and deduction among the Members and shall have no effect on the amount of any Distributions to any Members in liquidation or otherwise. In connection with the transactions contemplated by this Agreement and the Purchase Agreement, the Capital Accounts of the Members shall be determined as of the Effective Date and the Capital Account of each Member shall be reflected on the Schedule of Members.

3.4 Negative Capital Accounts. No Member shall be required to pay to any other Member or the Company any deficit or negative balance which may exist from time to time in such Member's Capital Account (including upon and after dissolution of the Company).

3.5 No Withdrawal. No Person shall be entitled to withdraw any part of such Person's Capital Contribution or Capital Account or to receive any Distribution from the Company, except as expressly provided herein.

3.6 Loans from Members. Loans by Members to the Company shall not be considered Capital Contributions. If any Member shall advance funds to the Company in excess of the amounts required hereunder to be contributed by such Member to the capital of the Company, the making of such advances shall not result in any increase in the amount of the Capital Account of such Member. The amount of any such advances shall be a debt of the Company to such Member and shall be payable or collectible in accordance with the terms and conditions upon which such advances are made.

3.7 Withholding.

(a) The Company shall at all times be entitled to make payments as required to discharge any obligation of the Company to any Governmental Entity with respect to any foreign, federal, state or local tax or any other withholding liability arising as a result of or attributable to a Member's interest in the Company or on account of any transfer of such Member's interest in the Company (including any amounts payable under Code Section 1446(f) to the extent attributable, in the Board's reasonable discretion, to a Member or former Member's interest in the Company) (collectively, "**Withholding Payments**"). Any Withholding Payment made from funds withheld upon a Distribution to a Member will be treated as distributed to such Member for all purposes of this Agreement. Any other Withholding Payment will be deemed to be a recourse loan by the Company to the relevant Member. The amount of any Withholding Payment treated as a loan, plus interest thereon from the date of each such Withholding Payment until such amount is repaid to the Company at an interest rate per annum equal to the Base Rate plus five percent (5%), shall be repaid to the Company, as reasonably determined by the Board in its discretion, in whole or in part, (i) upon demand by the Company or (ii) by deduction from any Distributions payable to such Member pursuant to this Agreement (with the amount of such deduction treated as distributed to the Member). If the proceeds to the Company from an investment are reduced on account of taxes withheld at the source or otherwise imposed on the Company or any Subsidiary (or any other entity in which it invests), and such taxes are imposed on, or with respect to, one or more of the Members in the Company, the amount of the reduction shall be borne by the relevant Members and treated as if it were paid by the Company as a Withholding Payment with respect to such Members. Taxes imposed on the Company or its Subsidiaries (or any other entity in which it invests) where the rate of tax varies depending on characteristics of the Members shall be treated as taxes imposed on or with respect to the Members for purposes of this Section 3.7. Subject to the two preceding sentences, if the proceeds to the Company from an investment are reduced

on account of taxes withheld at the source, and such taxes are imposed on the Company, then the amount of the reduction shall be treated as an expense of the Company. Each Member agrees to indemnify and hold harmless the Company from and against any and all liability with respect to Withholding Payments required on behalf of, or with respect to, such Member. A Member's obligation to so indemnify shall survive the transfer or assignment of such Member's interest in the Company, and the liquidation or dissolution of the Company or the Member's interest therein, and the Company may pursue and enforce all rights and remedies it may have against each such Member under this Section 3.7.

(b) Any Imputed Underpayment Amount shall be treated as if it were paid by the Company as a Withholding Payment with respect to the appropriate Members. The Board shall reasonably determine the portion of an Imputed Underpayment Amount attributable to each Member or former Member. The portion of the Imputed Underpayment Amount that the Board attributes to a Member shall be treated as a Withholding Payment with respect to such Member. The portion of the Imputed Underpayment Amount that the Board attributes to a former Member of the Company shall be treated as a Withholding Payment with respect to both such former Member and such former Member's transferee(s) or assignee(s), as applicable, and the Board may in its discretion exercise the Company's rights pursuant to this Section in respect of either or both of the former Member and its transferee or assignee.

3.8 Incentive Units.

(a) As consideration for the contribution of the Class C Interests in the Company to TopCo in connection with the Restructuring, each CO Indirect Holder contributing such Class C Interests received one TopCo Incentive Interest in exchange for each such Class C Interest in the Company so contributed. Each TopCo Incentive Interest is deemed to "correspond to" one Incentive Unit. From time to time after the Effective Date, the Board shall have the power and discretion to approve the issuance of Incentive Units to any manager, employee, officer or consultant of the Company or its Subsidiaries (each such person, a "**Management Member**"). In addition, from time to time after the Effective Date, the Board shall have the power and discretion to cause IncentiveCo to issue IncentiveCo Incentive Units to any Management Member, and if the Board so determines to cause IncentiveCo to issue IncentiveCo Incentive Units to any Management Member, contemporaneously with such issuance, the Company shall issue a corresponding number of Incentive Units to IncentiveCo. The Board shall have power and discretion to approve which managers, employees, officers or consultants of the Company shall be offered and issued such Incentive Units or IncentiveCo Incentive Units, the number of Incentive Units or IncentiveCo Incentive Units to be offered and issued to each Management Member and the purchase price, if any, and other terms and conditions with respect thereto.

(b) The provisions of this Section 3.8 are designed to provide incentives to managers, employees, officers or consultants of the Company or its Subsidiaries. This Section 3.8, together with the other terms of this Agreement and the Incentive Agreements relating to Incentive Units, IncentiveCo Incentive Units or TopCo Incentive Interests, are intended to be a compensatory benefit plan within the meaning of Rule 701 of the Securities Act, and, unless and until the Company's Equity Securities are publicly traded, the issuance of Incentive Units are, to the extent permitted by applicable federal and state securities laws, intended to qualify for the exemption from registration under Rule 701 of the Securities Act and applicable state registration requirements.

(c) On the date of each grant of Incentive Units to a Management Member or to IncentiveCo, the Board will establish (and document in the applicable Incentive Agreement) an initial "**Participation Threshold**" amount with respect to each such Incentive Unit granted on such date. The Participation Threshold with respect to each Incentive Unit will be at least equal to the amount a Class CO Unit would receive on the date of issuance of such Incentive Unit in a hypothetical liquidation of the Company on the date of issuance of such Incentive Unit in which the Company sold its assets for their Fair

Market Value, satisfied its liabilities (excluding any non-recourse liabilities to the extent the balance of such liabilities exceeds the fair market value of the assets that secure them) and distributed the net proceeds to the holders of Units in liquidation of the Company; provided, however, that the Participation Threshold for each Incentive Unit held by TopCo as of immediately following the Closing Recapitalization is as set forth on the Schedule of Members. Notwithstanding the Participation Threshold set forth in any Incentive Agreement, the Participation Threshold with respect to outstanding Incentive Units shall automatically (and without any further action of the parties) be equitably increased to take into account any capital contribution made to the Company after the issuance of such outstanding Incentive Units. The determination by the Board of each Participation Threshold shall be final, conclusive and binding on all Members. Each Incentive Unit, IncentiveCo Incentive Unit and each TopCo Incentive Interest is intended to be a "profits interest" within the meaning of IRS Revenue Procedures 93-27 and 2001-43 and is issued with the intention that under current interpretations of the Code the recipient will not realize income upon the issuance of such Incentive Unit, IncentiveCo Incentive Unit or TopCo Incentive Interest, and that neither the Company nor any Member is entitled to any deduction either immediately or through depreciation or amortization as a result of the issuance of such Incentive Unit. This Section 3.8 shall be interpreted consistently with such intent.

(d) The Participation Threshold for each Incentive Unit with a Participation Threshold greater than zero shall be adjusted after the grant of such Incentive Unit as follows:

(i) In the event of any Distribution pursuant to Section 4.1(a) or Section 12.2(d), the Participation Threshold of each Incentive Unit outstanding at the time of such Distribution shall be reduced (but not below zero) by the amount distributable to the holder of a single Class CO Unit in connection with such Distribution (determined pursuant to Section 4.1(a) and Section 12.2(d) and taking into account all Incentive Units that are entitled to participate in such Distribution by reason of the last paragraph of Section 4.1(a)); and

(ii) If following the Closing Recapitalization, the Company at any time subdivides (by any Unit split, Unit dividend or otherwise) its outstanding Units into a greater number of Units, the Participation Threshold of each Incentive Unit in effect immediately prior to such subdivision shall be proportionately reduced, and if the Company at any time combines (by reverse Unit split or otherwise) its outstanding Units into a smaller number of Units, the Participation Threshold of each Incentive Unit in effect immediately prior to such combination shall be proportionately increased.

(e) In connection with any approved issuance after the Effective Date of Incentive Units to a Management Member hereunder, such Management Member shall execute a counterpart to this Agreement (or a joinder to this Agreement in a form acceptable to the Company), accepting and agreeing to be bound by all terms and conditions hereof, and shall enter into such other documents and instruments to effect such purchase (including, without limitation, an Incentive Agreement) as are required by the Board. In connection with any approved issuance after the Effective Date of IncentiveCo Incentive Units to a Management Member hereunder, IncentiveCo shall cause such Management Member to execute a counterpart to this Agreement (or a joinder to this Agreement in a form acceptable to the Company), accepting and agreeing to be bound by all terms and conditions hereof as a CO Indirect Holder and a Management Member, and shall cause such Management Member to enter into such other documents and instruments to effect such purchase (including, without limitation, an Incentive Agreement) as are required by the Board.

(f) If the Board so determines, the Incentive Units or IncentiveCo Incentive Units issued to any Management Member shall become vested in accordance with the vesting schedule

determined by the Board in connection with the issuance of such Incentive Units or the IncentiveCo Incentive Units (and reflected in the relevant Incentive Agreement). TopCo Incentive Interests shall become vested in accordance with vesting schedule set forth in the applicable Incentive Agreement for such TopCo Incentive Interests. Incentive Units, IncentiveCo Incentive Units or TopCo Incentive Interests that are subject to vesting and that are vested per such vesting schedule are referred to herein as "**Vested Units**". Incentive Units, IncentiveCo Incentive Units or TopCo Incentive Interests that are subject to vesting and that are not yet vested per such vesting schedule are referred to herein as "**Unvested Units**". Incentive Units, IncentiveCo Incentive Units or TopCo Incentive Interests that are not subject to vesting or that are fully vested on the date of issuance shall be deemed "**Vested Units**" for all purposes hereunder. Notwithstanding any other provision in this Section 3.8, each recipient of an Incentive Unit or an IncentiveCo Incentive Unit hereby agrees that such recipient shall make a valid and timely election in respect of such Unit, upon receipt thereof, pursuant to Section 83(b) of the Code and promptly provide evidence of such election to the Company. Notwithstanding anything contained in this Agreement or in any applicable Incentive Agreement to the contrary, Unvested Units shall automatically be forfeited and extinguished without any further action on the part of TopCo, IncentiveCo, the Company or the holder thereof immediately prior to the earliest to occur of the consummation of the Second Call Closing, the consummation of the Put Closing or immediately prior to the consummation of a Liquidity Event. To the extent any TopCo Incentive Interests or IncentiveCo Incentive Units are forfeited and extinguished in accordance with the terms and conditions of this Agreement and/or the applicable Incentive Agreement to the contrary, the corresponding Incentive Units that were issued to TopCo or IncentiveCo, as applicable, in connection with the issuance of such TopCo Incentive Units shall also be forfeited and become extinguished.

(g) By executing this Agreement, each Member authorizes and directs the Company to elect to have the "Safe Harbor" described in the proposed revenue procedure set forth in Internal Revenue Service Notice 2005-43 (the "**IRS Notice**") apply to any interest in the Company transferred to a service provider by the Company on or after the effective date of such revenue procedure in connection with services provided to the Company, including the Incentive Units. For purposes of making such Safe Harbor election, the Partnership Representative is hereby designated as the "member who has responsibility for federal income tax reporting" by the Company and, accordingly, execution of such Safe Harbor election by the Partnership Representative constitutes execution of a "Safe Harbor Election" in accordance with Section 3.03(1) of the IRS Notice. The Company and each Member hereby agree to comply with all requirements of the Safe Harbor described in the IRS Notice, including, without limitation, the requirement that each Member shall prepare and file all federal income tax returns reporting the income tax effects of each "Safe Harbor Partnership Interest" issued by the Company in a manner consistent with the requirements of the IRS Notice. A Member's obligations to comply with the requirements of this Section 3.8(g), shall survive such Member's ceasing to be a Member of the Company and/or the termination, dissolution, liquidation and winding up the Company, and, for purposes of this Section 3.8(g), the Company shall be treated as continuing in existence.

(h) Incentive Units that have been repurchased by the Company pursuant to Section 3.9 or forfeited to the Company may be reissued subject to the terms of this Agreement.

3.9 Repurchase Option. In addition to any forfeiture provisions contained in a Management Member's Incentive Agreement or set forth herein:

(a) If a Management Member ceases to be engaged as a service provider to the Company or its Subsidiaries for any reason, including resignation (the date of such cessation of service, the "**Termination Date**"), the Incentive Units, IncentiveCo Incentive Units or TopCo Incentive Interests issued to such Management Member (whether held by such Management Member or one or more transferees of such Management Member, other than the Company) will be subject to repurchase by the Company,

IncentiveCo or TopCo (solely in the Company's option) pursuant to the terms and conditions set forth in this Section 3.9 (the "**Repurchase Option**").

(b) Subject to Section 3.9(c), commencing on the Termination Date of a Management Member, the Company may elect to repurchase all or any portion of the Incentive Units (or, if applicable, require that TopCo or Incentive Co repurchase all or any portion of the TopCo Incentive Interests or IncentiveCo Incentive Units) held by such Management Member or transferee(s) at a price per Unit equal to the lower of Original Cost (which for the avoidance of doubt may be zero dollars ($0.00)) or Fair Market Value (determined by the Board as of the Termination Date).

(c) The Company may elect to exercise the Repurchase Option as to some or all such Incentive Units by delivering written notice (the "**Repurchase Notice**") to the holder or holders of the Incentive Units no later than twenty-four (24) months after the Termination Date of such Management Member. The Repurchase Notice will set forth the number of Incentive Units, IncentiveCo Incentive Units or TopCo Incentive Interests to be acquired from such holder(s), the aggregate consideration, if any, to be paid for such Incentive Units, IncentiveCo Incentive Units or TopCo Incentive Interests and the time and place for the closing of the transaction. If any Incentive Units, IncentiveCo Incentive Units or TopCo Incentive Interests are held by any transferees of the applicable Management Member, the Company, IncentiveCo or TopCo, as applicable, will purchase the Incentive Units, IncentiveCo Incentive Units or TopCo Incentive Interests elected to be purchased from all such holder(s) of Incentive Units, IncentiveCo Incentive Units or TopCo Incentive Interests, pro rata according to the number of Incentive Units held by each such holder(s) at the time of delivery of such Repurchase Notice (rounded as nearly as practicable to the nearest whole Incentive Unit).

(d) The closing of a repurchase transaction pursuant to this Section 3.9(d) will take place on the date designated in the applicable Repurchase Notice, which date will not be more than sixty (60) days after the delivery of such notice (provided such period may be extended to the extent necessary to comply with any regulatory filings or other applicable legal requirements, including any applicable antitrust requirements). The Company, IncentiveCo or TopCo, as applicable, will pay the purchase price, if any, for the repurchased Incentive Units, IncentiveCo Incentive Units or TopCo Incentive Interests by, at the option of the Company, either a check payable to the holder of such Incentive Units, IncentiveCo Incentive Units or TopCo Incentive Units and delivered to such holder's address on file with the Company, IncentiveCo and/or TopCo, or a wire transfer of immediately available funds to an account designated in writing by such holder. In connection with the repurchase of IncentiveCo Incentive Units or TopCo Incentive Interests by IncentiveCo or TopCo pursuant to this Section 3.9, the Company, contemporaneously therewith, will be deemed to have automatically and without any further action on the part of the parties be deemed to have repurchased the corresponding Incentive Units that were issued to IncentiveCo or TopCo, as applicable, for the same purchase price paid by IncentiveCo or TopCo to repurchase such IncentiveCo Incentive Units or TopCo Incentive Interests. Notwithstanding anything to the contrary contained herein, all repurchases of Incentive Units by the Company will be subject to applicable restrictions under all applicable laws and in the Company's and its Subsidiaries' debt and equity financing agreements. If any such restrictions prohibit the repurchase of Incentive Units hereunder which the Company is otherwise entitled to make, the Company may make such repurchases as soon as it is permitted to do so under such restrictions, and during such period of time, the purchase price payable to the holder shall accrue interest at a rate per annum equal to 5%. The Company, IncentiveCo or TopCo, as applicable, will receive customary representations and warranties from each seller regarding the sale of the Incentive Units, IncentiveCo Incentive Units or TopCo Incentive Units, including, but not limited to, representations that such seller has good and marketable title to the Incentive Units to be transferred free and clear of all liens, claims and other encumbrances.

(e) This Section 3.9 expressly supersedes the repurchase provisions of any "Incentive Agreement" with respect to Incentive Units entered into by the Company and a Management Member prior to the Effective Date.

ARTICLE 4

DISTRIBUTIONS AND ALLOCATIONS

4.1 Distributions.

(a) Distributions Other than Tax Distributions.

(i) The Board may in its sole discretion, subject to (i) any restrictions contained in the financing agreements to which the Company or any of its Subsidiaries is a party, and (ii) having available cash (after setting aside appropriate reserves), make Distributions at any time and from time to time. Subject to the last paragraph of this Section 4.1(a) with respect to Incentive Units, to Section 4.1(a)(ii) in the case of Liquidity Event Distributions and to Section 4.1(b) with respect to Tax Distributions, all Distributions by the Company shall be made, and all proceeds received (whether received by the Company or directly by the Members) except in connection with any Liquidity Event shall be allocated, to the Members then holding Participating Units pro rata based on the number of Participating Units then held by each such Member.

(ii) Subject to the last paragraph of this Section 4.1(a) with respect to Incentive Units, all Liquidity Event Proceeds by the Company or the Members), in connection with any Liquidity Event, shall be made or allocated (as applicable):

(A) first, to the Members holding Class CG Units, pro rata in accordance with the then unreturned Class CG Original Issue Price of the Class CG Units held by each such Members, until each such Member has received cumulative distributions pursuant to this Section 4.1(a)(ii)(A) in an amount equal to the aggregate Class CG Original Issue Price of such Member's Class CG Units; and

(B) second, to the Members holding Participating Units, pro rata based on the number of Participating Units held by each such Member; *provided, however*, that Distributions shall not be made or allocated in respect of Class CG Units pursuant to this Section 4.1(a)(ii)(B) until an amount equal to the Class CG Original Issue Price has been distributed or allocated under this Section 4.1(a)(ii)(B) in respect of each Participating Unit that is a Class CO Unit (but thereafter, any remaining amounts to be distributed under this Section 4.1(a)(ii)(B) shall be distributed pro rata in respect of all Participating Units, including Class CG Units and Class CO Units).

For the avoidance of doubt, if the amount to be distributed pursuant to this Section 4.1(a) with respect to any particular Distribution would cause the amount of any outstanding Incentive Unit's Participation Threshold to be reduced to zero, then such Incentive Unit shall constitute an Eligible Incentive Unit for purposes of this Section 4.1(a) only after the portion of the amount to be distributed in such Distribution that would cause such Incentive Unit's Participation Threshold to be reduced to (but not below) zero has first been distributed to the holders of outstanding Participating Units (taking into account outstanding Incentive Units that have lesser Participation Thresholds (determined, with respect to such

outstanding Incentive Units, by adding the Participation Threshold with respect to such Incentive Units to amounts received in respect of such Incentive Units for purposes of calculating whether such Incentive Units have received an amount equal to other Participating Units, and calculated immediately prior to such Distribution)). Notwithstanding anything in this Agreement to the contrary, if any Incentive Unit is an Unvested Unit as of the date of any Distribution, such Unvested Unit shall not participate in such Distribution (but such Distribution may reduce the Participation Threshold of such Unvested Unit).

(b) Tax Distributions.

(i) Unless otherwise determined by the Board in its reasonable discretion, within fifteen (15) days following the end of each Tax Estimation Period, the Company shall distribute to each Member an amount in cash equal to the excess of (x)(A) the Income Amount allocated or allocable to such Member for the Tax Estimation Period in question and for all preceding Tax Estimation Periods, if any, within the Taxable Year containing such Tax Estimation Period multiplied by (B) the Assumed Tax Rate over (y) the aggregate amount of all prior Tax Distributions in respect of such Taxable Year and any Distributions made to such Member pursuant to Section 4.1(a), with respect to the Tax Estimation Period in question and any previous Tax Estimation Period falling in the Taxable Year containing the applicable Tax Estimation Period referred to in (x)(A) (amounts distributed pursuant to this Section 4.1(b) are herein referred to as "**Tax Distributions**"). For purposes of this Agreement, the "**Income Amount**" for a Tax Estimation Period shall equal, with respect to any Member, an amount, if positive, equal to the net taxable income of the Company allocated or allocable to such Member for such Tax Estimation Period (excluding any guaranteed payments for services or any other compensation paid to a Member outside of this Agreement), minus any net taxable loss of the Company allocated or allocable to such Member for any prior Tax Estimation Period to the extent the Board determines in good faith after consulting with such Member that such net taxable loss (x) is usable by such Member to offset net taxable income of the Company allocated or allocable to such Member for the current Tax Estimation Period (or would be so usable if such net taxable loss had not been previously used by such Member to offset the net taxable income from other sources) and (y) has not previously been determined to be usable by such Member to offset net taxable income of the Company allocated or allocable to such Member for any prior Tax Estimation Period. For purposes of calculating the Income Amount for a Member with respect to any Tax Estimation Period or a net taxable loss for a Member in any prior Taxable Year, any allocation of income, gain, loss and deduction under Section 704(c) of the Code shall be taken into account. Tax Distributions pursuant to this Section 4.1(b) shall be treated as advances of Distributions under Section 4.1(a), and shall reduce or offset amounts otherwise distributable pursuant to Section 4.1(a).

(ii) For purposes of this Agreement, the "**Assumed Tax Rate**" for a Tax Estimation Period shall be the maximum effective tax rate for ordinary income or long-term capital gains (as applicable) in effect from time to time with respect to an individual resident and working in New York City, New York. Accordingly, as of the date hereof, (1) the Assumed Tax Rate for ordinary income will be 53.5%, which is 40.8% (the highest marginal U.S. federal ordinary income tax rate applicable to individuals, plus the 3.80% tax on net investment income) plus 12.70% (the increase for New York State and New York City taxes); and (2) the Assumed Tax Rate for long-term capital gains will be 36.5%, which is 23.80% (the highest marginal U.S. federal long-term capital gains tax rate applicable to individuals, plus the 3.80% tax on net investment income) plus 12.70% (the increase for New York State and New York City taxes). The Board shall have the authority, in its reasonable discretion, to make appropriate adjustments to the Assumed Tax Rates;

provided, that, without the prior written consent of the CO Member Representative, the Assumed Tax Rate shall in no event be less than the maximum effective tax rate for ordinary income or long-term capital gains (as applicable) in effect from time to time with respect to an individual resident and working in the jurisdiction of the CO Member with the highest effective combined state and local tax rate. For purposes of this Agreement, "**Tax Estimation Period**" shall mean each period from January 1 through March 31, from April 1 through June 30, from July 1 through September 30, and from October 1 through December 31 of each Taxable Year; *provided*, *however*, that the Company's first Tax Estimation Period shall begin on the day immediately following the Effective Date.

(iii) Notwithstanding anything to the contrary herein, no Tax Distributions will be required to be made with respect to any Liquidity Event, although any unpaid Tax Distributions with respect to any Tax Estimation Period, or portion thereof, ending before a Liquidity Event shall continue to be required to be paid prior to any Distributions being made under Section 4.1(a).

(c) Each Distribution pursuant to Section 4.1(a) and each Distribution pursuant to Section 4.1(b) shall be made to the Persons shown on the Company's books and records as Members as of the date of such Distribution; *provided*, *however*, that any transferor and transferee of Units may mutually agree as to which of them should receive payment of any Distribution under Section 4.1(b).

4.2 Allocations. Except as otherwise provided in Section 4.3, net Profits or net losses (if any) for any Taxable Year shall be allocated among the holders of Units in such a manner that, as of the end of such Taxable Year, the sum of (i) the Capital Account of each holder, (ii) such holder's share of Minimum Gain (as determined according to Treasury Regulation Section 1.704-2(g)) and (iii) such holder's partner nonrecourse debt minimum gain (as defined in Treasury Regulation Section 1.704-2(i)(3)) shall be as close as possible to the respective net amounts, positive or negative, which would be distributed to them or for which they would be liable to the Company under this Agreement, determined as if the Company were to (x) liquidate the assets of the Company for an amount equal to their book values (as maintained pursuant to the capital account maintenance provisions of Treasury Regulation Section 1.704-1(b)(2)(iv)) and (y) distribute the proceeds of liquidation pursuant to Section 12.2 (limiting payment in respect of nonrecourse liabilities to the fair market value of collateral securing or available to satisfy such liabilities), treating all unvested Incentive Units as vested for this purpose.

4.3 Special Allocations.

(a) Losses attributable to partner nonrecourse debt (as defined in Treasury Regulation Section 1.704-2(b)(4)) shall be allocated in the manner required by Treasury Regulation Section 1.704-2(i). If there is a net decrease during a Taxable Year in partner nonrecourse debt minimum gain (as defined in Treasury Regulation Section 1.704-2(i)(3)), Profits for such Taxable Year (and, if necessary, for subsequent Taxable Years) shall be allocated to the holders of Units in the amounts and of such character as determined according to Treasury Regulation Section 1.704-2(i)(4). This Section 4.3(a) is intended to be a minimum gain chargeback provision that complies with the requirements of Treasury Regulation Section 1.704-2(i)(4), and shall be interpreted in a manner consistent therewith.

(b) Nonrecourse deductions (as determined according to Treasury Regulation Section 1.704-2(b)(1)) for any Taxable Year shall be allocated to each holder of Units based upon each such holder's pro rata based on the number of Units held by each Member. Except as otherwise provided in Section 4.3(a), if there is a net decrease in the Minimum Gain during any Taxable Year, each holder of Units shall be allocated Profits for such Taxable Year (and, if necessary, for subsequent Taxable Years) in the amounts and of such character as determined according to Treasury Regulation Section 1.704-2(f). This

Section 4.3(b) is intended to be a minimum gain chargeback provision that complies with the requirements of Treasury Regulation Section 1.704-2(f), and shall be interpreted in a manner consistent therewith.

(c) If any holder of Units that unexpectedly receives an adjustment, allocation or distribution described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6) has an Adjusted Capital Account Deficit as of the end of any Taxable Year, computed after the application of Sections 4.3(a) and 4.3(b) but before the application of any other provision of this Article 4, then Profits for such Taxable Year shall be allocated to such holder in proportion to, and to the extent of, such Adjusted Capital Account Deficit. This Section 4.3(c) is intended to be a qualified income offset provision as described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d) and shall be interpreted in a manner consistent therewith.

4.4 Tax Allocations.

(a) Except as provided in Sections 4.4(b), (c) and (d), the income, gains, losses, deductions and credits of the Company will be allocated, for federal, state and local income tax purposes, among the holders of Units in accordance with the allocation of such income, gains, losses, deductions and credits among the holders of Units for book purposes.

(b) Items of Company taxable income, gain, loss and deduction with respect to any property contributed to the capital of the Company shall be allocated among the holders of Units in accordance with Code Section 704(c) so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its book value, using such permissible method as the Board may select in its sole discretion.

(c) If the book value of any Company asset is adjusted pursuant to Section 3.3, subsequent allocations of items of taxable income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its book value in the same manner as under Code Section 704(c).

(d) Allocations of tax credits, tax credit recapture, and any items related thereto shall be allocated to the holders of Units according to their interests in such items as determined by the Board taking into account the principles of Treasury Regulation Section 1.704-1(b)(4)(ii).

(e) The Company and the Members shall not treat any of the rights of the Members holding Class CG Units with respect to their Class CG Units as giving rise to any guaranteed payments within the meaning of Section 707(c) of the Code.

(f) Allocations pursuant to this Section 4.4 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any holder's Capital Account or share of book income, gain, loss or deduction, Distributions or other Company items pursuant to any provision of this Agreement.

ARTICLE 5

MANAGEMENT

5.1 Authority of Board. Except for situations in which the approval of one or more of the Members is specifically required by the express terms of this Agreement or a non-waivable provision of the Delaware Act, and subject to the other provisions of this Article 5, (i) all management powers over the business and affairs of the Company shall be exclusively vested in a board of managers (the "**Board**"), (ii) the Board shall conduct, direct and exercise full control over all activities of the Company, and (iii) the

Board shall have the sole power to bind or take any action on behalf of the Company, or to exercise any rights and powers (including, without limitation, the rights and powers to take certain actions, give or withhold certain consents or approvals, or make certain determinations, opinions, judgments or other decisions) granted to the Company under this Agreement or any other agreement, instrument or other document to which the Company is a party. Each member of the Board is referred to herein as a "**Manager**." The Managers shall be the "managers" of the Company for the purposes of the Delaware Act. The Managers are hereby designated as authorized persons, within the meaning of the Delaware Act, to execute, deliver and file the certificate of formation of the Company and all other certificates (and any amendments and/or restatements hereof) required or permitted by the Delaware Act to be filed in the Office of the Secretary of State of the State of Delaware. The Managers are hereby authorized to execute, deliver and file any other certificates (and any amendments and/or restatements thereof) necessary for the Company to qualify to do business in a jurisdiction in which the Company may wish to conduct business. Any Manager so designated shall have such authority and perform such duties as the Board may, from time to time, delegate to them.

5.2 Actions of the Board. Unless otherwise provided in this Agreement, any decision, action, approval or consent required or permitted to be taken by the Board may be taken by the Board (i) through meetings and written consents pursuant to Section 5.5 and (ii) through any Person or Persons to whom authority and duties have been delegated pursuant to Section 5.6.

5.3 Composition.

(a) Until the Effective Time, the Board shall consist of one (1) Manager, who is appointed by TopCo and shall initially be Bruce Thompson.

(b) Upon the Effective Time, the Board shall automatically be expanded initially to consist of three (3) Managers. Such Managers shall be appointed as follows:

(i) so long as TopCo owns, either directly or indirectly, at least 1,428,570 Class CO Units (which number is subject to appropriate adjustment for any Unit splits, Unit dividends and other recapitalizations or similar adjustments), TopCo shall have the right to appoint one (1) Manager (the "**CO Board Member**"), initially Bruce Thompson; and

(ii) so long as Parent owns any Class CG Units, Parent shall have the right to appoint the other Managers (each, a "**CG Board Member**"), initially Jason Trevisan and Samuel Zales.

(c) A Manager designated under Section 5.3(a) may only be removed from the Board (with or without cause) by the Person(s) who are entitled to appoint such Manager pursuant to Section 5.3(a).

(d) In the event that any Manager designated under Section 5.3(a) ceases to serve as a Manager as a result of death, disability, resignation, removal or other termination of such Manager for any reason, the resulting vacancy on the Board shall be filled only by the Person(s) who are entitled to appointed such Manager pursuant to Section 5.3(a).

5.4 Proxies. A Manager may vote at a meeting of the Board or any committee thereof either in person or by proxy executed in writing by such Manager. An email or similar transmission by the Manager, or a photographic, photostatic, facsimile or similar reproduction of a writing executed by the Manager, shall (if stated thereon) be treated as a proxy executed in writing for purposes of this Section 5.4.

Proxies for use at any meeting of the Board or any committee thereof or in connection with the taking of any action by written consent shall be filed with the Board, before or at the time of the meeting or execution of the written consent as the case may be. All proxies shall be received and taken charge of and all ballots shall be received and canvassed by the majority of the Board, who shall decide all questions concerning the qualification of voters, the validity of the proxies and the acceptance or rejection of votes. No proxy shall be valid after eleven months from the date of its execution unless otherwise provided in the proxy. A proxy shall be revocable unless the proxy form conspicuously states that the proxy is irrevocable and that the proxy is coupled with an interest. Should a proxy designate two or more Persons to act as proxies, unless that instrument shall provide to the contrary, a majority of such Persons present at any meeting at which their powers thereunder are to be exercised shall have and may exercise all the powers of voting or giving consents thereby conferred, or if only one be present, then such powers may be exercised by that one; or, if an even number attend and a majority do not agree on any particular issue, the Company shall not be required to recognize such proxy with respect to such issue if such proxy does not specify how the votes that are the subject of such proxy are to be voted with respect to such issue.

5.5 Meetings, etc.

(a) Meetings of the Board and any committee thereof shall be held at the principal office of the Company or at such other place as may be determined by the Board or such committee. A majority of the Managers then serving on the Board, present in person or through their duly authorized attorneys-in-fact, shall constitute a quorum at any meeting of the Board. Business may be conducted once a quorum is present. Regular meetings of the Board shall be held on such dates and at such times as shall be determined by the Board. Special meetings of the Board may be called by a majority of the Managers then serving on the Board (or, in the case of a special meeting of any committee of the Board, by a majority of the members thereof) or (ii) any CG Board Member, in each case, on at least 24 hours' prior written notice to the other Managers, which notice shall state the purpose or purposes for which such meeting is being called. Participation or attendance of a Manager at any meeting or committee meeting, as the case may be, constitutes presence in person at the meeting and waiver of notice of such meeting, if required, except where a Manager participates in or attends the meeting or committee meeting, as the case may be, for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. When any notice is required to be given to any Manager, a waiver thereof in writing signed by the Person entitled to such notice, whether before, at or after the time stated therein, shall be equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice (if any is required) or waiver of notice of such meeting. The actions by the Board or any committee thereof may be taken by vote of the Board or any committee at a meeting of the members thereof or by written consent (without a meeting, without notice and without a vote) so long as such consent is signed by at least the minimum number of Managers that would be necessary to authorize or take such action at a meeting of the Board or such committee in which all members thereof were present. Prompt notice of the action so taken without a meeting shall be given to those Managers who have not consented in writing. A meeting of the Board or any committee may be held by conference telephone or similar communications equipment by means of which all individuals participating in the meeting can be heard.

(b) Each Manager shall have one vote on all matters submitted to the Board or any committee thereof (whether the consideration of such matter is taken at a meeting, by written consent or otherwise). Except as provided in this Section 5.5(b), the affirmative vote (whether by proxy or otherwise) of a majority of the Managers then serving on the Board shall be the act of the Board. Except as otherwise provided by the Board when establishing any committee, the affirmative vote (whether by proxy or otherwise) of a majority of the members then serving on such committee shall be the act of such committee. For so long as there is a CO Board Member, any loans to or from Affiliates by the Company shall require the affirmative of a majority of the Managers then serving on the Board, including the CO Board Member,

and no such action shall be taken if there is a vacancy in the CO Board Member position until reasonable opportunity has been given for such vacancy to be filled in accordance with Section 5.3(b)(i).

(c) Except as otherwise determined by the Board, the Managers shall not be compensated for their services as members of the Board.

5.6 Delegation of Authority. The Board may, from time to time, delegate to one or more Persons (including any Manager, officer of the Company or other Person, and including through the creation and establishment of one or more committees) such authority and duties as the Board may deem advisable. The Board may set forth the powers and purpose of any committee it creates in a written charter, or in a resolution adopted by the Board.

5.7 Limitation of Liability.

(a) Except as otherwise provided herein or in an agreement entered into by such Person and the Company, no Manager or any of such Manager's Affiliates shall be liable to the Company or to any Member for any act or omission performed or omitted by such Manager in its capacity as a member of the Board (or any committee thereof) pursuant to authority granted to such Person by this Agreement; *provided* that, except as otherwise provided herein, such limitation of liability shall not apply to the extent the act or omission was attributable to such Person's acts or omissions as an officer or employee or gross negligence, willful misconduct or knowing violation of law or for any present or future breaches of any representations, warranties or covenants by such Person or its Affiliates contained herein or in any other agreements between such Person or its Affiliates and the Company. The Board may exercise any of the powers granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through its agents, and no Manager or any of such Manager's Affiliates shall be responsible for any misconduct or negligence on the part of any such agent appointed by the Board (so long as such agent was selected in good faith and with reasonable care). The Board shall be entitled to rely upon the advice of legal counsel, independent public accountants and other experts, including financial advisors, and any act of or failure to act by the Board in good faith reliance on such advice shall in no event subject the Board or any Manager thereof to liability to the Company or any Member.

(b) Whenever in this Agreement or any other agreement contemplated herein the Board is permitted or required to take any action or to make a decision in its "sole discretion" or "discretion," with "complete discretion" or under a grant of similar authority or latitude, the Board shall be entitled to consider such interests and factors as it desires, *provided* that the Board shall act in good faith.

(c) Whenever in this Agreement the Board is permitted or required to take any action or to make a decision in its "good faith" or under another express standard, the Board shall act under such express standard and, to the extent permitted by applicable law, shall not be subject to any other or different standards imposed by this Agreement or any other agreement contemplated herein, and, notwithstanding anything contained herein to the contrary, so long as the Board acts in good faith, the resolution, action or terms so made, taken or provided by the Board shall not constitute a breach of this Agreement or other agreement contemplated herein or impose liability upon the Board, any Manager thereof or any of such Manager's Affiliates.

5.8 Limitation of Liability. Except as provided in this Agreement or in the Delaware Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Manager shall be obligated personally for any such debts, obligations or liabilities solely by reason of acting as a Manager. A Manager (in his or her capacity as such) shall not be personally liable for the Company's obligations, liabilities and losses. Notwithstanding anything contained herein to the contrary, the failure of the Company to observe any

formalities or requirements relating to the exercise of its powers or management of its business and affairs under this Agreement or the Delaware Act shall not be grounds for imposing personal liability on the Managers for liabilities of the Company.

5.9 Fiduciary Duties. Each Manager shall, to the fullest extent permitted by the Delaware Act, have no duties of any kind or nature (at law, in equity, under this Agreement or otherwise, including any fiduciary duties or any similar duties) to the Company, to any Member or holder of Units, to any Affiliate of any Member or holder of Units, to any creditor of the Company or any of its Subsidiaries, or to any other Person; *provided*, that the implied contractual covenant of good faith and fair dealing shall be applicable only to the limited extent as required by the Delaware Act. The provisions of this Agreement, to the extent that they restrict the duties (including fiduciary duties) and liabilities of a Manager otherwise existing at law or in equity or by operation of the preceding sentence, are agreed by the Members to replace such duties and liabilities of such Manager. For the avoidance of doubt, nothing in this Section 5.9 shall eliminate or restrict the duties of any officer or employee of the Company to the Company, its Subsidiaries, their creditors and any other person to whom such duties are owed by officers under applicable law acting in their capacity as such.

ARTICLE 6

RIGHTS AND OBLIGATIONS OF MEMBERS

6.1 Limitation of Liability. Except as provided in this Agreement or in the Delaware Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company and no Member shall be obligated personally for any such debts, obligations or liabilities solely by reason of being a Member. Except as otherwise provided in this Agreement, a Member's liability (in its capacity as such) for Company obligations, liabilities and losses shall be limited to the Company's assets; *provided* that a Member shall be required to return to the Company any Distribution made to it in clear and manifest accounting or similar error. The immediately preceding sentence shall constitute a compromise to which all Members have consented within the meaning of the Delaware Act. Notwithstanding anything contained herein to the contrary, the failure of the Company to observe any formalities or requirements relating to the exercise of its powers or management of its business and affairs under this Agreement or the Delaware Act shall not be grounds for imposing personal liability on the Members for liabilities of the Company.

6.2 Lack of Authority. No Member in its capacity as such (other than in its capacity as a Manager or as a Person delegated authority pursuant to Section 5.6) has the authority or power to act for or on behalf of the Company, to do any act that would be binding on the Company or to make any expenditures on behalf of the Company. The Members hereby consent to the exercise by the Board and the Managers of the powers conferred on them by law and this Agreement.

6.3 No Right of Partition. No Member shall have the right to seek or obtain partition by court decree or operation of law of any Company property, or the right to own or use particular or individual assets of the Company.

6.4 Indemnification.

(a) The Company hereby agrees to indemnify and hold harmless any Person (each an "**Indemnified Person**") to the fullest extent permitted under the Delaware Act, as the same now exists or may hereafter be amended, substituted or replaced (but, in the case of any such amendment, substitution or replacement only to the extent that such amendment, substitution or replacement permits the Company to provide broader indemnification rights than the Company is providing immediately prior to such

amendment, substitution or replacement), against all reasonable expenses, liabilities and losses (including judgments, fines, excise taxes or penalties and reasonable attorneys' fees) incurred or suffered by such Person (or one or more of such Person's Affiliates) by reason of the fact that such Person is or was a Manager or a member of a committee of the Board, or if such indemnification is approved by the Board, such Person is or was a Member, officer, employee, Partnership Representative or other agent of the Company or is or was serving at the request of the Company as a manager, officer, director, principal, member, employee or agent of another corporation, partnership, joint venture, limited liability company, trust or other enterprise; *provided* that (unless the Board otherwise consents) no Indemnified Person shall be indemnified for any expenses, liabilities and losses suffered that are attributable to such Indemnified Person's or its Affiliates' gross negligence, willful misconduct or knowing violation of law. Expenses, including reasonable attorneys' fees, incurred by any such Indemnified Person in defending a proceeding related to any such indemnifiable matter shall be paid by the Company in advance of the final disposition of such proceeding, including any appeal therefrom, upon receipt of an undertaking by or on behalf of such Indemnified Person to repay such amounts if it shall ultimately be determined that such Indemnified Person is not entitled to be indemnified by the Company.

(b) The right to indemnification and the advancement of expenses conferred in this Section 6.4 shall not be exclusive of any other right which any Person may have or hereafter acquire under any statute, agreement, vote of the Board or otherwise.

(c) The Company will maintain directors' and officers' liability insurance, at its expense, for the benefit of the Managers and officers of the Company and of any other Persons to whom the Board has delegated its authority pursuant to Section 5.6.

(d) Notwithstanding anything contained herein to the contrary (including in this Section 6.4), any indemnity by the Company relating to the matters covered in this Section 6.4 shall be provided out of and to the extent of Company assets only and no Member (unless such Member otherwise agrees in writing or is found in a final decision by a court of competent jurisdiction to have personal liability on account thereof) shall have personal liability on account thereof or shall be required to make additional capital contributions or otherwise provide funding to help satisfy such indemnity of the Company.

(e) If this Section 6.4 or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless each Indemnified Person pursuant to this Section 6.4 to the fullest extent permitted by any applicable portion of this Section 6.4 that shall not have been invalidated and to the fullest extent permitted by applicable law.

6.5 Members' Right to Act. For matters that require the approval of the Members generally (rather than the approval of the Board on behalf of the Members or the approval of a particular group of Members), the Members shall act through meetings and written consents as described in paragraphs (a) and (b) below:

(a) Except as otherwise expressly provided by this Agreement or as required by non-waivable provision of the Delaware Act, acts by the Requisite Members shall be the act of the Members. Any Member entitled to vote at a meeting of Members or to express consent or dissent to Company action in writing without a meeting may authorize another person or persons to act for it by proxy. An email or similar transmission by the Member, or a photographic, photostatic, facsimile or similar reproduction of a writing executed by the Member, shall (if stated thereon) be treated as a proxy executed in writing for purposes of this Section 6.5(a). No proxy shall be voted or acted upon after eleven months from the date thereof, unless the proxy provides for a longer period. A proxy shall be revocable unless the proxy form conspicuously states that the proxy is irrevocable and that the proxy is coupled with an interest. Should a proxy designate two or more Persons to act as proxies, unless that instrument shall provide to the contrary,

a majority of such Persons present at any meeting at which their powers thereunder are to be exercised shall have and may exercise all the powers of voting or giving consents thereby conferred, or, if only one be present, then such powers may be exercised by that one; or, if an even number attend and a majority do not agree on any particular issue, the Company shall not be required to recognize such proxy with respect to such issue if such proxy does not specify how the votes that are the subject of such proxy are to be voted with respect to such issue.

(b) The actions by the Members permitted hereunder may be taken at a meeting called by the Board or by the Requisite Members on at least twenty-four (24) hours' prior written notice to the other Members entitled to vote, which notice shall state the purpose or purposes for which such meeting is being called. Participation or attendance of a Member at any meeting of Members constitutes presence in person at the meeting and waiver of notice of such meeting, if required, except where a Member participates in or attends the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. When any notice is required to be given to any Member, a waiver thereof in writing signed by the Person entitled to such notice, whether before, at or after the time stated therein, shall be equivalent to the giving of such notice. The actions by the Members entitled to vote or consent may be taken by vote of the Members entitled to vote or consent at a meeting or by written consent (without a meeting, without notice and without a vote) so long as such consent is signed by the Members having not less than the minimum number of Units that would be necessary to authorize or take such action at a meeting at which all Members entitled to vote thereon were present and voted. Prompt notice of the action so taken without a meeting shall be given to those Members entitled to vote or consent who have not consented in writing. Any action taken pursuant to such written consent of the Members shall have the same force and effect as if taken by the Members at a meeting thereof.

6.6 Conflicts of Interest.

(a) In recognition of the fact that the Company and its Subsidiaries, on the one hand, and the members of the Parent Group, separately on the other hand, may currently or in the future engage in the same or similar activities or lines of business and have an interest in the same areas and types of corporate opportunities, and in recognition of the benefits to be derived by the Company and its Subsidiaries through their continued contractual, corporate and business relations with the members of the Parent Group (including possible service of directors, officers and employees of the members of the Parent Group as Managers, directors, officers and employees of the Company and its Subsidiaries), the provisions of this Section 6.6(a) are set forth to regulate and define the conduct of members of the Parent Group, and the powers, rights, duties and liabilities of the Company and its Subsidiaries, as well as its Managers, officers, employees and members in connection therewith. To the fullest extent permitted by law: (i) each member of the Parent Group shall have the right to, and shall have no duty (contractual or otherwise) not to, directly or indirectly: (A) engage or otherwise participate in any manner whatsoever in the same, similar or competing business activities or lines of business as the Company or its Subsidiaries, (B) do business with any client or customer of the Company or its Subsidiaries, or (C) make investments in competing businesses of the Company or its Subsidiaries, and such acts shall not be deemed wrongful or improper; (ii) no member of the Parent Group shall be liable to the Company for breach of any duty (contractual or otherwise), including without limitation fiduciary duties, by reason of any such activities or of such Person's participation therein; and (iii) in the event any member of the Parent Group acquires knowledge of a potential transaction or matter that may be a corporate opportunity for the Company or its Subsidiaries, on the one hand, and any member of the Parent Group, on the other hand, as the case may be, or any other Person, no member of the Parent Group shall have any duty (contractual or otherwise), including without limitation fiduciary duties, to communicate, present or offer such corporate opportunity to the Company or its Subsidiaries and shall not be liable to the Company or its Subsidiaries for breach of any duty (contractual or otherwise), including without limitation fiduciary duties, by reason of the fact that any member of the Parent Group directly or indirectly pursues or acquires such opportunity for itself, directs such opportunity

to another Person, or does not present or communicate such opportunity to the Company or its Subsidiaries, even though such corporate opportunity may be of a character that, if presented to the Company or its Subsidiaries, could be taken by the Company or its Subsidiaries. The Company, on behalf of itself and each of its current or future Subsidiaries, hereby renounces any interest, right, or expectancy in any such opportunity not offered to it by the Parent Group, to the fullest extent permitted by law, and the Company, on behalf of itself and each of its current or future Subsidiaries, and each Member hereby waives any claim against each member of the Parent Group and/or any CG Board Member or any of their respective direct or indirect beneficial owners based on the corporate opportunity doctrine, any alleged unfairness to the Company or such Member or otherwise that would require any CG Board Member or any of their respective direct or indirect beneficial owners to offer any opportunity relating thereto to the Company or the Board. Notwithstanding anything in this Section 6.6(a) to the contrary, the implied contractual covenant of good faith and fair dealing shall continue be applicable to CG Board Members to the limited extent as required by the Delaware Act.

(b) Neither the alteration, amendment or repeal of Section 6.6(a) nor the adoption of any provision of this Agreement inconsistent with Section 6.6(a) shall eliminate or reduce the effect of Section 6.6(a) in respect of any matter occurring, or any cause of action, suit or claim that, but for Section 6.6(a), would accrue or arise, prior to such alteration, amendment, repeal or adoption.

ARTICLE 7

BOOKS, RECORDS, ACCOUNTING AND REPORTS

7.1 Records and Accounting. The Company shall keep, or cause to be kept, appropriate books and records with respect to the Company's business, including all books and records necessary to provide any information, lists and copies of documents required to be provided pursuant to Section 7.3 or pursuant to applicable laws. All matters concerning (i) the determination of the relative amount of allocations and Distributions among the Members pursuant to Article 3 and Article 4 and (ii) accounting procedures and determinations, and other determinations not specifically and expressly provided for by the terms of this Agreement, shall be determined by the Board, whose determination shall be final and conclusive as to all of the Members absent manifest clerical error.

7.2 Fiscal Year. The Fiscal Year of the Company shall be such annual accounting period as is established by the Board from time to time. The Taxable Year of the Company shall be the annual period ending on December 31, unless otherwise required by law.

7.3 Reports. (i) The Company shall use reasonable best efforts to deliver or cause to be delivered, (i) as soon as reasonably possible after the end of each Tax Estimation Period, such information concerning the Company as is reasonably required to enable the Members (or their beneficial owners) to pay estimated federal and state income taxes and (ii) as soon as practicable following the completion of each Taxable Year, but in all events within sixty (60) days after the end of each Taxable Year, to each Person who was a holder of Units at any time during such Taxable Year all information from the Company necessary for the preparation of such Person's United States federal and state income tax returns; provided, however, that the Company shall not be obligated under this Section 7.3 to provide information (A) that the Company reasonably determines in good faith to be a trade secret or highly confidential information or (B) the disclosure of which would adversely affect the attorney-client privilege between the Company and its counsel or result in a conflict of interest. Except as set forth in the immediately preceding sentence, Sections 2 or 3 of Annex I or any separate written agreement between the Company and any Member, no Member shall have the right to any other information from the Company, except as may be required by non-waivable provision of the Delaware Act.

7.4 Transmission of Communications. Each Person that owns or controls Units on behalf of, or for the benefit of, another Person or Persons shall be responsible for conveying any report, notice or other communication received from the Company to such other Person or Persons.

7.5 Confidentiality. Each CO Member and each CO Indirect Holder agrees, for so long as such Person owns any direct or indirect beneficial interest in any Units and for a period of three (3) years thereafter, to keep confidential any non-public information provided to such Person by the Company and to use any such confidential, non-public information, only in connection with the business of the Company or the internal administration of such CO Member's membership interest (or such CO Indirect Holder's indirect membership interest) in the Company; *provided*, *however*, that nothing herein will limit the disclosure of any information (i) to the extent required by law, statute, rule, regulation, judicial process, subpoena or court order or requested by any governmental agency or other regulatory authority; (ii) that is in the public domain or becomes generally available to the public other than as a result of the disclosure by the parties in violation of this Agreement; or (iii) to such Person's advisors, representatives and Affiliates; *provided* that such Affiliates shall have been advised of this Agreement and shall have expressly agreed to be bound by the confidentiality provisions hereof, or shall otherwise be bound by comparable obligations of confidentiality, and the applicable CO Member or CO Indirect Holder shall be responsible for any breach of this Agreement by any of its Affiliates and such Person agrees, at its sole expense, to take reasonable measures (including but not limited to court proceedings) to restrain its Affiliates from prohibited or unauthorized disclosure or use of any confidential information.

ARTICLE 8

TAX MATTERS

8.1 Preparation of Tax Returns. The Company shall arrange for the preparation and timely filing of all tax returns required to be filed by the Company. Each Member will, upon request, supply to the Company all reasonably accessible, pertinent information in its possession relating to the operations of the Company necessary to enable the Company's tax returns to be prepared and filed. The Company shall provide drafts of the Company's U.S. federal income tax returns to TopCo at least twenty (20) days prior to the due date for the filing of such returns, and shall consider in good faith any comments that TopCo makes to such drafts.

8.2 Tax Elections. The Board shall in its reasonable discretion exercised in good faith determine whether to make or revoke any available election or decision relating to tax matters, including any controversy described in Section 8.3, pursuant to the Code. The Board in its sole discretion may direct the Partnership Representative to elect the application of Code Section 6226 (or any similar provision of state, local or non-U.S. law) with respect to any Imputed Underpayment Amount but is not required to do so. Each Member will upon request supply any information necessary to give proper effect to such election. The Company will (and if applicable, will cause any Subsidiaries to) make and maintain a Section 754 election on its Tax Return for any taxable year that includes purchase of Class CO Units and/or Incentive Units by Parent pursuant to the First Call Right, the Second Call Right, or the Put Right if such an election has not previously been made for the Company (and any applicable Subsidiary).

8.3 Tax Controversies. Unless and until another Member is designated as the partnership representative by the Board, the partnership representative of the Company as provided in the Treasury Regulations under Code Section 6223 and any analogous provisions of state or local law shall be as specified by the Board, and in such capacity is referred to as the "**Partnership Representative**". The Partnership Representative shall initially be Parent. On behalf of the Company, the Partnership Representative (or its designee) shall subject to the approval of the Board be permitted to appoint any "designated individual" permitted under Treasury Regulations Sections 301.6223-1 and 301.6223-2 or any

successor regulations or similar provisions of tax law, and unless the context otherwise requires, any reference to the Partnership Representative in this Agreement includes any such designated individual. The Partnership Representative and the designed individual shall be entitled to be reimbursed by the Company for all out-of-pocket costs and expenses incurred as a result of acting as the Partnership Representative and designated individual in connection with any proceeding involving the Company and to be indemnified by the Company (solely out of Company assets) with respect to any action brought against it as a result of acting as Partnership Representative or designated individual in connection with the resolution or settlement of any such proceeding. Notwithstanding the preceding sentence, the Partnership Representative or designated representative shall not be entitled to indemnification for such costs and expenses if such person has not acted in good faith. Each Member hereby agrees (i) to take such actions as may be required to effect Parent's designation as the Partnership Representative, and on behalf of the Company, the Partnership Representative's appointment(s) (and replacements) of any applicable "designated individual," (ii) to cooperate to provide any information or take such other actions as may be reasonably requested by the Partnership Representative in order to determine whether any Imputed Underpayment Amount may be modified pursuant to Code Section 6225(c) and any corresponding provision of applicable state or local law, and (iii) to, upon the request of the Partnership Representative, either file any amended U.S. federal income tax return and pay any tax due in connection with such tax return, or undertake the alternative "pull-in" procedure, in accordance with Code Section 6225(c)(2) and any corresponding provision of applicable state or local law. The provisions of this Section 8.3 and a Member's obligation to comply with this Section 8.3 shall survive any liquidation and dissolution of the Company and the transfer, assignment or liquidation of such Member's Company Interest. Notwithstanding the foregoing, the Partnership Representative (including, for the avoidance of doubt, any designated individual) shall not: (a) settle disputes with the Internal Revenue Service, (b) extend the statute of limitations for any taxes, or (c) take any other significant action affecting the tax liability of the Company and the Members (including, without limitation, undertaking the "pull-in procedure" in accordance with Code Section 6225(c)(2)) without the prior consent of the Board.

8.4 Tax Treatment of Transaction. The Company and each Member shall treat the transactions contemplated by the Purchase Agreement for U.S. federal (and applicable state and local) income tax purposes in a manner required by Section 1.8 of the Purchase Agreement and all tax returns shall be prepared in a manner consistent therewith.

8.5 Tax Communications. The Partnership Representative shall use reasonable efforts to inform the Members of all material tax matters that come to its attention in its capacity as Partnership Representative, including, without limitation, any matter that could materially affect the tax liability of the Members, within ten (10) days after the Partnership Representative becomes aware of such matters, and shall consider in good faith any input provided by the Members in respect of such matters.

ARTICLE 9

RESTRICTIONS ON TRANSFER OF UNITS; PREEMPTIVE RIGHTS; REDEMPTION

9.1 Transfers of Units.

(a) Except as otherwise provided in this Section 9.1(a), no Holder may Transfer any Units without the prior written consent of the Board. Except as provided in Section 9.1(b) below, all Transfers are subject to compliance with Sections 9.2 and 9.3. The restrictions set forth in this Section 9.1(a) shall continue with respect to each Unit until the first to occur of (i) the consummation of an IPO or (ii) the consummation of an Approved Sale.

(b) The restrictions contained in Sections 9.1(a), 9.2 and 9.3 shall not apply to any Transfer of Units by any Holder (i) pursuant to Section 12.7 or Section 12.8, (ii) by any Holder to a member of such Holder's Family Group or a trust solely for the benefit of such Holder and such Holder's Family Group (or a re-Transfer of such Units back to such Holder by such Family Group member or by such trust) or pursuant to the applicable laws of descent or distribution among such Holder's Family Group, (iii) pursuant to Section 3.9 or (iv) to Parent pursuant to Section 4, Section 5 or Section 6 of Annex I; *provided* that the restrictions contained in this Agreement will continue to apply to the Units after any Transfer pursuant to clause (ii) and each transferee of Units shall agree in writing, prior to and as a condition precedent to the effectiveness of such Transfer, to be bound by the provisions of this Agreement, without modification or condition, subject only to the consummation of such Transfer. Upon the Transfer of Units pursuant to clause (ii) of the first sentence of this Section 9.1(b), the transferor will deliver written notice to the Company, which notice will disclose in reasonable detail the identity of such transferee(s) and shall include original counterparts of this Agreement signed on behalf of the transferee in a form acceptable to the Company.

(c) Any Imputed Underpayment Amount that is properly allocable to an assignor of an interest, as reasonably determined by the Board, shall be treated as a Withholding Payment with respect to the applicable assignee in accordance with Section 3.7. Furthermore, as a condition to any assignment, each assignor shall be required to agree (i) to continue to comply with the provisions of Section 8.3 notwithstanding such assignment and (ii) to indemnify and hold harmless the Company from and against any and all liability with respect to the assignee's Withholding Payments resulting from Imputed Underpayment Amounts attributable to the assignor.

(d) If the Company is obligated to pay any taxes (including penalties, interest, costs, any addition to tax, Withholding Payments or other tax withholdings or other amounts in the nature of a tax) to any Governmental Entity that are specifically attributable to a Member or such Member's transferor or that are a result of any Transfer of a Company Interest, including, without limitation, on account of Sections 864 or 1446 of the Code, then (x) such Persons shall indemnify the Company in full for the entire amount paid or payable, (y) the Board may offset future Distributions to which such Person is otherwise entitled under this Agreement against such Person's obligation to indemnify the Company under this Section 9.1(d) and (z) such amounts shall be treated as a Withholding Payment pursuant to Section 3.7 with respect to both such former Member and such former Member's transferee(s), in each case, without duplication of any indemnification for Withholding Payments made under Section 3.7.

(e) Notwithstanding anything in this Agreement to the contrary, except as otherwise agreed by the Board in its sole discretion, as a condition to any Proposed Transfer:

(i) if the Member who proposes to Transfer its Company Interest (or if such Member is a disregarded entity for U.S. federal income tax purposes, the first direct or indirect beneficial owner of such Member that is not a disregarded entity (the "**Member's Owner**")) is a "United States person" as defined in Section 7701(a)(30) of the Code, then such Member (or the Member's Owner, if applicable) shall complete and provide to both of the transferee and the Company, a duly executed affidavit in the form provided to such transferor by the Company, certifying, under penalty of perjury, that the Member (or Member's Owner, if applicable) is not a foreign person, nonresident alien, foreign corporation, foreign partnership, foreign trust, or foreign estate (as such terms are defined under the Code and applicable Treasury Regulations, including for purposes of Code Sections 1445 and 1446) and the Member's (or Member's Owner's, if applicable) United States taxpayer identification number, or

(ii) if the Member who proposes to Transfer its Company Interest (or if such Member is a disregarded entity for U.S. federal income tax purposes, the Member's Owner) is not "United States person" as defined in Section 7701(a)(30) of the Code, then such transferor and transferee shall jointly provide to the Company written proof reasonably satisfactory to the Board that any applicable Withholding Payment or any other withholding tax that may be imposed on such transfer or assignment (including, but not limited to, pursuant to Sections 864 and 1446 of the Code) and any related tax returns or forms that are required to be filed, have been, or will be, timely paid and filed, as applicable.

9.2 Right of First Refusal.

(a) Each Holder hereby unconditionally and irrevocably grants to Parent a Right of First Refusal to purchase all or any portion of any Units that such Holder may propose to Transfer ("**Transfer Units**"), at the same price and on the same terms and conditions as those offered to the Prospective Transferee. Each Holder proposing to make a Proposed Transfer (each such Holder, a "**Transferring Holder**") must deliver a Proposed Transfer Notice to Parent and each Rights Holder not later than forty-five (45) days prior to the consummation of such Proposed Transfer. Such Proposed Transfer Notice shall contain the material terms and conditions (including price and form of consideration) of the Proposed Transfer and the identity of the Prospective Transferee. To exercise its Right of First Refusal under this Section 9.2(a), Parent must deliver a Parent Notice to the Transferring Holder within fifteen (15) days after delivery of the Proposed Transfer Notice. In the event of a conflict between this Agreement and any other agreement that may have been entered into by a Transferring Holder with Parent that contains a preexisting right of first refusal, Parent and such Transferring Holder acknowledge and agree that the terms of this Agreement shall control and the preexisting right of first refusal shall be deemed satisfied by compliance with this Section 9.2. If Parent elects to exercise its Right of First Refusal with respect to part but not all of the Transfer Units subject to a Proposed Transfer by a Transferring Holder, Parent must deliver a Parent Secondary Notice to the Transferring Holder and to each other Rights Holder to that effect no later than fifteen (15) days after the Transferring Holder delivers the Proposed Transfer Notice to Parent. If Parent does not timely deliver a Parent Notice or a Parent Secondary Notice as set forth in this Section 9.2(a), then Parent shall be deemed to have waived its Right of First Refusal with respect to the Proposed Transfer.

(b) If the consideration proposed to be paid for the Transfer Units is in property, services or other non-cash consideration, the Fair Market Value of such non-cash consideration shall be as determined by the Board and as set forth in the Parent Notice. If Parent cannot for any reason pay for the Transfer Units in the same form of non-cash consideration, Parent may pay the Fair Market Value of such consideration in cash. The closing of the purchase of Transfer Units by Parent shall take place, and all payments from Parent shall have been delivered to the Transferring Holder, by the later of (i) the date specified in the Proposed Transfer Notice as the intended date of the Proposed Transfer, (ii) forty-five (45) days after delivery of the Proposed Transfer Notice, and (iii) five (5) business days after such date on which all regulatory (including antitrust) or competition notices or clearances required by applicable law with respect to such purchase by Parent have been obtained.

(c) Parent shall be entitled to assign (in whole or in part) its rights under this Section 9.2 to any Affiliate of Parent. The provisions of this Section 9.2 shall continue with respect to each Unit until the first to occur of (i) the consummation of an IPO, or (ii) the consummation of an Approved Sale.

9.3 Right of Co-Sale.

(a) If any Transfer Units subject to a Proposed Transfer by a Transferring Holder are not purchased by Parent or an Affiliate of Parent pursuant to Section 9.2 above and thereafter are to be sold to a Prospective Transferee, then each Rights Holder (other than the Rights Holder that is also the Transferring Holder, if applicable) may elect to exercise its Right of Co-Sale and participate on a pro rata basis in the Proposed Transfer as set forth in this Section 9.3 and otherwise on the same terms and conditions specified in the Proposed Transfer Notice. Each Rights Holder who desires to exercise its Right of Co-Sale (each, a "**Participating Member**") must give the Transferring Holder written notice to that effect within fifteen (15) days after the deadline for delivery of the Parent Secondary Notice described above, and upon giving such notice such Rights Holder shall be deemed to have effectively exercised the Right of Co-Sale.

(b) Each Participating Member may include in the Proposed Transfer all or any part of such Participating Member's Units equal to the product obtained by multiplying (i) the aggregate number of Transfer Units subject to the Proposed Transfer by (ii) a fraction, the numerator of which is the number of Units that are not Unvested Units owned by such Participating Member immediately before consummation of the Proposed Transfer and the denominator of which is the total number of Units that are not Unvested Units owned in the aggregate, by all Participating Members immediately prior to the consummation of the Proposed Transfer, plus, without duplication, the number of Transfer Units held by the Transferring Holder. To the extent one or more of the Participating Members exercise such right of participation in accordance with the terms and conditions set forth herein, the number of Transfer Units that the Transferring Holder may sell in the Proposed Transfer shall be correspondingly reduced.

(c) The parties hereby agree that the terms and conditions of any sale pursuant to this Section 9.3 will be memorialized in, and governed by, a written purchase and sale agreement with customary terms and provisions for such a transaction and the parties further covenant and agree to enter into such an agreement as a condition precedent to any sale or other transfer pursuant to this Section 9.3. Neither the Transfer of Transfer Units by the Transferring Holder nor the Transfer of Units by a Participating Member shall be effective, unless, contemporaneously with such Transfer, the Prospective Transferee executes a counterpart to this Agreement, thereby agreeing to be bound to all the terms and conditions of this Agreement. If any Prospective Transferee or Transferees refuse(s) to purchase securities subject to the Right of Co-Sale from any Participating Member exercising its Right of Co-Sale hereunder, no Transferring Holder may sell any Transfer Units to such Prospective Transferee or Transferees unless and until, simultaneously with such sale, such Transferring Holder purchases all securities subject to the Right of Co-Sale from such Participating Member on the same terms and conditions (including the proposed purchase price) as set forth in the Proposed Transfer Notice.

(d) If any Proposed Transfer by a Transferring Holder is not consummated within forty-five (45) days after receipt of the Proposed Transfer Notice by Parent (other than by reason of any failure of Parent or any Participating Member to comply with their respective obligations under Section 9.2 or this Section 9.3), the Transferring Holder proposing the Proposed Transfer may not sell any Transfer Units unless such Holder first complies in full with each provision of Section 9.2 and this Section 9.3. The exercise or election not to exercise any right by any Rights Holder hereunder shall not adversely affect its right to participate in any other sales of Transfer Units subject to this Section 9.3.

(e) The provisions of this Section 9.3 shall continue with respect to each Unit until the first to occur of (i) the consummation of an IPO or (ii) the consummation of an Approved Sale.

9.4 Effect of Failure to Comply with Right of First Refusal and Right of Co-Sale.

(a) Any Proposed Transfer not made in compliance with the requirements of this Agreement shall be null and void ab initio, shall not be recorded on the books of the Company or its transfer agent and shall not be recognized by the Company. Each party hereto acknowledges and agrees that any

breach of this Agreement would result in substantial harm to the other parties hereto for which monetary damages alone could not adequately compensate. Therefore, the parties hereto unconditionally and irrevocably agree that any non-breaching party hereto shall be entitled to seek protective orders, injunctive relief and other remedies available at law or in equity (including, without limitation, seeking specific performance or the rescission of purchases, sales and other transfers of Transfer Units not made in strict compliance with this Agreement).

(b) If any Transferring Holder becomes obligated to sell any Transfer Units to Parent under this Agreement and fails to deliver such Transfer Units in accordance with the terms of this Agreement, Parent may, at its option, in addition to all other remedies it may have, send to such Transferring Holder (as applicable) the purchase price for such Transfer Units as is herein specified and transfer to the name of Parent (or request that the Company effect such transfer in the name of Parent) on the Company's books the Transfer Units to be sold.

(c) If any Transferring Holder purports to sell any Transfer Units in contravention of the Right of Co-Sale (a "**Prohibited Transfer**"), each Rights Holder who desires to exercise its Right of Co-Sale under Section 9.3 may, in addition to such remedies as may be available by law, in equity or hereunder, require such Transferring Holder to purchase from such Rights Holder the type and number of Units that such Rights Holder would have been entitled to sell to the Prospective Transferee under Section 9.3 had the Prohibited Transfer been effected pursuant to and in compliance with the terms of Section 9.3. The sale will be made on the same terms and subject to the same conditions as would have applied had the Transferring Holder not made the Prohibited Transfer, except that the sale (including, without limitation, the delivery of the purchase price) must be made within ninety (90) days after the Rights Holder learns of the Prohibited Transfer, as opposed to the timeframe prescribed in Section 9.3. Such Transferring Holder shall also reimburse each Rights Holder for any and all reasonable and documented out-of-pocket fees and expenses, including reasonable legal fees and expenses, incurred pursuant to the exercise or the attempted exercise of its rights under Section 9.3.

9.5 Additional Transfer Restrictions; Lock-Up.

(a) In connection with the Transfer of any Units, the holder thereof shall deliver written notice to the Company describing in reasonable detail the Transfer or proposed Transfer, which shall, if so requested by the Company, be accompanied by (i) an opinion of counsel which (to the Company's reasonable satisfaction) is knowledgeable in securities law matters to the effect that such Transfer of Units may be effected without registration of such Units under the Securities Act or (ii) such other evidence reasonably satisfactory to the Company to the effect that such Transfer of Units may be effected without registration of such Units under the Securities Act. The holder thereof shall not effect any Transfer of the same until the Prospective Transferee has confirmed to the Company in writing its agreement to be bound by the conditions contained in this Agreement.

(b) Each Holder hereby agrees that it will not, directly or indirectly, without the prior written consent of the Company or its successor and the managing underwriter(s), (i) during the period commencing on the date of the final prospectus relating to an IPO and ending on the date specified by the Company or its successor and the managing underwriter(s) (such period not to exceed one hundred eighty (180) calendar days) and (ii) during the period commencing on the date of the final prospectus relating to any subsequent underwritten public offering by the Company or its successor of its Capital Stock to the public effected pursuant to an effective registration under the Securities Act (other than a registration on Form S-4 or Form S-8 or any successor forms) and ending on the date specified by the Company or its successor and managing underwriter(s) (such period not to exceed ninety (90) calendar days): (x) lend, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, or otherwise transfer or dispose of, directly or

indirectly, any Capital Stock in the Company or its successor or in Person that is not an individual that holds Capital Stock in the Company or its successor (whether such shares or any such securities are then owned by the holder of Capital Stock or are thereafter acquired), or (y) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of such Capital Stock, whether any such transaction described in clauses (x) or (y) above is to be settled by delivery of such Capital Stock, in cash or otherwise. The foregoing provisions of this Section 9.5(b) shall not apply to the sale of any Capital Stock to an underwriter pursuant to an underwriting agreement.

9.6 Assignee's Rights.

(a) A Transfer of a Company Interest in accordance with this Agreement shall be effective as of the date of assignment and compliance with the conditions to such Transfer and such Transfer shall be shown on the books and records of the Company. Income, loss and other Company items shall be allocated between the transferor and the Assignee according to Code Section 706 as determined by the Board. Distributions made before the effective date of such Transfer shall be paid to the transferor, and Distributions made after such date shall be paid to the Assignee.

(b) Unless and until an Assignee becomes a Member pursuant to Article 10, the Assignee shall not be entitled to any of the rights granted to a Member hereunder or under applicable law, other than the rights granted specifically to Assignees pursuant to this Agreement; *provided* that without relieving the Transferring Holder from any such limitations or obligations as more fully described in Section 9.5, such Assignee shall be bound by any limitations and obligations of a Member contained herein by which a Member would be bound on account of such Company Interest (including the obligation to make Capital Contributions on account of such Company Interest).

9.7 Assignor's Rights and Obligations. Any Member who shall Transfer any Company Interest in accordance with this Agreement shall cease to be a Member with respect to such Company Interest and shall no longer have any rights or privileges, or, except as set forth in this Section 9.7, duties, liabilities or obligations, of a Member with respect to such Company Interest, except that unless and until the Assignee is admitted as a Substituted Member in accordance with the provisions of Article 10 (the "**Admission Date**"), (i) such assigning Member shall retain all of the duties, liabilities and obligations of a Member with respect to such Company Interest, including, without limitation, the obligation (together with its Assignee pursuant to Section 9.6(b)) to make and return Capital Contributions on account of such Company Interest pursuant to the terms of this Agreement and (ii) the Board may, in its sole discretion, reinstate all or any portion of the rights and privileges of such Member with respect to such Company Interest for any period of time prior to the Admission Date. Nothing contained herein shall relieve any Member who Transfers any Company Interest from any liability of such Member to the Company with respect to such Company Interest that may exist on the Admission Date or that is otherwise specified in the Delaware Act and incorporated into this Agreement or from any liability to the Company or any other Person for any materially false statement made by such Member (in its capacity as such) or for any present or future breaches of any representations, warranties or covenants by such Member (in its capacity as such) contained herein or in the other agreements between such Member and the Company.

9.8 Preemptive Rights.

(a) Except for the issuance or sale of Equity Securities (i) to officers, employees, managers, directors or consultants of the Company or its Subsidiaries or to TopCo or IncentiveCo pursuant to an incentive equity plan, agreement or arrangement approved by the Board, (ii) pursuant to an IPO, (iii) in connection with the reclassification, recapitalization, or conversion of any of the Company's outstanding Equity Securities into another class of Equity Securities on terms made available to all holders of the same class of such outstanding Equity Securities, (iv) in connection with an acquisition of another company or

business (whether by merger, recapitalization, consolidation, reorganization, combination or otherwise) by the Company or any of its Subsidiaries, (v) upon the exercise or conversion of any Options or Convertible Securities outstanding on the Effective Date or issued after the Effective Date in compliance with the provisions of this Section 9.8, (vi) any Unit split, Unit dividend or similar recapitalization, (vii) to a commercial lender or other financial institution in connection with a loan to the Company, or (viii) to any investment banking firm or placement agent for *bona fide* services rendered to the Company (collectively, "**Exempt Equity Issuances**" and each an "**Exempt Equity Issuance**"), if the Company authorizes the issuance or sale of any Equity Securities to any Person, the Company shall offer to sell to each Rights Holder a portion of such Equity Securities equal to the quotient determined by dividing (x) the number of Class CO Units and Class CG Units then held by such Rights Holder by (y) the Fully-Diluted Unit Capitalization. Each Rights Holder shall be entitled to purchase such Equity Securities at the same price and on the same terms as such Equity Securities are to be offered to such Person.

(b) In connection with the issuance or sale of any Equity Securities to which the preemptive rights described in this Section 9.8 apply, the Company will deliver to each Rights Holder, as soon as reasonably practicable under the circumstances giving rise to the preemptive rights described in this Section 9.8, a written notice (the "**Preemptive Rights Notice**") describing (i) the Equity Securities being offered, (ii) the purchase price and the payment terms of the Equity Securities being offered (including the date the Company is requesting delivery of funds with respect thereto), and (iii) such Rights Holder's percentage allotment determined in accordance with Section 9.8(a).

(c) In order to exercise its preemptive rights under this Section 9.8, each Rights Holder must deliver a written notice to the Company describing its election hereunder (which election may be with respect to all or any portion of the Equity Securities it has a right to purchase hereunder) no later than ten (10) days after receipt of the Preemptive Rights Notice (the "**Election Period**").

(d) Notwithstanding anything to the contrary set forth herein, in lieu of offering to any Rights Holder any Equity Securities to which the preemptive rights described in this Section 9.8 apply at the time such Equity Securities are offered to any Person, the Company may comply with the provisions of this Section 9.8 by making an offer to sell to each such Rights Holder, at the same price and on the same terms as such Equity Securities were sold to such Person, the number of such Equity Securities that such Rights Holder would be entitled to purchase under Section 9.8(b) promptly after a sale to such Person is effected. In such event, for all purposes of this Section 9.8, the number of such Equity Securities that each such Rights Holder shall be entitled to purchase under Section 9.8(b) shall be determined taking into consideration the actual number of Equity Securities sold to such Person so as to achieve the same economic effect as if such offer were made prior to such sale. In order to exercise its rights under this Section 9.8(d), the Company shall give notice to the Rights Holders within ten (10) days after the issuance of Equity Securities to such Person, describing (i) the Equity Securities being offered, (ii) the purchase price and the payment terms of the Equity Securities being offered (including the date the Company is requesting delivery of funds with respect thereto), and (iii) such Rights Holder's percentage allotment determined in accordance with this Section 9.8(d). Each Rights Holder shall have twenty (20) days from the date such notice is given to elect to purchase all or any portion of the Equity Securities so offered to such Rights Holder.

(e) During the one hundred twenty (120)-day period following the expiration of the Election Period, the Company shall be entitled to sell such Equity Securities which any Rights Holder has not elected to purchase prior to the expiration of the Election Period on terms and conditions (including price) no more favorable to the purchasers thereof than those offered to such Rights Holder. Any Equity Securities offered or sold by the Company to any Person after such one hundred twenty (120)-day period must be reoffered to each Rights Holder pursuant to the terms of this Section 9.8.

(f) Each Rights Holder shall be entitled to assign (in whole or in part) its rights under this Section 9.8 to any Affiliate of such Rights Holder. The rights under this Section 9.8 will terminate upon the earlier to occur of (i) the consummation of an IPO and (ii) the consummation of an Approved Sale.

9.9 Counterparts; Joinder. Prior to Transferring any Units (other than pursuant to Section 12.7 or Section 12.8 or any Transfer to the Company pursuant to Section 3.9 or to Parent pursuant to Section 4, Section 5 or Section 6 of Annex I) and as a condition precedent to the effectiveness of such Transfer, the Transferring Holder will cause the Prospective Transferee(s) (including, if applicable, any Person that would be deemed a Holder but not a Member) to execute and deliver to the Company counterparts of this Agreement and any other agreements relating to such Units, if any, reasonably requested by the Company, or executed joinders to such agreements, in each case, in a form acceptable to the Company. Notwithstanding anything herein to the contrary, any Person who acquires in any manner whatsoever any Units or other Company Interest, irrespective of whether such Person has accepted and adopted in writing the terms and conditions of this Agreement, shall be deemed by the acceptance of the benefits of the acquisition thereof to have agreed to be subject to and bound by all of the terms and conditions of this Agreement to which any predecessor in such Units or Company Interest was subject or by which such predecessor was bound.

9.10 Ineffective Transfer. Any Transfer or attempted Transfer of any Units in violation of any provision of this Agreement shall be void, and the Company will not record such Transfer on its books or treat any purported transferee of such Units as the owner of such securities for any purpose.

9.11 Other Transfer Restrictions. No holder of any Company Interest may transfer all or any portion of such holder's Company Interest without the prior written consent of the Board if such transfer would (a) cause the Company to have more than 90 partners within the meaning of Treasury Regulation Section 1.7704-1(h), including the look-through rule in Treasury Regulation Section 1.7704-1(h)(3), or otherwise cause the Company to be a publicly traded partnership within the meaning of Section 7704 of the Code, (b) cause the Company to be required to register as an "investment company" under the Investment Company Act of 1940, as amended or (c) violate any federal securities laws or any state securities or "blue sky" laws (including any investor suitability standards) applicable to the Company or the Company Interest to be transferred.

9.12 Certain Matters Regarding TopCo and MidCo. Each of the CO Indirect Holders and TopCo hereby agrees that, except with the prior written approval of Parent, (a) each of such Co Indirect Holders, TopCo and MidCo will not, either directly or indirectly by amendment, merger, consolidation, recapitalization, reclassification, or otherwise, without the prior written consent of the Company, (i) create, or authorize the creation of, or issue or obligate itself to issue, any Capital Stock of TopCo or MidCo or amend, waive or modify, or consent to the amendment, waiver or modification of, any provision of the TopCo LLC Agreement or the limited liability company agreement of MidCo, (ii) cause or permit any Transfer of Capital Stock in TopCo or MidCo (except as otherwise expressly permitted under this Agreement), (iii) amend or waive, or consent to the amendment or waiver of the terms any Incentive Agreement regarding TopCo Incentive Interests, (iv) remove or replace Bruce Thompson as the sole manager of Topco (except in the case of his death, disability or voluntary resignations), and (b) in the event that the First Call Right, the Second Call Right and/or the Put Right is exercised, the First Call Consideration, the Second Call Consideration and/or the Put Consideration payable or distributable to TopCo, as applicable, shall not be distributed by TopCo, except to the CO Indirect Holders in the manner and in the proportions described on Exhibit A or as otherwise consented to in writing by Parent. TopCo agrees that it shall take such actions are necessary or appropriate to effectuate the terms and conditions of Sections 3.8 and 3.9 with respect to (i) any TopCo Incentive Units that are forfeited and/or repurchased or required to be so forfeited and/or repurchased in accordance with the terms and conditions thereof, and (ii)

the holders of any such TopCo Incentive Units. Each of TopCo and the CO Indirect Holders agree that Parent shall have the right, in addition to any rights and remedies that it may have at law or in equity, to require repayment of any amounts distributed to any Persons by TopCo or MidCo other than in compliance with this Section 9.12.

ARTICLE 10

ADMISSION OF MEMBERS

10.1 Substituted Members. Subject to the provisions of Article 9 hereof, in connection with the permitted Transfer of a Company Interest of a Member, the transferee shall become a Substituted Member on the effective date of such Transfer, which effective date shall not be earlier than the date of compliance with the conditions to such Transfer, and such admission shall be shown on the books and records of the Company.

10.2 Additional Members. Subject to the provisions of Article 9 hereof, a Person may be admitted to the Company as an Additional Member only upon furnishing to the Company (a) counterparts of this Agreement or an executed joinders to this Agreement in a form acceptable to the Company and (b) such other documents or instruments as the Board may deem necessary or appropriate to effect such Person's admission as a Member. Such admission shall become effective on the date on which the Board determines in its sole discretion that such conditions have been satisfied and when any such admission is shown on the books and records of the Company.

ARTICLE 11

WITHDRAWAL AND RESIGNATION OF MEMBERS

No Member shall have the power or right to withdraw or otherwise resign as a Member of the Company prior to the dissolution and winding up of the Company pursuant to Article 12 without the prior written consent of the Board, except as otherwise expressly permitted by this Agreement. Upon a Transfer of all of a Member's Units in a Transfer permitted by this Agreement, subject to the provisions of Article 9, such Member shall cease to be a Member.

ARTICLE 12

DISSOLUTION AND LIQUIDATION; CORPORATE CONVERSION; APPROVED SALE

12.1 Dissolution. The Company shall not be dissolved by the admission of Additional Members or Substituted Members or the attempted withdrawal or resignation of a Member. The Company shall dissolve, and its affairs shall be wound up, only upon:

(a) the approval of a majority of the members of the Board and the affirmative vote or written consent of the Requisite Members; or

(b) the entry of a decree of judicial dissolution of the Company under Section 18-802 of the Delaware Act.

Except as otherwise set forth in this Article 12, the Company is intended to have perpetual existence. An Event of Withdrawal shall not cause a dissolution of the Company and the Company shall continue in existence subject to the terms and conditions of this Agreement.

12.2 Liquidation and Termination. On dissolution of the Company, the Board shall act as liquidator or may appoint one or more Persons as liquidator. The liquidators shall proceed diligently to wind up the affairs of the Company and make final distributions as provided herein and in the Delaware Act. The costs of liquidation shall be borne as a Company expense. Until final distribution, the liquidators shall continue to operate the Company properties with all of the power and authority of the Board. The steps to be accomplished by the liquidators are as follows:

(a) as promptly as possible after dissolution and again after final liquidation, the liquidators shall cause a proper accounting to be made by a recognized firm of certified public accountants of the Company's assets, liabilities and operations through the last day of the calendar month in which the dissolution occurs or the final liquidation is completed, as applicable;

(b) the liquidators shall cause the notice described in the Delaware Act to be mailed to each known creditor of and claimant against the Company in the manner described thereunder;

(c) the liquidators shall pay, satisfy or discharge from Company funds all of the debts, liabilities and obligations of the Company (including, without limitation, all expenses incurred in liquidation) or otherwise make adequate provision for payment and discharge thereof (including, without limitation, the establishment of a cash fund for contingent liabilities in such amount and for such term as the liquidators may reasonably determine); and

(d) all remaining assets of the Company shall be distributed to the Members in accordance with Section 4.1(a)(ii), by the end of the taxable year of the Company during which the liquidation of the Company occurs (or, if later, by ninety (90) days after the date of the liquidation).

The Distribution of cash and/or property to Members in accordance with the provisions of this Section 12.2 and Section 12.3 constitutes a complete return to the Members of their Capital Contributions and a complete Distribution to the Members of their interest in the Company and all the Company's property and constitutes a compromise to which all Members have consented within the meaning of the Delaware Act. To the extent that a Member returns funds to the Company, it has no claim against any other Member for those funds.

12.3 Deferment; Distribution in Kind. Notwithstanding the provisions of Section 12.2, but subject to the order of priorities set forth therein, if upon dissolution of the Company the liquidators determine that an immediate sale of part or all of the Company's assets would be impractical or would cause undue loss (or would otherwise not be beneficial) to the Members, the liquidators may, in their sole discretion, defer for a reasonable time the liquidation of any assets except those necessary to satisfy Company liabilities (other than loans to the Company by Members) and reserves. Subject to the order of priorities set forth in Section 12.2, the liquidators may, in their sole discretion, distribute to the Members, in lieu of cash, either (i) all or any portion of such remaining Company assets in-kind in accordance with the provisions of Section 12.2(d), (ii) as tenants in common and in accordance with the provisions of Section 12.2(d), undivided interests in all or any portion of such Company assets or (iii) a combination of the foregoing. Any such Distributions in kind shall be subject to (x) such conditions relating to the disposition and management of such assets as the liquidators deem reasonable and equitable and (y) the terms and conditions of any agreements governing such assets (or the operation thereof or the holders thereof) at such time. Any Company assets distributed in kind will first be written up or down to their Fair Market Value (as determined by the liquidators rather than the Board), thus creating Profit or loss (if any), which shall be allocated in accordance with Sections 4.2 and 4.3.

12.4 Cancellation of Certificate. On completion of the Distribution of Company assets as provided herein, the Company is terminated (and the Company shall not be terminated prior to such time),

and the Board (or such other Person or Persons as the Delaware Act may require or permit) shall file a certificate of cancellation with the Secretary of State of Delaware, cancel any other filings made pursuant to this Agreement that are or should be canceled and take such other actions as may be necessary to terminate the Company. The Company shall be deemed to continue in existence for all purposes of this Agreement until it is terminated pursuant to this Section 12.4.

12.5 Reasonable Time for Winding Up. A reasonable time shall be allowed for the orderly winding up of the business and affairs of the Company and the liquidation of its assets pursuant to Section 12.2 and Section 12.3 in order to minimize any losses otherwise attendant upon such winding up.

12.6 Return of Capital. The liquidators shall not be personally liable for the return of Capital Contributions or any portion thereof to the Members (it being understood that any such return shall be made solely from Company assets).

12.7 Public Offering.

(a) In the event that at any time after the Effective Date, the Board shall approve an offering of Equity Securities of the Company or a successor through an initial public offering and sale of any of the Equity Securities of the Company pursuant to an effective registration statement under the Securities Act (an "**IPO**"), then, to facilitate such offering, the Board shall have the power to cause the Company to be reorganized as a corporation (such corporation being hereinafter referred to as "**NewCo**") under the General Corporation Law of the State of Delaware by incorporation, merger, conversion, contribution, recapitalization, reorganization or exchange or other permissible manner (a "**Corporate Conversion**"), and the Members shall cooperate in good faith to effectuate such Corporate Conversion and IPO. The Corporate Conversion and NewCo shall be structured to, and the charter, bylaws, shareholder and other agreements for NewCo shall, provide in the aggregate all Members and Units with the same rights, obligations, economic interests, protections and other terms as they have or enjoy in the Company, or as close thereto as is reasonably possible. Without limiting the generality of the foregoing, each holder of Units hereby waives any dissenter's rights, appraisal rights or similar rights in connection with any such incorporation, merger, conversion, contribution, recapitalization, reorganization or exchange. The provisions of this Section 12.7 and all references to the defined term "**IPO**" in this Agreement will apply, *mutatis mutandis*, to any Solvent Reorganization approved by the Board.

(b) Each holder of Units shall receive, in exchange for its Units of a particular class, shares of capital stock in NewCo of the relevant class having the same relative seniority, preference, voting, board rights and consent rights, economic interest and other rights and obligations in NewCo as are set forth for such Units in Sections 3.2, 4.1(a) and 12.2(d) and the other provisions of this Agreement, subject to any modifications deemed appropriate by the Board (with the consent of the Requisite Members) as a result of the Corporate Conversion.

(c) NewCo and the Members (in their capacities as stockholders of NewCo) shall enter into a stockholders' agreement providing for such terms and conditions as are necessary for the rights and obligations and provisions of this Agreement to continue to apply to NewCo, the stockholders of NewCo and the Capital Stock of NewCo, including, but not limited to, (A) an agreement to vote all shares of Capital Stock held by such stockholders to elect the board of directors of NewCo in accordance with the substance of Section 5.3, and (B) the rights and obligations of the Members contained in herein.

(d) Except as provided in this Section 12.7, no Member will have the right or power to veto, vote for or against, amend, modify or delay a Corporate Conversion. In furtherance of the foregoing, each Member hereby makes, constitutes and appoints the Company, with full power of substitution and resubstitution, its true and lawful attorney, for it and in its name, place and stead and for

its use and benefit, to act as its proxy in respect of any vote or approval of Members required to give effect to this Section 12.7, including any vote or approval required under Section 18-209 of the Delaware Act. The proxy granted pursuant to this Section 12.7 is a special proxy coupled with an interest and is irrevocable.

(e) The Company and the Members hereby agree to cause any such Corporate Conversion to be structured, to the extent reasonably achievable, to maximize the ability of the Members to aggregate (or "tack") the period during which they hold their Units together with the period during which they hold shares of Capital Stock of NewCo for purposes of the United States securities and tax laws, including Rule 144 under the Securities Act.

12.8 Approved Sale.

(a) Subject to any other limitations set forth herein, if at any time following December 31, 2024, the Board and Parent approve (and, in the case of any sale or other fundamental change which requires the approval of the Board pursuant to the Delaware Act, the Board shall have approved such sale or other fundamental transaction) a Liquidity Event (collectively an "**Approved Sale**"), each holder of Equity Securities will vote for, consent to and raise no objections against such Approved Sale. If the Approved Sale is structured as (i) a merger or consolidation or asset sale or other transaction for which dissenter's, appraisal or similar rights are available under applicable law, each holder of Equity Securities will waive any dissenter's rights, appraisal rights or similar rights in connection with such transaction, or (ii) a sale of Units (including by recapitalization, consolidation, reorganization, combination or otherwise), each holder of Equity Securities will agree to sell all of its Units and rights to acquire Units on the terms and conditions approved by the Board and Parent. Each holder of Equity Securities will take all necessary and appropriate actions in connection with the consummation of the Approved Sale as requested by Parent and the Company, including without limitation voting such holder's Units that are voting units and any other voting securities of the Company over which such holder has voting control in favor of such Approved Sale. In order to secure the performance by such holder of his, her or its obligations under this Section 12.8, such holder hereby appoints each CG Board Member as his, her or its true and lawful proxy and attorney-in-fact, with full power of substitution, to vote all of his, her or its Units that are voting units and any other voting securities of the Company over which such holder has voting control in favor of an Approved Sale and such other matters as provided for in this Section 12.8. Each CG Board Member may exercise the proxy granted to it hereunder by such holder at any time (and from time to time) if such holder fails to comply with its obligations under this Section 12.8. The proxies and powers granted by such holder pursuant to this Section 12.8 are coupled with an interest and are given to secure the performance obligations under this Section 12.8 and are irrevocable and shall survive the death, incompetency, disability, bankruptcy or dissolution of such holder and any subsequent holder of his, her or its Units or right to acquire Units. No holder of Units and no holder of rights to acquire Units shall grant any proxy or become party to any voting trust or other agreement (whether written or oral) that is inconsistent with, conflicts with or violates any provision of this Section 12.8.

(b) The obligations of each holder of Equity Securities with respect to an Approved Sale are subject to the satisfaction of the following conditions: (i) upon the consummation of the Approved Sale and subject to the provisions of this Agreement, each holder of Equity Securities shall receive the same portion of the aggregate consideration from such transaction that such holder would have received if such aggregate consideration had been distributed by the Company in a complete liquidation pursuant to the rights and preferences set forth in this Agreement as in effect immediately prior to such transaction, (ii) each holder of a class or series of Units shall receive the same form of consideration as other holders in such class or series, and, if any holder of a class or series of Units is given an option as to the form of consideration to be received, each holder of such class or series of Units will be given the same option; *provided, however*, that, notwithstanding the foregoing provisions of this Section 12.8(b), if the

consideration to be paid in exchange for the Equity Securities held by such Holder pursuant to this Section 12.8(b) includes any securities and due receipt thereof by any Holder would require under applicable law (x) the registration or qualification of such securities or of any Person as a broker or dealer or agent with respect to such securities; or (y) the provision to any Holder of any information other than such information as a prudent issuer would generally furnish in an offering made solely to “accredited investors” as defined in Regulation D promulgated under the Securities Act, the Company may cause to be paid to any such Holder or in lieu thereof, an amount in cash equal to the Fair Market Value (as determined in good faith by the Board) of the securities which such Holder would otherwise receive as of the date of the issuance of such securities in exchange for the Equity Securities held by such Holder, (iii) in no event shall a holder of Equity Securities be liable, in connection with any indemnification obligations relating to an Approved Sale, for an amount in excess of the consideration received or receivable by such holder of Equity Securities in connection with such Approved Sale (including the payment of a proportionate piece of the Company’s then outstanding indebtedness), and (iv) no holder of Equity Securities shall be required to make any representations and warranties not made by all the other holders of Equity Securities in connection with an Approved Sale (except as to such holder’s title to its Equity Securities, its authority to enter into such Approved Sale and the enforceability of its obligations thereunder).

(c) If the Company or the holders of the Company’s securities enter into any negotiation or transaction for which Rule 506 (or any similar rule then in effect) promulgated by the Securities and Exchange Commission may be available with respect to such negotiation or transaction (including a merger, consolidation or other reorganization), the holders of Equity Securities that are not “accredited investors” (as such term is defined in Rule 501 promulgated under the Securities Act) will, at the request of the Company, appoint a “purchaser representative” (as such term is defined in Rule 501 promulgated by the Securities and Exchange Commission) reasonably acceptable to the Company. If any such holder of Equity Securities appoints a purchaser representative designated by the Company, the Company will pay the fees of such purchaser representative, but if any such holder of Equity Securities declines to appoint the purchaser representative designated by the Company, such holder will appoint another purchaser representative, and such holder will be responsible for the fees of the purchaser representative so appointed.

(d) The provisions of this Section 12.8 will terminate on the first to occur of (i) the consummation of an IPO and (ii) the consummation of an Approved Sale (except as such provisions relate to any such Approved Sale).

ARTICLE 13

GENERAL PROVISIONS

13.1 Power of Attorney.

(a) Each holder of Units hereby constitutes and appoints each CG Board Member and the liquidators, with full power of substitution, as his, her or its true and lawful agent and attorney-in-fact, with full power and authority in his, her or its name, place and stead, to:

(i) execute, swear to, acknowledge, deliver, file and record in the appropriate public offices (A) this Agreement, all certificates and other instruments and all amendments thereof which the Board deems appropriate or necessary to form, qualify, or continue the qualification of, the Company as a limited liability company in the State of Delaware and in all other jurisdictions in which the Company may conduct business or own property; (B) all instruments which the Board deems appropriate or necessary to reflect any amendment, change, modification or restatement of this Agreement in

accordance with its terms; (C) all conveyances and other instruments or documents which the Board deems appropriate or necessary to reflect the dissolution and liquidation of the Company pursuant to the terms of this Agreement, including a certificate of cancellation; and (D) all instruments relating to the admission, withdrawal or substitution of any Member pursuant to Article 10 or Article 11; and

(ii) sign, execute, swear to and acknowledge all ballots, consents, approvals, waivers, certificates and other instruments appropriate or necessary, in the reasonable judgment of the Board, to evidence, confirm or ratify any vote, consent, approval, agreement or other action which is made or given by the holders of Units hereunder or is consistent with the terms of this Agreement and/or appropriate or necessary (and not inconsistent with the terms of this Agreement), in the reasonable judgment of the Board, to effectuate the terms of this Agreement.

(b) The foregoing power of attorney is irrevocable and coupled with an interest, and shall survive the death, disability, incapacity, dissolution, bankruptcy, insolvency or termination of any holder of Units and the Transfer of all or any portion of his, her or its Company Interest and shall extend to such holder's heirs, successors, assigns and personal representatives.

13.2 Amendments.

(a) The Board (pursuant to its power of attorney from the holders of Units as provided in Section 13.1), without the consent of any holder of Units, may amend any provision of this Agreement, and execute, swear to, acknowledge, deliver, file and record whatever documents may be required in connection therewith, to reflect:

(i) a change in the name of the Company or the location of the principal place of business of the Company;

(ii) admission, substitution, removal or withdrawal of Members or Assignees in accordance with this Agreement or any update to the Schedule of Members in accordance with Section 3.2(b);

(iii) a change that does not adversely affect any holder of Units in any material respect in its capacity as an owner of Units and is necessary or desirable to satisfy any requirements, conditions or guidelines contained in any opinion, directive, order, ruling or regulation of any United States federal or state agency or judicial authority or contained in any United States federal or state statute; or

(iv) a change that does not adversely affect any holder of Units in any material respect in its capacity as an owner of Units and cures any ambiguity.

(b) In all other cases this Agreement may be amended, modified or waived upon the consent of the Board and the consent or approval of the Requisite Members; *provided*, that Sections 3.2(a)(i), 3.2(a)(ii), Annex I and Section 12.8 may not be amended, modified or waived in a manner that by its terms adversely and disproportionately affects the rights of the CO Members (as compared to the other Members), without the consent or approval of the holders of a majority of the outstanding Class CO Units. For the avoidance of doubt, without any action or requirement of consent by any Member, the Company shall update the Schedules to this Agreement to remove a Member's name therefrom once such Member no longer holds any Equity Securities, following which such Person shall cease to be a "Member" or have any rights or obligations under this Agreement.

13.3 Title to Company Assets. The assets of the Company shall be deemed to be owned by the Company as an entity, and no Holder, individually or collectively, shall have any ownership interest in such assets or any portion thereof. Legal title to any or all assets of the Company may be held in the name of the Company, the Board or one or more nominees, as the Board may determine. Any assets of the Company for which legal title is held in the name of the Board or the name of any nominee shall be held in trust by the Board or such nominee for the use and benefit of the Company in accordance with the provisions of this Agreement. All assets of the Company shall be recorded as the property of the Company on its books and records, irrespective of the name in which legal title to such assets is held.

13.4 Addresses and Notices. Any notice provided for in this Agreement will be in writing and will be either personally delivered, or received by certified mail, return receipt requested, sent by reputable overnight courier service (charges prepaid) or facsimile to the Company at the address set forth below and to any other recipient and to any Holder at such address as indicated by the Company's records, or at such address or to the attention of such other person as the recipient party has specified by prior written notice to the sending party. Notices will be deemed to have been given hereunder when delivered personally or sent by facsimile (provided confirmation of transmission is received), by electronic mail for which a "read receipt" or other written confirmation of receipt is obtained, three days after deposit in the U.S. mail and one day after deposit with a reputable overnight courier service. The Company's address is:

To the Company:

CarOffer, LLC
2701 E. Plano Parkway, #100
Plano, TX 75074
Attention: Bruce Thompson
Email: bruce@caroffer.com

and to Parent:

CarGurus, Inc.
2 Canal Park, 4th Floor
Cambridge, Massachusetts 02141
Attention: General Counsel
Email: legal@cargurus.com

13.5 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assigns.

13.6 Creditors. None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Company or any of its Affiliates, and no creditor who makes a loan to the Company or any of its Affiliates may have or acquire (except pursuant to the terms of a separate agreement executed by the Company in favor of such creditor) at any time as a result of making the loan any direct or indirect interest in Profits, losses, Distributions, capital or property other than as a secured creditor.

13.7 Waiver. No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, duty, agreement or condition.

13.8 Counterparts. This Agreement may be executed in separate counterparts, each of which will be an original and all of which together shall constitute one and the same agreement binding on all the parties hereto.

13.9 Applicable Law; Venue; Arbitration.

(a) This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

(b) Except as provided in sub-paragraph (g) herein, all disputes, claims, or controversies arising out of or relating to this, or any other agreement executed and delivered pursuant to this Agreement or the negotiation, breach, validity or performance hereof and thereof or the transactions contemplated hereby and thereby, including claims of fraud or fraud in the inducement, and including as well the determination of the scope or applicability of this agreement to arbitrate, shall be resolved solely and exclusively by binding arbitration administered by JAMS in New York, New York, before a single arbitrator (the "**Arbitrator**"). Except as modified in this Section, the arbitration shall be administered pursuant to JAMS Comprehensive Arbitration Rules & Procedures and the Federal Arbitration Act, 9 U.S.C. Ch. 1. The parties further agree that this arbitration shall apply equally to requests for temporary, preliminary or permanent injunctive relief, except that in the case of temporary or preliminary injunctive relief any party may proceed in court without prior arbitration for the purpose of avoiding immediate and irreparable harm or to enforce its rights under any non-competition covenants.

(c) Any final arbitration hearing shall be completed within 180 days of the filing of a demand for arbitration and the Arbitrator shall issue a reasoned award within 30 days thereafter. There shall be no interrogatories or requests for admissions.

(d) The Arbitrator's award shall be binding and final as between the parties, and any proceedings with respect to confirming, vacating, modifying or correcting the award shall be conducted in the venue set forth in sub-paragraph (a); *provided*, *however*, that for purposes of enforcing any award confirmed in the venue set forth in sub-paragraph (a), a party may initiate an additional confirmation proceeding or domesticate the judgment confirming the award in any court having jurisdiction thereof. The Arbitrator's decision shall set forth a reasoned basis for any award of damages or finding of liability.

(e) The parties covenant and agree that they will participate in the arbitration in good faith and that they will (i) bear their own attorneys' fees, costs and expenses in connection with the arbitration, and (ii) share equally in the fees and expenses charged by the Arbitrator *provided*, *however*, that the prevailing party shall be awarded its share of the Arbitrator's fees and expenses and all other costs and expenses, including attorneys' and experts' fees, and *provided further* that any party unsuccessfully refusing to comply with the award or an order of the Arbitrator shall be liable for costs and expenses, including attorneys' and experts' fees, incurred by the other party in enforcing the award or order. If the Arbitrator determines a party to be the prevailing party under circumstances where the prevailing party won on some but not all of the claims and counterclaims, the Arbitrator may award the prevailing party an appropriate percentage of the costs and expenses incurred by the prevailing party.

(f) The parties covenant and agree that the arbitration shall be confidential and that no party shall disclose to any person who is not an officer, director, employee or limited partner of a party any document filed at JAMS or exchanged between the parties or testimony adduced (or any summaries or quotations thereof) in connection with the arbitration that is designated either on the document or on the testimonial record as "Confidential" (the "**Confidential Information**"). If, in connection with any judicial proceedings to modify, vacate or confirm any order or award, Confidential Information must be filed with any court, the party submitting such Confidential Information shall file such Confidential Information under

seal and shall also file a motion with the court requesting that the Confidential Information remain under seal and no party shall oppose such request.

(g) This section shall not apply to, and the Arbitrator shall not have authority to determine, disputes involving discrepancies or disagreements to be resolved by the Independent Accounting Firm as set forth in Sections 2(b) and 3(b) of Annex I to this Agreement; *provided*, *however*, that this section shall apply to, and the Arbitrator shall have authority to determine, (i) whether there was manifest error or fraud in connection with the decision of the Independent Accounting Firm, and (ii) disputes concerning the existence and amount of Extraordinary Losses as set forth in Section 10(a) of Annex I.

13.10 Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or the effectiveness or validity of any provision in any other jurisdiction, and this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

13.11 Further Action. The parties shall execute and deliver all documents, provide all information and take or refrain from taking such actions as may be necessary or appropriate to achieve the purposes of this Agreement.

13.12 Electronic Delivery. This Agreement and any signed agreement or instrument entered into in connection with this Agreement or contemplated hereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or electronic transmission (i.e., in portable document format), shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine or electronic transmission to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or electronic transmission as a defense to the formation of a contract and each such party forever waives any such defense.

13.13 Offset. Whenever the Company is to pay any sum to any holder of Units or any Affiliate or related Person thereof, any amounts that such holder of Units or such Affiliate or related Person owes to the Company which are not the subject of a good faith dispute may be deducted from that sum before payment.

13.14 Entire Agreement. This Agreement, those documents expressly referred to herein and other documents of even date herewith embody the complete agreement and understanding among the parties and supersede and preempt any prior understandings, agreements or representations by or among the parties, written or oral (including the Prior Agreement), which may have related to the subject matter hereof in any way. The Company and the Members hereby agree to the terms and conditions of Annex I, which are expressly incorporated into this Agreement by reference and deemed to be part of this Agreement as though they were included in the body of this Agreement.

13.15 Remedies. Each holder of a Company Interest shall have all rights and remedies set forth in this Agreement and all rights and remedies which such Person has been granted at any time under any other agreement or contract and all of the rights which such Person has under any law. Any Person having any rights under any provision of this Agreement or any other agreements contemplated hereby shall be

entitled to enforce such rights specifically (without posting a bond or other security), to recover damages by reason of any breach of any provision of this Agreement and to exercise all other rights granted by law.

13.16 Descriptive Headings; Interpretation. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a substantive part of this Agreement. All references in this Agreement to a Section, Schedule, Annex or Exhibit are intended to refer to a Section, Schedule, Annex, or Exhibit of this Agreement unless otherwise specifically provided. Whenever required by the context, any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa. The use of the word "including" in this Agreement shall be by way of example rather than by limitation. Reference to any agreement, document or instrument means such agreement, document or instrument as amended or otherwise modified from time to time in accordance with the terms thereof, and if applicable hereof. Wherever required by the context, references to a Fiscal Year shall refer to a portion thereof. The use of the words "or," "either" and "any" shall not be exclusive. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. Wherever a conflict exists between this Agreement and any other agreement by which a party is bound, this Agreement shall control but solely to the extent of such conflict.

13.17 Spousal Consent. Each Member and each CO Indirect Holder who is married severally represents that true and complete copies of this Agreement and all documents to be executed by such Member or CO Indirect Holder hereunder have been furnished to his or her spouse; represents and warrants to the Company and to the other Members and CO Indirect Holders that such spouse has read this Agreement and all related documents applicable to such Member or CO Indirect Holder, is familiar with each of their terms, and has agreed to be bound to the obligations of such Member or CO Indirect Holder hereunder and thereunder.

* * * * *

IN WITNESS WHEREOF, the undersigned have executed this Second Amended and Restated Limited Liability Company Agreement as of the date first written above.

COMPANY:

CAROFFER, LLC

By: /s/ Bruce Thompson
Name: Bruce Thompson
Title: Manager and Chief Executive Officer

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

MEMBER:

CAROFFER INVESTORS HOLDING, LLC

By: /s/ Bruce Thompson
Name: Bruce Thompson
Title: Chief Executive Officer

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

CO INDIRECT HOLDERS:

HEALTH DIAGNOSTICS, LLC
a Delaware limited liability company

By: /s/ Bradford G. Peters
Bradford G. Peters, Managing Member

BLACKFIN CAPITAL, LLC,
a Delaware limited liability company

By: /s/ Bradford G. Peters
Bradford G. Peters. Managing Member

JOHN PAUL DEJORIA FAMILY TRUST

By: /s/ John Paul DeJoria
John Paul DeJoria, Trustee

JPD 2019 GIFT TRUST

By: /s/ John Paul DeJoria
John Paul DeJoria, Trustee

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

ORIENT EXPLORATION, LLC,
a Delaware limited liability company

By: /s/ Michael Lance
Michael Lance, President

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

REFFORAC HOLDINGS, LLC,
a Florida limited liability company

By: /s/ Mark S. Krejci
Mark S. Krejci, Manager

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

/s/ Matthew Lance
MATTHEW LANCE

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

SCHNITZER INTERESTS, LTD.,
a Texas limited partnership

By: KDGP LLC,
a Texas limited liability company
its general partner

By: /s/ Jack Kins
Jack Kins, Vice President

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

WONRAC, LLC,
a Texas limited liability company

By: /s/ Steven R. Burns
Steven R. Burns, Managing Member

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

T5 HOLDINGS, L.P.,
a Texas limited partnership

By: T1 Management Group, L.L.C.,
a Texas limited liability company,
its general partner

By: /s/ Bruce Thompson
Bruce Thompson, President

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

D BAR E, LTD.
a Texas limited partnership

By: Bellvis Management, L.L.C.,
a Texas limited liability company,
its general partner

By: /s/ Dwight H. Emanuelson Jr.
Dwight H. Emanuelson Jr., Managing Member

DWIGHT H. EMANUELSON JR. AND CLAIRE S. EMANUELSON TIC

/s/ Dwight H. Emanuelson Jr.
Dwight H. Emanuelson, Jr.

/s/ Claire S. Emanuelson
Claire S. Emanuelson

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

PAUL B. STEVENSON TTEE U/A DTD 8/4/1993 DWIGHT H. EMANUELSON JR. BY CLAIRE S. EMANUELSON ET AL

By: /s/ Paul B. Stevenson
Paul B. Stevenson, Trustee

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

/s/ Christian Mustad
CHRISTIAN MUSTAD

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

RL FREY, INC.,
an Oregon corporation

By: /s/ Ronald Frey
Ronald Frey, President

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

/s/ Mark Bland
MARK BLAND

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

/s/ Ziad Chartouni

ZIAD CHARTOUNI

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

/s/ Nicholas Gerlach

NICHOLAS GERLACH

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

/s/ Sherif Jitan

SHERIF JITAN

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

/s/ Scott Johnston

SCOTT JOHNSTON

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

/s/ David L. White
DAVID L. WHITE

[Signature Page to Second Amended and Restated Limited Liability Company Agreement]

Annex I

Call and Put Provisions

See the attached.

ANNEX I

Section 1. Definitions. Unless otherwise expressly provided herein, capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement. In addition, the following terms have the following meanings:

(a) "Adjusted Cost of Sales" means (i) the cost of sales of the Company (excluding the Excluded Expenses) determined in accordance with GAAP as applied by Parent in Parent's most recent audited financial statements for the twelve (12)-month period ending as of the First Determination Date minus (ii) the lesser of (a) an amount equal to sixteen percent (16%) of the revenue of the Company determined in accordance with GAAP as applied by Parent in Parent's most recent audited financial statements for the twelve (12)-month period ending as of the First Determination Date, and (b) the amount of the following expenses items that are included in costs of sales of the Company for such period solely to the extent such expenses would not be included in cost of goods of sales in accordance with the historical accounting principles used by the Company prior to the closing of the transaction contemplated by the Purchase Agreement, consistently applied: BuyTeam Expense; Title Transfer/Correction Expense; Contract Expense – Operations; Personnel Expense; Commissions, Rent & Related Expenses; Software Expense; Other Expenses; and Dealer Rewards & Rebates from Ally and Manheim.

(b) "Allocable Share" means, with respect to each CO Member, the quotient of (i) the number of Qualifying Units held by such CO Member, divided by (ii) the number of Qualifying Units held by all CO Members, in each case, determined as of the applicable Determination Date.

(c) "Applicable Reference Price" means the volume-weighted average closing price per share of Parent Common Stock for the twenty-eight (28) consecutive trading days ending on the third Business Day preceding (i) the First Determination Date in the case of the shares of Parent Common Stock comprising the First Call Consideration, and (ii) the Second Determination Date, in the case of shares of Parent Common Stock comprising the Second Call Consideration or the Put Consideration.

(d) "Business" means the business as presently conducted, or under active development, by the Company as of the Effective Date.

(e) "Business Day" means any day on which banking institutions in Boston, Massachusetts are open for the purpose of transacting business.

(f) "Call/Put Period Requirements" has the meaning set forth in Section 7.

(g) "Closing" means the First Call Closing, the Second Call Closing or the Put Closing, as applicable.

(h) "CO Member Representative" has the meaning set forth in Section 9(a).

(i) "Determination Date" means the First Determination Date or the Second Determination Date, as applicable.

(j) "Excess Parent Capital" means any funds made available to the Company, whether in the form of loans, capital contributions or the guaranty of Third Party Debt by Parent or its Affiliates, in excess of Ten Million Dollars ($10,000,000) in the aggregate (but specifically excluding a loan in the aggregate amount of up to Fifteen Million Dollars ($15,000,000) made available to the Company by Parent to fund the Company's buy center operations pursuant to a Loan and Security Agreement entered into between the parties on or about the date of the closing of the transactions contemplated by the Purchase Agreement)

determined as of the applicable Determination Date, together with interest on the balance thereof, accruing daily at the rate per annum equal to the then current mid-term applicable federal on the date of funding of such amounts rate plus three percent (3%).

(k) "Exchange Act" means the Securities Exchange Act of 1934, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations.

(l) "Excluded Expenses" means any costs for the efforts of sales team members of Parent to direct leads to the Company that would otherwise be allocable to the Company, and internal costs and expenses (i.e., excluding amounts owed or owing to third parties) associated with the collection and provision to the Company of first party, proprietary data owned by Parent.

(m) "Extraordinary Losses" means (i) Losses sustained or anticipated to be sustained by the Company, Parent or any of their respective Affiliates directly or indirectly arising out of, related to, or incurred in connection with, the Company's failure to comply with Schedule I or the fraud, gross negligence or wilful misconduct of the Company or its employees, agents or representatives, in each case, whether accrued, unaccrued, absolute, contingent or otherwise, including, with limitation, any such Losses that are foreseeable but not yet matured as of the applicable Determination Date, and (ii) all other Liabilities of the Company as of the applicable Determination Date not arising in the ordinary course of business.

(n) "First Call Closing" has the meaning set forth in Section 4(a).

(o) "First Call Closing Date" has the meaning set forth in Section 4(a).

(p) "First Call Consideration" means the aggregate First Determination Date Per Unit Price of the First Call Units being purchased by Parent at the First Call Closing.

(q) "First Call Notice" has the meaning set forth in Section 4(a).

(r) "First Call Period" means the thirty (30)-day period following the date on which the First Determination Date Calculations are finally resolved in accordance with Section 2.

(s) "First Call Right" has the meaning set forth in Section 4(a).

(t) "First Call Units" means an aggregate number of then outstanding Class CO Units and Incentive Units designated by Parent as First Call Units in the First Call Notice, which shall not exceed twenty-five percent (25%) of the number of Fully Diluted Units as of the First Determination Date.

(u) "First Determination Date" means June 30, 2022.

(v) "First Determination Date Calculations" has the meaning set forth in Section 2(a).

(w) "First Determination Date Company Value" means the difference of (i) the product of (A) First Determination Date TTM Gross Profit, multiplied by (B) seven (7), minus (ii) the sum of (X) the amount of any outstanding Third Party Indebtedness, plus (Y) the amount of any Extraordinary Losses, in each case, determined as of the First Determination Date.

(x) "First Determination Date Dispute Notice" has the meaning set forth in Section 2(b).

(y) "First Determination Date Per Unit Price" means the difference of (i) the quotient of (A) First Determination Date Company Value, divided by (B) the number of Fully Diluted Units as of the First

Determination Date, minus (ii) the Per Unit Reduction Amount, determined as of the First Determination Date; provided, however, in the case of each Incentive Unit that is a Vested Unit as of the First Determination Date, the First Determination Date Per Unit Price will be reduced by the applicable Participation Threshold of such Vested Unit, if any, but not below $0.00.

(z) "First Determination Date TTM Gross Profit" means the difference of (i) the revenue of the Company (excluding money market account income and revenue from Dealer Rewards & Rebates from Ally and Manheim) determined in accordance with GAAP as applied by Parent in Parent's most recent audited financial statements for the twelve (12)-month period ending as of the First Determination Date, minus (ii) Adjusted Cost of Sales. Notwithstanding anything to the contrary contained herein, (A) in the event that Parent, the Company, its Subsidiaries or any of their respective Affiliates acquires any business or Person, by way of merger, consolidation, other business combination or otherwise, First Determination Date TTM Gross Profit shall not include any revenue, costs or expenses associated with such business or Person, and (B) First Determination Date TTM Gross Profit shall not include any revenue attributable to the products or services of Parent or its Affiliates (other than the Company).

(aa) "Fully Diluted Units" means the sum of (i) the aggregate number of outstanding Class CO Units as of the applicable Determination Date, plus (ii) the aggregate number of outstanding Class CG Units as of the applicable Determination Date, plus (iii) the aggregate number of outstanding Incentive Units, whether or not vested, as of the applicable Determination Date, plus (iv) any Incentive Units that are then authorized under Section 3.2(a)(iii) of the Agreement but are not outstanding as of the applicable Determination Date.

(bb) "GAAP" means United States generally accepted accounting principles and practices, consistently applied.

(cc) "Indebtedness" means, determined as of the applicable Determination Date, without duplication, all obligations, contingent or otherwise, of the Company, including (i) for borrowed money; (ii) evidenced by notes, bonds, debentures, or similar instruments; (iii) all lease obligations required to be capitalized in accordance with GAAP or classified as capital or finance leases in the Company's financial statements as of the Determination Date without giving effect to FASB ASU 842; (iv) for the deferred purchase price of assets, property, goods or services, including all earn-out payments, seller notes and other similar payments (whether contingent or otherwise) calculated as the maximum amount payable under or pursuant to such obligation; (v) for reimbursement obligations, whether contingent or matured, with respect to letters of credit (whether drawn or undrawn), bankers' acceptances, performance bonds, surety bonds or interest rate cap agreements, interest rate swap agreements, foreign currency exchange contracts or other hedging contracts; (vi) all conditional sale obligations and all obligations under any title retention agreement; (vii) all obligations of any other Person of the type referred to in clauses (i) through (vi) which is secured by a Lien on any property or asset of the Company, the amount of such obligation being deemed to be the lesser of the fair market value of such property or asset or the amount of the obligation; (viii) in the nature of guarantees of the types of obligations described in clauses (i) through (vi) above; (ix) any amendment, supplement, modification, deferral, renewal, extension, refunding or refinancing or any Liability of the types referred to in clauses (i) through (viii) above; (x) for all accrued or unpaid interest on or any fees, premiums, penalties or other amounts (including prepayment and early termination fees and penalties) due with respect to any of the obligations described in clauses (i) through (viii) above; (xi) all liabilities for Taxes attributable to the period of time prior to the applicable Determination Date; and (xii) all Liabilities for reserves for any of the foregoing.

(dd) "Independent Accounting Firm" means BDO USA, LLP.

(ee) "Liability" or "Liabilities" means, with respect to any Person, any and all liabilities of any kind (whether known or unknown, contingent, accrued, due or to become due, secured or unsecured, matured or otherwise) including, but not limited to, Indebtedness, accounts payable, royalties payable, and other reserves, accrued bonuses and commissions, accrued vacation and any other form of leave, termination payment obligations, employee expense obligations and all other liabilities of such Person or any of its Subsidiaries or Affiliates, regardless of whether such liabilities are required to be reflected on a balance sheet in accordance with GAAP.

(ff) "Liens" means any and all liens, encumbrances, mortgages, charges, claims, pledges, security interests, title defects, voting agreements or trusts, transfer restrictions or other restrictions of any nature, other than restrictions under applicable securities laws.

(gg) "Loss" and "Losses" means any and all losses, Liabilities, claims, suits, obligations, judgments, liens, penalties, fines, lost profits, Taxes, damages (other than punitive damages unless such punitive damages are owed to a third party), diminution in value and reasonable costs and expenses, including but not limited to, reasonable attorneys' fees and accounting fees and other expert fees (and other expenses related to litigation or other proceedings) and related disbursements, and any costs and expenses incurred in connection with investigating, defending against or settling any of the foregoing.

(hh) "Parent Common Stock" means the shares of Class A Common Stock of Parent, par value $0.001 per share.

(ii) "Parent Indemnified Parties" has the meaning set forth in Section 8.

(jj) "Paying Agent" means Acquiom Financial LLC or any successor paying agent designated by the CO Member Representative upon ten (10) days' prior written notice to Parent, subject to the approval in writing by Parent, not to be unreasonably withheld, conditioned or delayed.

(kk) "Per Unit Reduction Amount" means the quotient of (i) the sum of (A) the Excess Parent Capital plus (B) the Seller Expenses, each determined as of the applicable Determination Date, divided by, (ii) the number of First Call Units if determined as of the First Determination Date, or the number of Second Call/Put Units if determined as of the Second Determination Date.

(ll) "Put Closing" has the meaning set forth in Section 6(a).

(mm) "Put Closing Date" has the meaning set forth in Section 6(a).

(nn) "Put Consideration" means the aggregate Second Determination Date Per Unit Put Price of the Second Call/Put Units being purchased by Parent at the Put Closing.

(oo) "Put Notice" has the meaning set forth in Section 6(a).

(pp) "Put Period" means the thirty (30)-day period following the date on which the Second Determination Date Calculations are finally resolved in accordance with Section 3.

(qq) "Put Right" has the meaning set forth in Section 6(a).

(rr) "Qualifying Units" means the sum of (i) the aggregate number of outstanding Class CO Units that are vested as of the applicable Determination Date, plus (ii) the aggregate number of outstanding Incentive Units that are Vested Units as of the applicable Determination Date. For avoidance of doubt, the Qualifying Units shall specifically exclude outstanding Class CG Units or outstanding Class CO Units or

Incentive Units that are not vested as of the Determination Date and any Incentive Units that are then authorized under Section 3.2(a)(iii) of the Agreement but are not outstanding as of the applicable Determination Date.

(ss) "Second Call Closing" has the meaning set forth in Section 5(a).

(tt) "Second Call Closing Date" has the meaning set forth in Section 5(a).

(uu) "Second Call Consideration" means the aggregate Second Determination Date Per Unit Call Price of the Second Call/Put Units being purchased by Parent at the Second Call Closing.

(vv) "Second Call Notice" has the meaning set forth in Section 5(a).

(ww) "Second Call Period" means the sixty-day (60) day period following the date on which the Second Determination Date Calculations are finally resolved in accordance with Section 3.

(xx) "Second Call/Put Units" means all, and not less than all, of the Qualifying Units outstanding and not held by the Parent Group as of the Second Determination Date.

(yy) "Second Call Right" has the meaning set forth in Section 5(a).

(zz) "Second Determination Date" means June 30, 2024.

(aaa) "Second Determination Date Calculations" has the meaning set forth in Section 3(a).

(bbb) "Second Determination Date Company Call Value" means the greater of (i) the Second Determination Date Company Floor Value and (ii) the difference of (A) the product of (1) Second Determination Date TTM EBITDA, multiplied by (2) twelve (12), minus (B) the sum of (1) the amount of any outstanding Third Party Indebtedness plus (2) the amount of any Extraordinary Losses, in each case, determined as of the Second Determination Date.

(ccc) "Second Determination Date Company Floor Value" means the lesser of (i) One Hundred Million Dollars ($100,000,000), minus the sum of (A) the amount of any outstanding Third Party Indebtedness plus (B) the amount of any Extraordinary Losses (each determined as of the Second Determination Date), and (ii) the First Determination Date Company Value.

(ddd) "Second Determination Date Company Put Value" means the difference of (i) the product of (A) Second Determination Date TTM EBITDA, multiplied by (B) twelve (12), minus (ii) the sum of (A) the amount of any outstanding Third Party Indebtedness, plus (B) the amount of any Extraordinary Losses, in each case, determined as of the Second Determination Date.

(eee) "Second Determination Date Dispute Notice" has the meaning set forth in Section 3(b).

(fff) "Second Determination Date Per Unit Call Price" means the difference of (i) the quotient of (A) the Second Determination Date Company Call Value, divided by (B) the number of Fully Diluted Units as of the Second Determination Date, minus (ii) the Per Unit Reduction Amount determined as of the Second Determination Date; provided, however, in the case of each Incentive Unit that is a Vested Unit, the Second Determination Date Per Unit Call Price will be reduced by the applicable Participation Threshold of such Vested Unit, but not below $0.00.

(ggg) "Second Determination Date Per Unit Put Price" means the difference of (i) the quotient of (A) the Second Determination Date Company Put Value, divided by (B) the number of Fully Diluted Units as of the Second Determination Date, minus (ii) the Per Unit Reduction Amount determined as of the Second Determination Date; provided, however, in the case of each Incentive Unit that is a Vested Unit, the Second Determination Date Per Unit Put Price will be reduced by the applicable Participation Threshold of such Vested Unit, but not below $0.00.

(hhh) "Second Determination Date TTM EBITDA" means the sum of (i) the net income of the Company, plus (ii) interest expense of the Company, plus (iii) income taxes of the Company, plus (iv) depreciation expense of the Company, plus (v) amortization expense of the Company, plus (vi) the amount of the Excluded Expenses, in each case, determined in accordance with GAAP for the twelve (12)-month period ending as of the Second Determination Date. Notwithstanding anything to the contrary contained herein, (A) in the event that Parent, the Company, its Subsidiaries or any of their respective Affiliates acquires any business or Person, by way of merger, consolidation, other business combination or otherwise, Second Determination Date TTM EBITDA shall not include the net revenue associated with such business or Person, and (B) Second Determination Date TTM EBITDA shall not include any revenue attributable to the products or services of Parent or its Affiliates (other than the Company).

(iii) "Seller Expenses" means (i) amounts payable or to become payable to legal counsel or to any financial advisor, broker, accountant or other Person who performed services for or on behalf of, or provided advice to the Company, or who is otherwise entitled to any compensation or payment from the Company, in connection with or relating to the transactions contemplated by this Annex I, including any brokerage fees, commissions, finders' fees, or financial advisory fees, and, in each case, related costs and expenses; (ii) unless approved by the Board, any other expenses that arise or are expected to arise, or are triggered, accelerated or become due or payable, as a direct or indirect result of the consummation (whether alone or in combination with any other event or circumstance) of the transactions contemplated by this Annex I, including any fees and expenses related to any retention, transaction, equity, discretionary, bonus, severance, profit sharing or change of control payment or benefit (or similar payment obligation), made or provided, or required to be made or provided, by the Company to any Person, including any service provider to the Company, as a result of or in connection with any of the transactions contemplated by this Annex I; (iii) any social security, Medicare, unemployment or other employment, withholding or payroll Tax or similar amount owed by the Company with respect to any of the transactions contemplated by this Annex I; and (iv) expenses incurred or to be incurred by or on behalf of any CO Member or service provider to the Company in connection with the transactions contemplated by this Annex I that the Company is or will be obligated to pay or reimburse; *provided, however*, that the fees and expenses of the Paying Agent shall not be considered a Seller Expenses even if paid or to be paid directly by the Company.

(jjj) "Tax" or "Taxes" means (i) any net income, alternative or add-on minimum tax, gross income, estimated, gross receipts, sales, use, ad valorem, value added, transfer, franchise, fringe benefit, membership interest, profits, license, registration, withholding, payroll, social security (or equivalent), employment, unemployment, disability, excise, severance, stamp, occupation, premium, property (real, tangible or intangible), environmental, escheat or windfall profit tax, custom duty or other tax, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest or any penalty, addition to tax or additional amount (whether disputed or not) imposed by any Governmental Entity responsible for the imposition of any such tax, (ii) any Liability for the payment of any amounts of the type described in clause (i) of this sentence as a result of being (or ceasing to be) a member of an affiliated, consolidated, combined, unitary or aggregate group for any taxable period, and (iii) any Liability for the payment of any amounts of the type described in clause (i) or (ii) of this sentence as a result of being a transferee of or successor to any Person or as a result of any express or implied obligation to assume such Taxes or to indemnify any other Person.

(kkk) "Third Party Indebtedness" means the amount of Indebtedness of the Company that has not been funded, made available or guaranteed by Parent or any of its Affiliates, determined as of the applicable Determination Date.

Section 2. First Determination Date Calculations.

(a) No later than sixty (60) days following the First Determination Date, Parent shall deliver to the CO Member Representative (i) a balance sheet of the Company dated as of the First Determination Date prepared in accordance with GAAP, (ii) an income statement of the Company for the twelve (12)-month period ending on the First Determination Date, prepared in accordance with GAAP, and (iii) Parent's calculation (the "First Determination Date Calculations") of (A) First Determination Date TTM Gross Profit, (B) the First Determination Date Company Value, and (C) the First Determination Date Per Unit Price for each class or series of outstanding Qualifying Units, in each case together with reasonably detailed supporting calculations demonstrating each component thereof.

(b) The CO Member Representative shall have thirty (30) days after delivery of the Company financial statements and the First Determination Date Calculations in accordance with Section 2(a) in which to notify Parent in writing (such notice, a "First Determination Date Dispute Notice") of any discrepancy in, or disagreement with, the items reflected on the First Determination Date Calculations (and specifying the amount in dispute and setting forth in reasonable detail the basis for such discrepancy or disagreement), and upon agreement by Parent regarding the adjustment requested by the CO Member Representative, an appropriate adjustment shall be made thereto. If the CO Member Representative does not deliver a First Determination Date Dispute Notice to Parent during such thirty (30)-day period, the First Determination Date Calculations shall be deemed to be accepted in the form presented to the CO Member Representative. If the CO Member Representative timely delivers a First Determination Date Dispute Notice, and Parent and the CO Member Representative do not agree, within thirty (30) days after timely delivery of the First Determination Date Dispute Notice, to resolve any discrepancy or disagreement therein, either the CO Member Representative or Parent may submit the discrepancy or disagreement (other than any discrepancy or disagreement regarding the existence or amount of any Extraordinary Losses, which shall be resolved pursuant to Section 13.9 of the Agreement) for review and final determination by the Independent Accounting Firm, it being understood that in making such determination, the Independent Accounting Firm shall be functioning as an expert and not as an arbitrator. The review by the Independent Accounting Firm shall be limited solely to the discrepancies and disagreements set forth in the First Determination Date Dispute Notice and a single written submission to the Independent Accounting Firm by each of Parent and the CO Member Representative with respect to such discrepancies and disagreements (which shall also be provided to the other party). The resolution of such discrepancies and disagreements and the determination of the First Determination Date Calculations by the Independent Accounting Firm shall be (i) in writing, (ii) made in accordance with the terms and conditions hereof, (iii) with respect to any specific discrepancy or disagreement, no greater than the higher amount calculated by Parent or the CO Member Representative, as the case may be, and no lower than the lower amount calculated by Parent or the CO Member Representative, as the case may be, (iv) made as promptly as practical after the submission of such discrepancies and disagreements to the Independent Accounting Firm (but in no event later than thirty (30) days after the date of submission), and (v) final and binding upon, and non-appealable by, the parties hereto and their respective successors and assigns for all purposes hereof, and not subject to collateral attack for any reason absent manifest error or fraud. The fees, costs and expenses of the Independent Accounting Firm shall be allocated to and borne by Parent and the CO Member Representative based on the inverse of the percentage that the Independent Accounting Firm's determination (before such allocation) bears to the total amount of the total items in dispute as originally submitted to the Independent Accounting Firm. For example, should the aggregate value of the items in dispute equal $1,000 and the Independent Accounting Firm awards $600 in favor of the CO Member Representative's position and $400 in favor of Parent's position, then sixty percent (60%) of the costs of its review would be borne by Parent and forty percent

(40%) of such costs would be borne by the CO Member Representative (on behalf of the CO Members and the CO Indirect Holders). Within five (5) Business Days of the resolution of all matters set forth in the First Determination Date Dispute Notice, by mutual agreement of Parent and the CO Member Representative or by the Independent Accounting Firm, Parent shall prepare a revised version of the First Determination Date Calculations reflecting such resolution and shall deliver a copy thereof to the CO Member Representative, and such revised version (and all amounts set forth therein) shall be considered final and binding on the parties.

Section 3. Second Determination Date Calculations.

(a) No later than sixty (60) days following the Second Determination Date, Parent shall deliver to the CO Member Representative (i) a balance sheet of the Company dated as of the Second Determination Date prepared in accordance with GAAP, (ii) an income statement of the Company for the twelve (12)-month period ending on the Second Determination Date prepared in accordance with GAAP, and (iii) Parent's calculation (the "Second Determination Date Calculations") of (A) Second Determination Date TTM EBITDA, (B) the Second Determination Date Company Call Value, (C) the Second Determination Date Company Put Value, (D) the Second Determination Date Per Unit Call Price for each class or series of outstanding Qualifying Units, and (E) the Second Determination Date Per Unit Put Price for each class or series of outstanding Units, in each case together with reasonably detailed supporting calculations demonstrating each component thereof.

(b) The CO Member Representative shall have thirty (30) days after delivery of the Company financial statements and the Second Determination Date Calculations in accordance with Section 3(a) in which to notify Parent in writing (such notice, a "Second Determination Date Dispute Notice") of any discrepancy in, or disagreement with, the items reflected on the Second Determination Date Calculations (and specifying the amount in dispute and setting forth in reasonable detail the basis for such discrepancy or disagreement), and upon agreement by Parent regarding the adjustment requested by the CO Member Representative, an appropriate adjustment shall be made thereto. If the CO Member Representative does not deliver a Second Determination Date Dispute Notice to Parent during such thirty (30)-day period, the Second Determination Date Calculations shall be deemed to be accepted in the form presented to the CO Member Representative. If the CO Member Representative timely delivers a Second Determination Date Dispute Notice, and Parent and the CO Member Representative do not agree, within thirty (30) days after timely delivery of the Second Determination Date Dispute Notice, to resolve any discrepancy or disagreement therein, either the CO Member Representative or Parent may submit the discrepancy or disagreement (other than any discrepancy or disagreement regarding the existence or amount of any Extraordinary Losses, which shall be resolved pursuant to Section 13.9 of the Agreement) for review and final determination by the Independent Accounting Firm, it being understood that in making such determination, the Independent Accounting Firm shall be functioning as an expert and not as an arbitrator. The review by the Independent Accounting Firm shall be limited solely to the discrepancies and disagreements set forth in the Second Determination Date Dispute Notice and a single written submission to the Independent Accounting Firm by each of Parent and the CO Member Representative with respect to such discrepancies and disagreements (which shall also be provided to the other party). The resolution of such discrepancies and disagreements and the determination of the Second Determination Date Calculations by the Independent Accounting Firm shall be (i) in writing, (ii) made in accordance with the terms and conditions hereof, (iii) with respect to any specific discrepancy or disagreement, no greater than the higher amount calculated by Parent or the CO Member Representative, as the case may be, and no lower than the lower amount calculated by Parent or the CO Member Representative, as the case may be, (iv) made as promptly as practical after the submission of such discrepancies and disagreements to the Independent Accounting Firm (but in no event later than thirty (30) days after the date of submission), and (v) final and binding upon, and non-appealable by, the parties hereto and their respective successors and assigns for all purposes hereof, and not subject to collateral attack for any reason absent manifest error or fraud. The fees,

costs and expenses of the Independent Accounting Firm shall be allocated to and borne by Parent and the CO Member Representative based on the inverse of the percentage that the Independent Accounting Firm's determination (before such allocation) bears to the total amount of the total items in dispute as originally submitted to the Independent Accounting Firm. For example, should the aggregate value of the items in dispute equal $1,000 and the Independent Accounting Firm awards $600 in favor of the CO Member Representative's position and $400 in favor of Parent's position, then sixty percent (60%) of the costs of its review would be borne by Parent and forty percent (40%) of such costs would be borne by the CO Member Representative (on behalf of the CO Members and the CO Indirect Holders). Within five (5) Business Days of the resolution of all matters set forth in the First Determination Date Dispute Notice, by mutual agreement of Parent and the CO Member Representative or by the Independent Accounting Firm, Parent shall prepare a revised version of the First Determination Date Calculations reflecting such resolution and shall deliver a copy thereof to the CO Member Representative, and such revised version (and all amounts set forth therein) shall be considered final and binding on the parties.

Section 4. First Call Right.

(a) During the First Call Period, Parent shall have the right to purchase from each CO Member (the "First Call Right") such CO Member's Allocable Share of the First Call Units at a price per Unit equal to the applicable First Determination Date Per Unit Price of such Units to be sold and Transferred by such CO Member. In order to exercise the First Call Right, Parent shall deliver a notice in writing (the "First Call Notice") to the CO Member Representative of such election, specifying the date on which the closing of the purchase and sale of the First Call Units (the "First Call Closing") shall occur (the "First Call Closing Date"), which shall not be more than sixty (60) days after the date of the First Call Notice, the number of each class or series of Units to be purchased from each CO Member, and the applicable aggregate First Determination Date Per Unit Price payable to each CO Member in respect of the First Call Units to be sold by such CO Member at the First Call Closing. Notwithstanding the foregoing, Parent may elect, by delivering written notice to the CO Member Representative, to delay the First Call Closing Date to the extent Parent deems it reasonably necessary pursuant to advice of counsel to comply with any applicable law (including Rule 14e-1 under the Exchange Act or any antitrust or competition laws) and in such case the First Call Closing Date shall be a date that is no later than five (5) Business Days after such date on which all applicable legal or regulatory approvals have been obtained or waiting periods have elapsed. Parent may revoke the First Call Notice by delivering a notice of revocation in writing to the CO Member Representative at any time on or prior to the First Call Closing Date. At the First Call Closing, Parent shall purchase from each CO Member, and each CO Member shall be required to sell (and shall be deemed to have sold automatically and without any further action of the parties) to Parent, such CO Member's Allocable Share of the First Call Units free and clear of all Liens (other than restrictions on Transfer set forth in the Agreement) at a price per Unit equal to the applicable First Determination Date Per Unit Price of such Units sold and Transferred by such CO Member at the First Call Closing, and the Company shall promptly thereafter update the Schedule of Members to reflect such purchase and sale of the First Call Units at the First Call Closing.

(b) Parent may elect, in its sole discretion, to pay the First Call Consideration in cash, in shares of Parent Common Stock or in any combination of the foregoing; *provided, however*, that each CO Member (and CO Indirect Holder) shall be entitled to receive the same ratio of cash and Parent Common Stock and, if any CO Member (or CO Indirect Holder) is given an option as to the form of consideration to be received, each other CO Member (or CO Indirect Holder) will be given the same option; provided, further, that, notwithstanding the foregoing, if payment to any CO Member (or CO Indirect Holder) in shares of Parent Common Stock would require under applicable law (x) the registration or qualification of such securities or of any Person as a broker or dealer or agent with respect to such securities; or (y) the provision to any holder of any information other than such information as a prudent issuer would generally furnish in an offering made solely to "accredited investors" as defined in Regulation D promulgated under the Securities

Act, Parent may in its sole discretion elect to pay the aggregate First Call Consideration to such CO Member (or CO Indirect Holder) in cash, notwithstanding that the other CO Members (and CO Indirect Holders) will be paid in shares of Parent Common Stock in whole or in part. To the extent Parent elects to pay all or a portion of the First Call Consideration in shares of Parent Common Stock, the number of shares to be issued to the CO Members will be determined by dividing the amount of the First Call Consideration Parent elects to pay in Parent Common Stock by the Applicable Reference Price. No fractional shares of Parent Common Stock will be issued in connection with the payment of the First Call Consideration. Any CO Member (or CO Indirect Holder) who would otherwise be entitled to receive a fraction of a share of Parent Common Stock (after aggregating all fractional shares of Parent Common Stock issuable to such CO Member (or CO Indirect Holder)) will, in lieu of such fraction of a share, instead be entitled to receive an amount of cash equal to the product obtained by multiplying (i) such fraction by (ii) the Applicable Reference Price, rounded to the nearest whole cent.

(c) With respect to the portion of the First Call Consideration that is payable in cash, Parent shall pay or caused to be paid such amounts by wire transfer of immediately available funds to the applicable account of the Paying Agent (for further distribution to the CO Members and, with respect to TopCo and MidCo, the CO Indirect Holders) specified in writing by the CO Member Representative no later than five (5) Business Days following the First Call Closing Date. With respect to the portion of the First Call Consideration that is payable in Parent Common Stock, promptly following the First Call Closing Date, Parent shall deliver to its exchange agent the applicable number of shares of Parent Common Stock for the accounts of the CO Members and, with respect to TopCo and MidCo, then for the accounts of the CO Indirect Holders, in each case entitled to receive such shares.

Section 5. Second Call Right.

(a) During the Second Call Period, Parent shall have the right to purchase from each CO Member (the "Second Call Right") such CO Member's Allocable Share of the Second Call/Put Units at a price per Unit equal to the applicable Second Determination Date Per Unit Call Price of such Units to be sold and Transferred by such CO Member. In order to exercise the Second Call Right, Parent shall deliver a notice in writing (the "Second Call Notice") to the CO Member Representative of such election, specifying the date on which the closing of the purchase and sale of the Second Call/Put Units (the "Second Call Closing") shall occur (the "Second Call Closing Date"), which shall not be more than sixty (60) days after the date of the First Call Notice, the number of each class or series of Units to be purchased from each CO Member, and the applicable aggregate Second Determination Date Per Unit Call Price payable to each CO Member in respect of the Second Call/Put Units to be sold by such CO Member at the Second Call Closing. Notwithstanding the foregoing, Parent may elect, by delivering written notice to the CO Member Representative, to delay the Second Call Closing Date to the extent Parent deems it reasonably necessary pursuant to advice of counsel to comply with any applicable law (including Rule 14e-1 under the Exchange Act or any antitrust or competition laws) and in such case the Second Call Closing Date shall be a date that is no later than five (5) Business Days after such date on which all applicable legal or regulatory approvals have been obtained or waiting periods have elapsed. Parent may revoke the Second Call Notice by delivering a notice of revocation in writing to the CO Member Representative at any time on or prior to the Second Call Closing Date. At the Second Call Closing, Parent shall purchase from each CO Member, and each CO Member shall be required to sell (and shall be deemed to have sold automatically and without any further action of the parties) to Parent, such CO Member's Allocable Share of the Second Call/Put Units free and clear of all Liens (other than restrictions on Transfer set forth in the Agreement) at a price per Unit equal to the applicable Second Determination Date Per Unit Call Price of such Units sold and Transferred by such CO Member at the Second Call Closing, and the Company shall promptly thereafter update the Schedule of Members to reflect such purchase and sale of the Second Call/Put Units at the Second Call Closing.

(b) Parent may elect, in its sole discretion, to pay the Second Call Consideration in cash, in shares of Parent Common Stock or in any combination of the foregoing; provided, however, that each CO Member (and CO Indirect Holder) shall be entitled to receive the same ratio of cash and Parent Common Stock and, if any CO Member (or CO Indirect Holder) is given an option as to the form of consideration to be received, each other CO Member (or CO Indirect Holder) will be given the same option; provided, further, that, notwithstanding the foregoing, if payment to any CO Member (or CO Indirect Holder) in shares of Parent Common Stock would require under applicable law (x) the registration or qualification of such securities or of any Person as a broker or dealer or agent with respect to such securities; or (y) the provision to any holder of any information other than such information as a prudent issuer would generally furnish in an offering made solely to "accredited investors" as defined in Regulation D promulgated under the Securities Act, Parent may in its sole discretion elect to pay the portion of the Second Call Consideration payable to such CO Member (or CO Indirect Holder) in cash, notwithstanding that the other CO Members (and CO Indirect Holders) will be paid in shares of Parent Common Stock in whole or in part. To the extent Parent elects to pay all or a portion of the Second Call Consideration in shares of Parent Common Stock, the number of shares to be issued to the CO Members will be determined by dividing the amount of the Second Call Consideration Parent elects to pay in Parent Common Stock by the Applicable Reference Price. No fractional shares of Parent Common Stock will be issued in connection with the payment of the Second Call Consideration. Any CO Member (or CO Indirect Holder) who would otherwise be entitled to receive a fraction of a share of Parent Common Stock (after aggregating all fractional shares of Parent Common Stock issuable to such CO Member (or CO Indirect Holder)) will, in lieu of such fraction of a share, instead be entitled to receive an amount of cash equal to the product obtained by multiplying (i) such fraction by (ii) the Applicable Reference Price, rounded to the nearest whole cent.

(c) With respect to the portion of the Second Call Consideration that is payable in cash, Parent shall pay or caused to be paid such amounts by wire transfer of immediately available funds to the applicable account of the Paying Agent (for further distribution to the CO Members and, with respect to TopCo and MidCo, the CO Indirect Holders) specified in writing by the CO Member Representative no later than five (5) Business Days following the Second Call Closing Date. With respect to the portion of the Second Call Consideration that is payable in Parent Common Stock, promptly following the Second Call Closing Date, Parent shall deliver to its exchange agent the applicable number of shares of Parent Common Stock for the accounts of the CO Members and, with respect to TopCo and MidCo, then for the accounts of the CO Indirect Holders, in each case entitled to receive such shares.

Section 6. Put Right.

(a) During the Put Period, the CO Member Representative shall have the right, on behalf of each CO Member (the "Put Right"), to sell and Transfer to Parent such CO Member's Allocable Share of the Second Call/Put Units at a price per Unit equal to the applicable Second Determination Date Per Unit Put Price of such Units to be sold and Transferred by such CO Member. In order to exercise the Put Right, the CO Member Representative shall deliver a notice in writing (the "Put Notice") to Parent of such election, specifying the intended date on which the closing of the purchase and sale of the Second Call/Put Units (the "Put Closing") shall occur (the "Put Closing Date"), which shall be no earlier than the sixtieth (60th) day after such Put Notice is delivered to Parent, and no later than the seventy-fifth (75th) day after such Put Notice is delivered to Parent; *provided, however*, that Parent may elect, by delivering written notice to the CO Member Representative, to delay the Put Closing Date to the extent Parent deems it reasonably necessary pursuant to advice of counsel to comply with any applicable law (including Rule 14e-1 under the Exchange Act or any antitrust or competition laws) and in such case the Put Closing Date shall be a date that is no later than five (5) Business Days after such date on which all applicable legal or regulatory approvals have been obtained or waiting periods have elapsed. Within thirty (30) days following the receipt of such Put Notice, Parent shall provide the CO Member Representative with a schedule reflecting the number of each class or series of Units to be purchased from each CO Member, and applicable aggregate

Second Determination Date Per Unit Put Price payable to each CO Member in respect of the Second Call/Put Units to be sold by such CO Member at the Put Closing. The CO Member Representative may not revoke the Put Notice without the prior written consent of Parent. At the Put Closing, Parent shall be required to purchase (and shall be deemed to have purchased automatically and without any further action of the parties) from each CO Member, and each CO Member shall be required to sell (and shall be deemed to have sold automatically and without any further action of the parties) to Parent, such CO Member's Allocable Share of the Second Call/Put Units free and clear of all Liens (other than restrictions on Transfer set forth in the Agreement) at a price per Unit equal to the applicable Second Determination Date Per Unit Put Price of such Units sold and Transferred by such CO Member at the Put Closing, and the Company shall promptly thereafter update the Schedule of Members to reflect such purchase and sale of the Second Call/Put Units at the Put Closing.

(b) Parent may elect, in its sole discretion, to pay the Put Consideration in cash, in shares of Parent Common Stock or in any combination of the foregoing; *provided, however*, that each CO Member (or CO Indirect Holder) shall be entitled to receive the same ratio of cash and Parent Common Stock and, if any CO Member (or CO Indirect Holder) is given an option as to the form of consideration to be received, each other CO Member (or CO Indirect Holder) will be given the same option; *provided, further*, that, notwithstanding the foregoing, if payment to any CO Member (or CO Indirect Holder) in shares of Parent Common Stock would require under applicable law (x) the registration or qualification of such securities or of any Person as a broker or dealer or agent with respect to such securities; or (y) the provision to any holder of any information other than such information as a prudent issuer would generally furnish in an offering made solely to "accredited investors" as defined in Regulation D promulgated under the Securities Act, Parent may in its sole discretion elect to pay the portion of the Put Consideration payable to such CO Member (or CO Indirect Holder) in cash, notwithstanding that the other CO Members (and CO Indirect Holders) will be paid in shares of Parent Common Stock in whole or in part. To the extent Parent elects to pay all or a portion of the Put Consideration in shares of Parent Common Stock, the number of shares to be issued to the CO Members will be determined by dividing the amount of the Put Consideration Parent elects to pay in Parent Common Stock by the Applicable Reference Price. No fractional shares of Parent Common Stock will be issued in connection with the payment of the Put Consideration. Any CO Member (or CO Indirect Holder) who would otherwise be entitled to receive a fraction of a share of Parent Common Stock (after aggregating all fractional shares of Parent Common Stock issuable to such CO Member (or CO Indirect Holder)) will, in lieu of such fraction of a share, instead be entitled to receive an amount of cash equal to the product obtained by multiplying (i) such fraction by (ii) the Applicable Reference Price, rounded to the nearest whole cent.

(c) With respect to the portion of the Put Consideration that is payable in cash, Parent shall pay or caused to be paid such amounts by wire transfer of immediately available funds to the applicable account of the Paying Agent (for further distribution to the CO Members and, with respect to TopCo and MidCo, the CO Indirect Holders) specified in writing by the CO Member Representative no later than five (5) Business Days following the Put Closing Date. With respect to the portion of the Put Consideration that is payable in Parent Common Stock, promptly following the Put Closing Date, Parent shall deliver to its exchange agent the applicable number of shares of Parent Common Stock for the accounts of the CO Members and, with respect to TopCo and MidCo, then for the accounts of the CO Indirect Holders, in each case entitled to receive such shares.

Section 7. Call/Put Period Requirements. During the period from and after the Closing until the Determination Date, Parent, the CO Members and the CO Member Representative agree that the business and affairs of the Company will be conducted in accordance with the requirements set forth on Schedule I and Schedule II (the "Call/Put Period Requirements"), which are incorporated into the terms hereof and the Agreement by reference and deemed to be part of the Agreement.

Section 8. Certain Warranties, Etc. At each applicable Closing, each CO Member and CO Indirect Holder shall be deemed to make the representations warranties set forth on Schedule III. Each CO Member shall indemnify and hold harmless Parent and its respective officers, directors, employees, agents and Affiliates (including the Company), and their respective direct and indirect partners, members, shareholders, directors, officers, employees and agents (collectively, the "Parent Indemnified Parties") from and against any and all Losses directly or indirectly arising out of, related to, accrued or incurred in connection with (i) any inaccuracy in or breach of any representation or warranty set forth on Schedule III as it pertains to such CO Member (or CO Indirect Holder) as of the date of the applicable Closing, (ii) any noncompliance by the Company with the requirements set forth on Schedule I, (iii) any Extraordinary Losses, and (iv) any Seller Expenses. Notwithstanding anything contained herein to the contrary, Parent shall be entitled to offset against, and deduct from, the First Call Consideration, Second Call Consideration and/or Put Consideration otherwise payable to a CO Member in satisfaction of any amounts owed by such CO Member to Parent or its Affiliates (including the Company), including, without limitation, any amounts owed under this Section 8 and Article X of the Purchase Agreement.

Section 9. CO Member Representative.

(a) Bruce Thompson (or any successor thereto appointed in accordance with this Section 9), is hereby appointed the "CO Member Representative" and as such the agent, proxy and attorney-in-fact for each of the CO Members and the CO Indirect Holders. Each CO Member and each CO Indirect Holder by execution of the Agreement irrevocably and unconditionally authorizes the CO Member Representative (i) to take any and all additional action as is contemplated to be taken or otherwise may be taken by or on behalf of the CO Members or the CO Indirect Holders by or under the terms of the Agreement (including this Annex I and the Call/Put Period Requirements), including to take all action necessary to the defense and/or settlement of any claims for which the CO Members and/or the CO Indirect Holders may be required to indemnify the Parent Indemnified Parties, and (ii) to give and receive all notices required to be given or received by the CO Members and/or the CO Indirect Holders hereunder and thereunder.

(b) All decisions and actions by the CO Member Representative in his capacity as such shall be binding upon all of the CO Members and CO Indirect Holders, and no CO Member or CO Indirect Holder shall have the right to object, dissent, protest or otherwise contest the same.

(c) The CO Member Representative shall not have any liability to any of the CO Members or the CO Indirect Holders for any act done or omitted hereunder as the CO Member Representative while acting in good faith and in the exercise of reasonable judgment, and any act done or omitted pursuant to the advice of counsel shall be conclusive evidence of such good faith. The CO Members shall severally but not jointly indemnify the CO Member Representative and hold it harmless against any Losses or expense incurred without gross negligence or bad faith on the part of the CO Member Representative and arising out of or in connection with the acceptance or administration of its duties hereunder. The CO Member Representative shall be entitled to be reimbursed by the CO Members for reasonable expenses incurred in the performance of its duties (including, without limitation, the reasonable fees of counsel).

(d) By their, his, her or its execution of the Agreement, each CO Member and each CO Indirect Holder agrees, in addition to the foregoing, that:

(i) Parent shall be entitled to rely conclusively on the instructions and decisions of the CO Member Representative as to the settlement of any claims, or any other actions required or permitted to be taken by the CO Member Representative hereunder, and no party hereunder shall have any cause of action against Parent for any action taken by Parent in reliance upon the instructions or decisions of the CO Member Representative;

(ii) all actions, decisions and instructions of the CO Member Representative shall be conclusive and binding upon all of the CO Members and the CO Indirect Holders, and no CO Member or CO Indirect Holder shall have any cause of action against the CO Member Representative for any action taken, decision made or instruction given by the CO Member Representative under the Agreement (including this Annex I or the Call/Put Period Requirements), except for fraud or willful misconduct by the CO Member Representative in connection with his role and responsibilities hereunder;

(iii) subject to the appointment and acceptance of a successor CO Member Representative as provided below, the CO Member Representative may resign at any time thirty (30) days after giving notice thereof to Parent and TopCo. Upon the death or incapacity of the CO Member Representative or any such resignation, TopCo may appoint a successor CO Member Representative, which successor must be reasonably acceptable to Parent. If no successor CO Member Representative shall have been appointed by TopCo within 30 days after the predecessor CO Member Representative's death, incapacity or notice of resignation, then the Class CO Board Member (or, if there is then no Class CO Board Member, the Board) may, on behalf of the CO Members and CO Indirect Holders, appoint a successor. Upon the acceptance of any appointment as the CO Member Representative hereunder, such successor CO Member Representative shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the predecessor CO Member Representative, and the predecessor CO Member Representative shall be discharged from its duties and obligations hereunder. The provisions of this Section 9 are independent and severable, are irrevocable and coupled with an interest and shall be enforceable notwithstanding any rights or remedies that any CO Member or CO Indirect Holder may have in connection with the transactions contemplated by this Agreement; and

(iv) the provisions of this Section 9 shall be binding upon the executors, heirs, legal representatives, personal representatives, successor trustees and successors of each CO Member and each CO Indirect Holder.

(e) Notwithstanding anything to the contrary in the Agreement (including this Annex I and the Schedules hereto), no CO Member or Indirect CO Holder may directly enforce any provision of the Agreement (including this Annex I and the Schedules hereto), or directly assert or institute any proceeding or cause of action hereunder or in respect of the transactions contemplated hereby (it being understood that any such proceeding or cause of action may, and may only, be asserted or instituted by the CO Member Representative on behalf of the CO Members and the Indirect CO Holders). Each CO Member an Indirect CO Holder hereby irrevocably waives any right to directly bring any such proceeding or cause of action (except as provided in the preceding sentence).

Section 10. Miscellaneous.

(a) Notwithstanding anything contained herein to the contrary, any disputes regarding the existence or amount of any Extraordinary Losses shall be resolved by the arbitration process set forth in Section 13.9 of the Agreement. Notwithstanding anything contained herein to the contrary, Parent shall be entitled with withhold and retain any portion of the First Call Consideration, Second Call Consideration and/or Put Consideration until such dispute is finally resolved in accordance with the foregoing. Promptly following such resolution of such disputed amounts, such amounts shall be retained by Parent or paid to the CO Members, as so determined by the Arbitrator.

(b) In order to secure each CO Member's obligation to transfer and sell his, her, their or its Units to Parent in accordance with the provisions of this Annex I, each CO Member hereby appoints Parent as his, her or its true and lawful attorney-in-fact and proxy, with full power of substitution, to execute, on behalf of such CO Member, any agreement, instrument or waiver to be executed by such CO Member in connection with the First Call Right, the Second Call Right and/or the Put Right. Parent may execute such agreements, instruments and waivers, at any time any CO Member fails to comply with the provisions of this Annex I. The proxies and powers granted by each CO Member pursuant to this Section 10(b) are coupled with an interest and are given to secure the performance of such CO Member's obligations under this Annex I. Such proxies and powers shall be irrevocable, and shall survive the death, incompetency, disability or bankruptcy of such CO Member and the subsequent holders of his, her or its Units.

(c) Notwithstanding anything contained in this Annex I to the contrary, to the extent any payment is to be made by Parent to the CO Member Representative (or the Paying Agent) on behalf of or for the benefit of any CO Member, if such payment is so made to the CO Member Representative (or the Paying Agent), then Parent shall have no further responsibility or liability with respect thereto, and Parent shall be entitled to rely conclusively and without independent verification on the CO Member Representative (or the Paying Agent) making further payment to such CO Member, as applicable. For avoidance of doubt, in the case of a payment (whether in cash or stock) to be made to TopCo as a CO Member, Parent shall have no further responsibility or liability with respect thereto once such payment is made to the CO Member Representative (or the Paying Agent), such that Parent shall have no liability or obligation in respect of the subsequent allocation or distribution of such payment by TopCo to the CO Indirect Holders, and the CO Indirect Holders agree to look only to TopCo in respect of such amounts or any dispute arising out of or in connect therewith. If payment of a portion of the First Call Consideration, Second Call Consideration or Put Consideration is to be made to a Person other than the Person in whose name the applicable Units are registered, it shall be a condition to such payment that the Person requesting such payment shall have paid any transfer and other Taxes required by reason of such payment in a name other than that of the registered holder of such Units or shall have established to the satisfaction of Parent that such Tax either has been paid or is not payable.

(d) Each of Parent and the Company shall be entitled to deduct and withhold from any amount otherwise payable pursuant to this Annex I such amounts as it is required to deduct and withhold with respect to the making of such payment under the Code or any provision of state, local or foreign Tax law or under any other applicable law. To the extent such amounts are so deducted or withheld, such amounts shall be treated for all purposes under the Agreement as having been paid to the Person to whom such amounts would otherwise have been paid.

(e) If, at any time, either Parent or the CO Member Representative believes or is advised that any further instruments, deeds, assignments or assurances are reasonably necessary to consummate or reflect the purchase and sale of the First Call Units, the Second Call Units or the Put Units or to carry out the purposes and intent of this Annex I, then Parent, the Company, the CO Members, the CO Member Representative and their respective officers, directors, managers successors and assigns shall execute and deliver all such proper deeds, assignments, instruments and assurances and do all other things reasonably necessary to consummate or reflect the purchase and sale of the First Call Units, the Second Call Units or the Put Units or to carry out the purposes and intent of this Annex I (as applicable).

(f) Each of Parent, each CO Member and the CO Member Representative hereby acknowledges and agrees that the other parties hereto would be irreparably damaged in the event any of the provisions of this Annex I were not performed in accordance with their specific terms or were otherwise breached. Accordingly, each of Parent, each CO Member and the CO Member Representative agrees that, in addition to any other remedy to which such party may be entitled at law or in equity, each of Parent, on the one hand, and the CO Member Representative (on behalf of the CO Members), on the other hand, shall

be entitled to an injunction or injunctions to prevent breaches of the provisions of the Agreement (including this Annex I) and to enforce specifically the Agreement (including this Annex I), and the terms and provisions hereof.

(g) Each of Parent, the CO Members and the CO Member Representative agree that for U.S. federal (and applicable state and local) income tax purposes, Parent's acquisition of any Qualifying Units pursuant to this Annex I shall be treated as a taxable sale of partnership interests by the CO Members governed by Section 741 of the Code; *provided*, that, if Parent acquires all of the outstanding Class CO Units and Incentive Units pursuant to the First Call Right, Second Call Right or Put Right, as applicable, such that Parent owns 100% of the Units of the Company, such acquisition will be governed by IRS Revenue Ruling 99-6, 1999-1 C.B. 432 (*Situation 1*), and, pursuant thereto, (i) with respect to Parent, (A) the Company shall be deemed to make a liquidating distribution of its assets to the Members, and (B) Parent shall be deemed to acquire, by purchase, all applicable assets distributed to the CO Members; and (ii) with respect to the CO Members, the CO Members shall be treated as selling partnership interests and shall report gain or loss, if any, resulting from the sale of their partnership interests in accordance with Section 741 of the Code.

(h) In connection with the First Call Right, Second Call Right and Put Right, as applicable, Parent shall prepare and deliver to the CO Member Representative an allocation of the applicable purchase price, all other capitalizable costs, and other relevant items among the assets of the Company, which such allocation shall be prepared in accordance with the rules under Sections 1060, 743, 743 and 754 of the Code, as applicable, and the Treasury Regulations promulgated thereunder. Parent and the CO Members shall file all tax returns in a manner consistent with such allocation and no party shall take any position for tax purposes inconsistent with such allocation.

(i) All references in this Annex I to a Section or Schedule are intended to refer to a Section or Schedule of this Annex I unless otherwise specifically provided.

[*Remainder of page intentionally left blank.*]

SCHEDULE I

Company Requirements

1. From and after the Effective Time and until June 30, 2024, unless otherwise approved in writing by the Board, the Company shall:

(a) continue to engage solely in the Business;

(b) pay and discharge all lawful Taxes, assessments and governmental charges or levies imposed upon it or its property before the same shall become in default, as well as all lawful claims for labor, materials and supplies which, if not paid when due, might become a Lien upon its property or any part thereof; provided, however, that the Company shall not be required to pay and discharge any such Tax, assessment, charge, levy or claim so long as the validity thereof is being contested by it in good faith by appropriate proceedings and an adequate reserve therefor has been established;

(c) comply in all material respects with all applicable laws, regulations and industry standards (e.g., PCI DSS) in the conduct of its business;

(d) keep its insurable properties insured, upon reasonable business terms, against liability and the perils of casualty, fire, business interruption, errors and omissions and extended coverage in amounts of coverage as reasonably determined by the Board;

(e) maintain, from financially sound and reputable insurers, Directors and Officers liability insurance, in an amount and on terms and conditions satisfactory to the Board, until such time as the Board determines that such insurance should be discontinued;

(f) maintain with such insurers insurance against other hazards and risks and liability to persons and property to the extent and in the manner as reasonably determined by the Board;

(g) maintain all properties used or useful in the conduct of its business in good repair, working order and condition, ordinary wear and tear excepted;

(h) maintain (i) adequate technology safeguards, including with the respect to redundancy, reliability, scalability, and (ii) adequate security and disaster recovery plans, procedures and resources for its business, and take all other steps necessary to safeguard the security and the integrity of the Company's systems;

(i) ensure all transactions of any nature, including any changes to the terms of any such transactions, by and between the Company and any officer, employee, director, manager or Member of the Company, or any Affiliate or member of the Family Group of such Person or the Company, shall be conducted on an arm's-length basis and shall be on terms and conditions no less favorable to the Company than could be obtained from nonrelated Persons;

(j) permit Parent and its authorized representatives (including, without limitation, accountants and legal counsel) to visit and inspect any of the properties of the Company, including its books and records, and to discuss its affairs, finances and accounts with its officers, employees, advisors, representatives and agents, upon reasonable notice and at such reasonable times and as often as may reasonably be requested by Parent;

(k) operate in the ordinary course of business, consistent with past practice and act reasonably and in good faith consistent with good business practices and the long-term success of the Company and its business, operations, results of operations and prospects.

2. In addition, from and after the Effective Time and until June 30, 2024, unless otherwise approved in writing by the Board, the Company shall not:

(a) undertake actions or omit to take actions for the primary purpose of realizing, achieving or maximizing incremental First Determination Date TTM Gross Profit or Second Determination Date TTM EBITDA;

(b) acquire or purport to acquire any other corporation or business concern, whether by acquisition of assets, capital stock or otherwise, and whether in consideration of the payment of cash, the issuance of capital stock or otherwise;

(c) make or purport to make any material investment in another business entity, enter into any joint venture or similar arrangement, or make or permit any loans or advances to, or guarantees for the benefit of, any Person, except for reasonable advances to employees in the ordinary course of business consistent with past practice;

(d) change any of its methods of accounting or accounting practices in any material respect (other than as required by applicable accounting or auditing standards);

(e) decrease the wages, salaries, commissions, bonuses, fees or other direct payments to employees in any individual or aggregate amount material to the Company or for the primary purpose of realizing, achieving or maximizing incremental First Determination Date TTM Gross Profit or Second Determination Date TTM EBITDA;

(f) cause or knowingly permit the Business or the Company's products and services to infringe or misappropriate the intellectual property rights of any other Person;

(g) cause or knowingly permit the Company to fail to comply in any material respect with its contracts and agreements with third parties;

(h) issue, purport to issue, commit to issue or promise to issue any equity securities; phantom equity or similar arrangements of the Company except in accordance with the Agreement;

(i) form any Subsidiary or acquire any equity interest or other interest in any other entity;

(j) allow or suffer any material permit or intellectual property right, registration or application to lapse, expire, be cancelled, suspended, limited, revoked or materially modified, or not be renewed; or

cause or knowingly permit the Company or the Business to operate in material violation of any legal, regulatory or other similar requirements (including, without limitation, any applicable industry standards).

SCHEDULE II

Parent Requirements

1. From and after the Effective Time and until June 30, 2024, Parent shall not, without the prior written consent of the CO Member Representative:

(a) take or fail to take any action in bad faith for the primary purpose of reducing or minimizing First Determination Date Gross Profit or Second Determination Date TTM EBITDA

(b) cause the Business to be integrated with the business of Parent;

(c) cause the Company to be restructured, liquidated, dissolved or merged or consolidated with any other entity;

(d) cause the Company's products and services to be sold, licensed or commercialized as a bundled offering with any products and services of Parent;

(e) charge the Company for services provided by Parent in excess of Parent's costs attributable to such services; or

(f) require the Company to accept Excess Parent Capital without the written approval of the Board, including the approval of CO Board Member.

2. From and after the Effective Time until June 30, 2024, Parent will permit the Company to operate as an autonomous business, including with respect to staffing and expense decisions made in the ordinary course of business of the Company consistent with past practice, in each case, subject to oversight by the Board, including, without limitation, with respect to approval of the annual budget and material deviations therefrom.

3. From and after the Effective Time and until June 30, 2024, Parent sales team members will direct sales leads to the Company (the "Referral Program"). Parent will establish and maintain a sales performance incentive fund or "SPIF" to incentivize Referral Program performance, and Parent will commit senior leadership sales team member resources to oversee the Referral Program.

4. From and after the Effective Time and until June 30, 2024, Parent agrees that any partnership between Parent and the Company that materially utilizes the material products, services or efforts of the Company will be governed by a commercial arrangement to be mutually agreed upon by the parties consistent with market outcomes for such a partnership (including with respect to allocation of costs and revenue).

5. Parent will provide the Company with access to its Instant Market Value API ("IMV API") as an Excluded Expense. The Company's use of the IMV API data will be subject to the mutual agreement by the parties. Parent will consider in good faith other Company requests for access to Parent data ("Parent Data"). Any such Parent Data provided by Parent to the Company shall be provided pursuant to a data license agreement to be mutually agreed upon but without markup to Parent's third party costs with respect to such Parent Data. Any commercial partnership between Parent and the Company that utilizes Parent Data will be governed by a commercial agreement to be mutually agreed upon by the parties.

6. Parent further agrees that Bruce Thompson shall continue to serve as Chief Executive Officer and President of the Company until June 30, 2024, unless his employment is terminated in

accordance with the Offer Letter executed by Mr. Thompson in connection with the Purchase Agreement, he resigns or he is otherwise unable to serve.

SCHEDULE III

CO Member Representations

Capitalized terms used in this Schedule III but not otherwise defined in this Annex I or in the Agreement shall have the meanings ascribed to such terms in the Purchase Agreement.

As of each applicable Closing, each CO Member and CO Indirect Holder severally represents and warrants to Parent as follows:

1. Ownership. Such CO Member or CO Indirect Holder is the record or beneficial owner of, has good and valid title to, the Units to be sold to Parent by such CO Member or CO Indirect Holder, in each case free and clear of all Liens (other than restrictions on Transfer set forth in the Agreement).

2. Authorization; Enforceability. Such CO Member or CO Indirect Holder has the necessary power, authority, right and capacity to perform its obligations under the Agreement and this Annex I and to consummate the transactions contemplated hereby. The execution, delivery and performance by such CO Member or CO Indirect Holder of the Agreement (including this Annex I), and the consummation by such CO Member or CO Indirect Holder of the transactions contemplated hereby have been duly authorized by all necessary action on the part of such CO Member or CO Indirect Holder (if any). The Agreement (including this Annex I) was duly executed and delivered by such CO Member or CO Indirect Holder when so executed and, assuming the due authorization, execution and delivery hereof by each other party hereto, constitutes a valid and binding agreement of such CO Member or CO Indirect Holder, enforceable against such CO Member or CO Indirect Holder in accordance with its terms, subject to the General Enforceability Exceptions.

3. Non-Contravention. The consummation by such CO Member or CO Indirect Holder of the transactions contemplated hereby, do not and will not (i) contravene or conflict with or constitute a violation of any contract, agreement, Permit, license, authorization or obligation to which such CO Member or CO Indirect Holder is a party or by which its assets are bound; (ii) contravene or conflict with or constitute a violation of any provision of any Law or Order binding upon or applicable to such CO Member or CO Indirect Holder; or (iii) constitute a default or breach under or give rise to any right of termination, cancellation or acceleration of any right or obligation of such CO Member or CO Indirect Holder or to a loss of any benefit to which such CO Member or CO Indirect Holder is entitled.

4. Ownership of Equity Interests. Such CO Member or CO Indirect Holder has not (i) transferred any of the Units being sold to Parent, or any interest therein, (ii) granted any options, warrants, calls or any other rights to purchase or otherwise acquire any such Units or any interest therein, or (iii) entered into any Contract with respect to any of the matters contemplated by clauses (i) or (ii).

5. No Actions. There is no Action of any nature pending or, to the Knowledge of such CO Member or CO Indirect Holder, threatened, against such CO Member or CO Indirect Holder or any of such CO Member or CO Indirect Holder’s properties (whether tangible or intangible) or, if such CO Member or CO Indirect Holder is an entity, any of such CO Member or CO Indirect Holder’s officers, managers or directors (in their capacities as such), arising out of or relating to: (i) such CO Member or CO Indirect Holder’s beneficial ownership of securities of the Company or any right to acquire the same, (ii) the Agreement (including this Annex I) or any of the transactions contemplated hereby, or (iii) any other Contract between such CO Member or CO Indirect Holder (or any of its Affiliates) and the Company or any of its Affiliates, nor, to the Knowledge of such CO Member or CO Indirect Holder, is there any reasonable basis therefor. There is no Action pending or, to the Knowledge of such CO Member or CO Indirect Holder, threatened against such CO Member or CO Indirect Holder with respect to which such CO

Member or CO Indirect Holder has the right, pursuant to Contract, the Laws of the State of Delaware or otherwise, to indemnification from the Company or any of its Affiliates related to facts and circumstances existing prior to the date hereof, nor to the Knowledge of such CO Member or CO Indirect Holder, are there any facts or circumstances that would reasonably be expected to give rise to such an Action.

6. Consents. There are no Contracts binding upon such CO Member or CO Indirect Holder requiring notice, consent, waiver, authorization or approval as a result of the execution, delivery and performance of the Agreement (including this Annex I) to which such CO Member or CO Indirect Holder is a party or the consummation of the transactions contemplated hereby. Neither the execution, delivery or performance by such CO Member or CO Indirect Holder of the Agreement (including this Annex I), nor the consummation by such CO Member or CO Indirect Holder of the transactions contemplated hereby, requires any consent of, authorization by, exemption from, filing with, or notice to any Person, other than antitrust or competition notices or clearances required by Law.

7. Brokers', Finders' Fees, etc. Such CO Member or CO Indirect Holder has not employed any broker, finder, investment banker or financial advisor (i) as to whom such CO Member or CO Indirect Holder may have any obligation to pay any brokerage or finders' fees, commissions or similar compensation in connection with the transactions contemplated hereby, or (ii) who might be entitled to any fee or commission from Parent, the Company or any of their respective Affiliates upon consummation of the transactions contemplated hereby.

8. Securities Laws. Such CO Member or CO Indirect Holder understands that the shares of Parent Common Stock (if any) issuable to such CO Member or CO Indirect Holder upon consummation of the transactions contemplated hereby (i) have not been registered under the Securities Act by reason of their issuance in a transaction exempt from the registration requirements of the Securities Act, (ii) must be held indefinitely unless a subsequent disposition thereof is registered under the Securities Act or is exempt from such registration, and (iii) will bear a legend to such effect and Parent will make a notation on its transfer books to such effect. With respect to any shares of Parent Common Stock issuable to such CO Member or CO Indirect Holder upon consummation of the transactions contemplated hereby, such CO Member or CO Indirect Holder represents that it is familiar with SEC Rule 144 and Rule 506, as presently in effect, and understands and agrees to be bound by the resale limitations imposed thereunder and by the Securities Act.

9. Disclosure of Information. Such CO Member or CO Indirect Holder has received all the information it considers necessary or appropriate for deciding whether to execute and deliver the Agreement (including this Annex I) and to consummate the transactions contemplated hereby. Such CO Member or CO Indirect Holder further represents that it has had an opportunity to ask questions and receive answers from Parent regarding the shares of Parent Common Stock and the business, properties, prospects and financial condition of Parent. Such CO Member or CO Indirect Holder has (i) received a copy of the Agreement (including this Annex I), (ii) had the opportunity to carefully read each such agreement and the Buyer SEC Documents, (iii) has discussed the foregoing with such CO Member or CO Indirect Holder's professional advisors to the extent such CO Member or CO Indirect Holder has deemed necessary and (iv) understands his, her or its obligations hereunder.

10. Investment Experience. If shares of Parent Common Stock are issuable to such CO Member or CO Indirect Holder upon consummation of the transactions contemplated hereby, (a) such CO Member or CO Indirect Holder understands and acknowledges that such CO Member or CO Indirect Holder's investment in the Parent Common Stock involves a high degree of risk and has sought such accounting, legal and tax advice as such CO Member or CO Indirect Holder has considered necessary to make an informed investment decision with respect to such CO Member or CO Indirect Holder's acquisition of the Parent Common Stock;(b) such CO Member or CO Indirect Holder is fully aware of (i) the highly speculative nature of an investment in the Parent Common Stock, (ii) the financial hazards involved, (iii)

the lack of liquidity of the Parent Common Stock including the restrictions on Transfer and other obligations with respect thereto set forth in the Agreement, (iv) the qualifications and backgrounds of the management of Parent, and (v) the tax consequences of acquiring the Parent Common Stock; (c) such CO Member or CO Indirect Holder has such knowledge and experience in financial and business matters such that such CO Member or CO Indirect Holder is capable of evaluating the merits and risks associated with consummating the transactions contemplated hereby and accepting the Parent Common Stock as consideration in accordance with the terms of the Agreement (including this Annex I), has the capacity to protect such CO Member or CO Indirect Holder's own interests in connection with the transactions contemplated by the Agreement (including this Annex I), and is financially capable of bearing a total loss of the Parent Common Stock; and (d) such CO Member or CO Indirect Holder, by reason of his, her or its business or financial experience or that of its, his or her professional advisers who are unaffiliated with and who are not compensated by Parent or any Affiliate or selling agent of Parent, directly or indirectly, has the capacity to protect such CO Member or CO Indirect Holder's own interests in connection with the transactions contemplated by the Agreement (including this Annex I).

11. Accredited Investor. If shares of Parent Common Stock are issuable to such CO Member or CO Indirect Holder upon consummation of the transactions contemplated hereby, such CO Member or CO Indirect Holder is an "accredited investor" within the meaning of Rule 501 of Regulation D promulgated under the Securities Act, as presently in effect.

12. Purchase Entirely for Own Account. The shares of Parent Common Stock to be received by such CO Member or CO Indirect Holder (if any) will be acquired for investment for such CO Member or CO Indirect Holder's own account, not as a nominee or agent, and not with a view to the distribution of any part thereof, and such CO Member or CO Indirect Holder has no present intention of selling, granting any participation in, or otherwise distributing the same.

Exhibit A

First, redeem the Class A Interests form the Class A Members of TopCo at a price per Class A Interest of $10 until such Class A Interests are redeemed in full (i.e., an aggregate redemption price of $17.5 million).

Next, redeem the Class B Interests and Class C interests pro rata from each member of TopCo holding such interests based on the number of such Interests then held by each such member relative to the aggregate number of such Interests then outstanding; *provided*, *however*, that no unvested Interests shall be redeemed from any member of TopCo.

Each member of TopCo shall be entitled to receive the same ratio of cash and shares of common stock of Parent and, if any member of TopCo is given an option as to the form of consideration to be received, each other member of TopCo will be given the same option; *provided, further*, that, notwithstanding the foregoing, if payment to any member of TopCo in shares of common stock of Parent would require under applicable law (x) the registration or qualification of such securities or of any Person as a broker or dealer or agent with respect to such securities; or (y) the provision to any holder of any information other than such information as a prudent issuer would generally furnish in an offering made solely to "accredited investors" as defined in Regulation D promulgated under the Securities Act, the Company may in its sole discretion elect to pay the aggregate redemption consideration to such member of TopCo in cash, notwithstanding that the other members of TopCo will be paid in shares of common Stock of Parent in whole or in part.

Exhibit 99.1

CarGurus Agrees to Acquire a Majority Stake in Instant Trade Platform, CarOffer

Acquisition Will Fuel CarGurus' Platform Growth, With Expanded Capabilities To Help Dealers Buy and Sell Wholesale Inventory

Cambridge, MA, December 10, 2020 – CarGurus (Nasdaq: CARG), a leading global online automotive marketplace, today announced it has entered into a definitive agreement to acquire a 51% interest in Plano, TX-based CarOffer at an enterprise valuation of $275M, with the ability to buy the remaining equity interest in the company over the next three years. The deal is subject to certain regulatory approvals and other closing conditions.

CarOffer is an automated instant vehicle trade platform that is disrupting the traditional wholesale auction model with technology that enables dealers to bid, transact, inspect and transport seamlessly. The acquisition will add wholesale capabilities to CarGurus' portfolio of dealer offerings, creating a complete and efficient digital solution for dealers to sell and acquire vehicles at both retail and wholesale. The expansion to wholesale is a key component of CarGurus' overall platform strategy, which also includes acceleration of a robust digital retail offering for dealers and consumers.

"CarOffer is disrupting the traditional wholesale auction model in the same way that CarGurus gained our position as the leading online consumer automotive marketplace in the U.S.[1], by leveraging technology, data and analytics to build more transparent solutions," said Jason Trevisan, Chief Financial Officer at CarGurus. "The combination of CarGurus' industry-leading dealer network and our Instant Market Value retail pricing, and CarOffer's instant trade technology and logistics capabilities, creates a powerful selling platform. We believe we will be the most valuable partner to help dealers sell more cars at retail and now also sell and acquire cars in the wholesale channel."

CarGurus is the largest automotive marketplace in the United States, with more visitors[1] and more inventory than any other major online automotive marketplace[2]. The company

1 As measured by total visits (source: Comscore Media Metrix® Multi-Platform, Automotive – Information/Resources, Total Audience, Q3 2020, U.S. (Competitive set includes: CarGurus.com, Autotrader.com, Cars.com, TrueCar.com)).

2 Based on publicly available information as of September 30, 2020, and the Comparative Analysis of U.S. Vehicle Listing Platforms, Bates White Economic Consulting, June 2020; major online automotive marketplaces in the U.S. include CarGurus.com, Autotrader.com, Cars.com, and TrueCar.com.

works with more than 30,000 dealers globally who subscribe to CarGurus' listings and marketing services.

CarOffer was founded by auto industry veteran, Bruce Thompson, who brought the platform to market in August 2019. Unlike traditional vehicle auctions which require manual bidding and vehicle evaluation, CarOffer enables buying dealers to create standing buy orders and provides instant offers to selling dealers. The company's proprietary Buying Matrix™ technology automatically matches the buy orders to vehicle inventory, allowing sellers to simply accept an offer and check out. Since its 2019 launch, CarOffer has experienced substantial growth, with more than 2,000[3] dealership rooftops installed. The company processed over $350M[4] in merchandise and service transactions in the third quarter of 2020.

"I've long admired the team at CarGurus for the innovation they have driven in the automotive retail sector, and the large consumer audience and dealer base they have built," said Bruce Thompson, founder and CEO of CarOffer. "CarOffer gives dealers an entirely new way to win more trades, acquire more used inventory and ultimately sell more cars. We've seen rapid adoption of the platform since our launch, and with CarGurus' investment and dealer reach, we can accelerate that pace and volume to reach even more dealers. The synergies we will create with CarGurus' market data and pricing engine will enable us to provide tools and sourcing capabilities dealers desperately need."

Upon closing, CarOffer will continue to operate independently under its current leadership and will retain its distinct brand and office location in Plano, Texas. Portico Capital is serving as the exclusive financial advisor to CarOffer in the transaction.

The transaction is expected to close in January 2021 pending the requisite regulatory approvals and satisfaction of other closing conditions.

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3 CarOffer installed dealers are dealers that have signed an agreement with CarOffer to participate on the platform and have completed the onboarding process.

4 Total CarOffer transaction volume in Q3 2020 including gross vehicle value of Buying Matrix buy and sell transactions and Buy Center transactions as well applicable fees and transportation costs. Date of transaction is determined upon seller's acceptance of offer, which precedes title transfer and completed inspection.

CarGurus will host a conference call and live webcast to discuss this transaction at 8:30 a.m. Eastern Time today, December 10, 2020. To access the conference call, dial 1-877-451-6152 for the U.S. or Canada, or 1-201-389-0879 for international callers. The live webcast and an associated investor presentation will be available on the Investors section of the company's website at https://investors.cargurus.com.

An audio replay of the call will also be available beginning at approximately 11:30 a.m. Eastern Time today, December 10, 2020, until 11:59 p.m. Eastern Time on December 24, 2020, by dialing 1-844-512-2921 for the U.S. or Canada, or 1-412-317-6671 for international callers, and entering passcode 13713958. In addition, an archived webcast and the associated investor presentation will be available on the Investors section of the company's website at https://investors.cargurus.com.

About CarGurus:

Founded in 2006, CarGurus (Nasdaq: CARG) is a global online automotive marketplace connecting buyers and sellers of new and used cars. The company uses proprietary technology, search algorithms and data analytics to bring trust and transparency to the automotive search experience and help users find great deals from top-rated dealers. CarGurus is the most visited automotive shopping site in the U.S. (source: Comscore Media Metrix® Multi-Platform, Automotive – Information/Resources, Total Audience, Q3 2020, U.S. (Competitive set includes: CarGurus.com, Autotrader.com, Cars.com, TrueCar.com)). In addition to the United States, CarGurus operates online marketplaces in Canada and the United Kingdom. In the United States and the United Kingdom, CarGurus also operates the Autolist and PistonHeads online marketplaces, respectively, as independent brands. To learn more about CarGurus, visit www.cargurus.com.

About CarOffer:

CarOffer is the automotive industry's first instant trade platform for modern day retailing that helps dealers trade more, buy more and make more. Leveraging the power of data, national scale, and the company's proprietary Buying Matrix™ technology, the platform helps dealers acquire and exchange used inventory more efficiently. Developed by one of the recognized pioneers in inventory management software, Bruce Thompson, the CarOffer platform is a singular seamless solution that can replace numerous service providers commonly used by dealerships, offering significant instant savings and efficiencies. For more information, visit www.caroffer.com.

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Cautionary Language Concerning Forward-Looking Statements

This press release includes forward-looking statements. All statements contained in this press release other than statements of historical facts, including, without limitation, statements regarding: our expectations for the closing of the transaction and acquisition of additional equity interests; our expectation that the transaction will enhance our value proposition for dealers, including by creating a complete and efficient digital solution for dealers; our plans to independently operate CarOffer; our ability to accelerate CarOffer's growth through our investment and dealer reach; expected transaction synergies; and the value proposition of our products and our market awareness, are forward-looking statements. The words "anticipate," "believe," "continue," "estimate," "expect," "guide," "intend," "likely," "may," "will" and similar expressions and their negatives are intended to identify forward-looking statements. We have based these forward-looking statements on our current expectations and projections about future events and financial trends that we believe may affect our financial condition, results of operations, business strategy, short-term and long-term business operations and objectives and financial needs. These forward-looking statements are subject to a number of risks and uncertainties, including, without limitation, risks related to: regulatory approval of the transaction with CarOffer or that other conditions to the closing of the transaction may not be satisfied; the potential impact on our or CarOffer's business due to the announcement of the transaction; the occurrence of any event, change or other circumstances that could give rise to the termination of the definitive transaction agreement with CarOffer; our growth and ability to grow our revenue; our relationships with dealers; competition in the markets in which we operate; market growth; our ability to innovate; our ability to realize benefits from our acquisitions generally and successfully implement the integration strategies in connection therewith; natural disasters, epidemics or pandemics, like COVID-19 that has negatively impacted our business; our ability to operate in compliance with applicable laws, as well as other

risks and uncertainties set forth in the “Risk Factors” section of our Quarterly Report on Form 10-Q, filed on November 5, 2020 with the Securities and Exchange Commission (SEC), and subsequent reports that we file with the SEC. Moreover, we operate in very competitive and rapidly changing environments. New risks emerge from time to time. It is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements we may make. In light of these risks, uncertainties and assumptions, we cannot guarantee that future results, levels of activity, performance, achievements or events and circumstances reflected in the forward-looking statements will occur. We are under no duty to update any of these forward-looking statements after the date of this press release to conform these statements to actual results or revised expectations, except as required by law. You should, therefore, not rely on these forward-looking statements as representing our views as of any date subsequent to the date of this press release.