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): February 28, 2022

ZIMVIE INC.
(Exact name of registrant as specified in its charter)

Delaware	**001-41242**	**87-2007795**
(State or other jurisdiction of incorporation)	**(Commission File Number)**	**(IRS Employer Identification No.)**

10225 Westmoor Drive
Westminster, Colorado 80021
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (303) 443-7500

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 (*see* General Instruction A.2. below):

☐ 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
Common Stock, $0.01 par value	**ZIMV**	**Nasdaq Stock 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.

Agreements with Zimmer Biomet Holdings, Inc.

On March 1, 2022 (the "Distribution Date"), Zimmer Biomet Holdings, Inc. ("Zimmer Biomet") completed the previously announced separation (the "Separation") of its spine and dental businesses through the distribution by Zimmer Biomet of 80.3% of the outstanding shares of common stock of ZimVie Inc. (the "Company" or "ZimVie") to Zimmer Biomet stockholders at the close of business on February 15, 2022 (the "Record Date"). The distribution was made in the amount of one share of Company common stock for every ten shares of Zimmer Biomet common stock (the "Distribution") owned by Zimmer Biomet stockholders at the close of business on the Record Date.

On March 1, 2022, the Company entered into definitive agreements with Zimmer Biomet and its subsidiaries that, among other things, set forth the terms and conditions of the Separation and the Distribution. The agreements, which set forth the principles and actions taken or to be taken in connection with the Separation and the Distribution and provide a framework for Zimmer Biomet's relationship with the Company from and after the Separation and the Distribution, include a Separation and Distribution Agreement (the "Separation Agreement"), a Tax Matters Agreement (the "Tax Matters Agreement"), an Employee Matters Agreement (the "Employee Matters Agreement"), a Transition Services Agreement (the "Transition Services Agreement"), an Intellectual Property Matters Agreement (the "Intellectual Property Matters Agreement"), a Stockholder and Registration Rights Agreement (the "Stockholder and Registration Rights Agreement"), a Transition Manufacturing and Supply Agreement (the "Transition Manufacturing and Supply Agreement"), a Reverse Transition Manufacturing and Supply Agreement (the "Reverse Transition Manufacturing and Supply Agreement") and a Transitional Trademark License Agreement (the "Transitional Trademark License Agreement"), each dated as of March 1, 2022. Additionally, the Company previously entered into a Credit Agreement, dated as of December 17, 2021 (the "Credit Agreement"), with JP Morgan Chase Bank, N.A., as administrative agent and syndication agent, and the lenders and issuing banks named therein.

The descriptions included below of the Separation Agreement, the Tax Matters Agreement, the Employee Matters Agreement, the Transition Services Agreement, the Intellectual Property Matters Agreement, the Stockholder and Registration Rights Agreement, the Transition Manufacturing and Supply Agreement, the Reverse Transition Manufacturing and Supply Agreement, the Transitional Trademark License Agreement and the Credit Agreement do not purport to be complete and are qualified in their entirety by reference to the full text of such agreements, which are included as Exhibits 2.1, 10.1, 10.2, 10.3, 10.4, 10.5, 10.6, 10.7, 10.8 and 10.9, respectively, to this Current Report on Form 8-K and incorporated by reference in this Item 1.01.

Separation and Distribution Agreement

The Separation Agreement sets forth the Company's agreements with Zimmer Biomet regarding the principal actions to be taken in connection with the Separation and the Distribution. It also sets forth other agreements that govern aspects of the Company's relationship with Zimmer Biomet following the Separation and the Distribution. The Separation Agreement provides for, among other things, (i) the assets to be transferred, the liabilities to be assumed and the contracts to be assigned to each of the Company and Zimmer Biomet as part of the Separation, (ii) cross-indemnities principally designed to place financial responsibility for the obligations and liabilities of the ZimVie businesses with the Company and financial responsibility for the obligations and liabilities of Zimmer Biomet's remaining businesses with Zimmer Biomet, (iii) procedures with respect to claims subject to indemnification and related matters and governing the Company's and Zimmer Biomet's obligations and allocations of liabilities with respect to ongoing litigation matters and (iv) the allocation between the Company and Zimmer Biomet of rights and obligations under existing insurance policies with respect to occurrences prior to completion of the Distribution.

The Separation Agreement also provides that, in order to obtain certain requisite governmental approvals, or for other business reasons, following the Distribution Date, Zimmer Biomet and certain of its affiliates will continue to operate certain activities relating to the ZimVie businesses in certain jurisdictions until the requisite approvals have been received or the occurrence of all other actions permitting the legal transfer of such activities, and the Company will receive, to the greatest extent possible, all of the economic benefits and burdens of such activities.

Transition Services Agreement

Pursuant to the Transition Services Agreement, the Company and Zimmer Biomet will provide certain services to one another, on an interim, transitional basis following the Separation and the Distribution. The services to be provided will include certain regulatory services, commercial services, operational services, tax services, clinical affairs services, information technology services, finance and accounting services and human resource and employee benefits services. The agreed-upon charges for such services are generally intended to allow the providing company to recover all costs and expenses of providing such services. The Transition Services Agreement terminates on the expiration of the term of the last service provided thereunder, which will generally be no later than March 31, 2025. Subject to certain exceptions in the case of willful misconduct or fraud, the liability of each of Zimmer Biomet and the Company under the Transition Services Agreement for the services it provides will be limited to the aggregate service fees paid to it in the immediately preceding one-year period.

Tax Matters Agreement

The Tax Matters Agreement governs the respective rights, responsibilities and obligations of the Company and Zimmer Biomet after the Distribution with respect to taxes (including taxes arising in the ordinary course of business and taxes, if any, incurred as a result of any failure of the Distribution and certain related transactions to qualify as tax-free for U.S. federal income tax purposes), tax attributes, the preparation and filing of tax returns, tax elections, the control of audits and other tax proceedings and assistance and cooperation in respect of tax matters.

The Tax Matters Agreement also imposes certain restrictions on the Company and its subsidiaries (including, among others, restrictions on share issuances, business combinations, sales of assets and similar transactions) designed to preserve the tax-free status of the Distribution and certain related transactions. The Tax Matters Agreement provides special rules that allocate tax liabilities in the event the Distribution, together with certain related transactions, does not qualify as tax-free. In general, under the Tax Matters Agreement, each party is expected to be responsible for any taxes imposed on Zimmer Biomet or the Company, as the case may be, that arise from the failure of the Distribution, together with certain related transactions, to qualify as a transaction that is generally tax-free under Sections 355 and 368(a)(1)(D) and certain other relevant provisions of the Code, to the extent that the failure to so qualify is attributable to actions, events or transactions relating to such party's respective stock, assets or business, or a breach of the relevant representations or covenants made by that party in the Tax Matters Agreement. However, if such failure was the result of any acquisition of the Company's shares or assets, or of any of the Company's representations, statements or undertakings being incorrect, incomplete or breached, the Company generally will be responsible for all taxes imposed as a result of such acquisition or breach.

Employee Matters Agreement

The Employee Matters Agreement allocates liabilities and responsibilities relating to employment matters, employee compensation and benefits plans and programs and other related matters. The Employee Matters Agreement governs certain compensation and employee benefits obligations with respect to the current and former employees and non-employee directors of each party. The Employee Matters Agreement provides that, except as otherwise specified, Zimmer Biomet is generally responsible for liabilities associated with employees who will remain employed by Zimmer Biomet and former employees whose last employment was with Zimmer Biomet's businesses, and the Company is generally responsible for liabilities associated with employees who are or will be employed by the Company and former employees whose last employment was with the ZimVie businesses. The Employee Matters Agreement provides for the conversion of the outstanding awards granted under Zimmer Biomet's equity compensation programs into adjusted awards relating to shares of Zimmer Biomet and/or Company common stock in a manner intended to preserve the aggregate intrinsic value of the original awards. The adjusted awards are subject to substantially the same terms, vesting conditions, post-termination exercise rules and other restrictions that applied to the original Zimmer Biomet awards immediately before the Separation.

Intellectual Property Matters Agreement

Pursuant to the Intellectual Property Matters Agreement, Zimmer Biomet grants to the Company a non-exclusive, perpetual, royalty-free, fully paid-up, irrevocable, non-sublicensable license to use certain intellectual property rights retained by Zimmer Biomet, except that the Company will be permitted to sublicense the Company's rights in connection with activities relating to the ZimVie businesses but not for independent use by third parties. The Company also grants back to Zimmer Biomet a non-exclusive, perpetual, royalty-free, fully paid-up, irrevocable, non-sublicensable license to continue to use all intellectual property rights owned by or transferred to the Company, except that Zimmer Biomet will be permitted to sublicense its rights in connection with activities relating to Zimmer Biomet's and its affiliates' retained businesses but not for independent use by third parties.

Transitional Trademark License Agreement

Pursuant to the Transitional Trademark License Agreement, Zimmer Biomet grants to the Company a non-exclusive, royalty-free, non-transferable, non-assignable, and worldwide license to use certain Zimmer Biomet trademarks, corporate names and domain names for a transitional period following the Distribution. The license will allow the Company to continue using certain of Zimmer Biomet's trademarks in order to provide sufficient time for the Company to rebrand or phase out its use of the licensed marks. Zimmer Biomet will also redirect certain licensed domain names to new domain names provided by the Company for a specific period of time. The Company agreed to use commercially reasonable efforts to remove and cease using Zimmer Biomet's trademarks on any promotional or other publicly available materials, and will generally discontinue such use as soon as reasonably practicable.

Transition Manufacturing and Supply Agreement and Reverse Transition Manufacturing and Supply Agreement

Pursuant to the Transition Manufacturing and Supply Agreement and the Reverse Transition Manufacturing and Supply Agreement, the Company or Zimmer Inc., a wholly-owned subsidiary of Zimmer Biomet ("ZINC"), as the case may be, will manufacture or cause to be manufactured certain products for the other party, on an interim, transitional basis. Pursuant to such agreements, the Company or ZINC, as the case may be, will be required to purchase certain minimum amounts of products from the other party. The Transition Manufacturing and Supply Agreement and the Reverse Transition Manufacturing and Supply Agreement will terminate on the expiration of the term of the last product manufactured by the Company or ZINC, as the case may be, pursuant to such agreements, which will generally be no later than March 1, 2027.

Stockholder and Registration Rights Agreement

Pursuant to the Stockholder and Registration Rights Agreement, upon the request of Zimmer Biomet, the Company will use reasonable best efforts to effect the registration under applicable federal and state securities laws of any shares of Company common stock retained by Zimmer Biomet. In addition, Zimmer Biomet agrees to vote any shares of Company common stock that it retains after the Separation and the Distribution in proportion to the votes cast by the Company's other stockholders. In connection with such agreement, Zimmer Biomet will grant the Company a proxy to vote the shares of Company common stock retained by Zimmer Biomet in such proportion. Such proxy will be automatically revoked as to any particular share upon any sale or transfer of such share from Zimmer Biomet to a person other than Zimmer Biomet, and neither the voting agreement nor proxy will limit or prohibit any such sale or transfer.

Credit Agreement

The Company's Credit Agreement provides for revolving loans of up to $175 million (the "Revolver") and term loan borrowings of up to $595 million. On February 28, 2022, the Company borrowed the entire $595 million of available term loan borrowings (the "Original Term Loan Borrowing") and has repaid $34 million of the Original Term Loan Borrowing on the Distribution Date, with the repayment applying ratably to the entire schedule of amortization payments (including the payment due on the maturity date of the Original Term Loan Borrowing) (the $561 million of term borrowings following such repayment being referred to as the "Term Loan" and, together with the Revolver, the "Credit Facility").

The Credit Facility has an initial term of five years after the date on which funds are initially advanced. Subject to reduction as a result of the $34 million prepayment of the Original Term Loan Borrowing on the Distribution Date, the Term Loan will amortize in equal quarterly installments in an aggregate amount equal to (i) 2.5% per annum of the original principal amount of the Original Term Loan Borrowing for the first two years of the facility, (ii) 5.0% per annum of the original principal amount of the Original Term Loan Borrowing for the following year of the facility and (iii) 10.0% per annum of the original principal amount of the Original Term Loan Borrowing for the last two years of the facility, commencing at the end of the fiscal quarter ending June 30, 2022, with the unpaid balance due in full on the maturity date. The Company is permitted to voluntarily prepay the loans under the Credit Facility at any time without premium or penalty, other than breakage fees. The Company may request, subject to obtaining commitments from any participating lenders and certain other conditions, incremental commitments to increase the amount of the Revolver or the Term Loan available under the Credit Facility in an aggregate principal amount equal to $70.0 million, plus additional amounts, subject to the terms and conditions of the Credit Facility.

Borrowings under the Revolver and the Term Loan will bear interest, in the case of each term benchmark borrowing, at the adjusted term secured overnight financing rate ("SOFR") for the interest period in effect for such borrowing, plus an applicable margin, which will range from 1.50% to 1.75%, based on the Company's consolidated total net leverage ratio. Borrowings under the Credit Facility that are not term benchmark borrowings will bear interest at a per annum rate equal to (a) the greatest of (i) the prime rate in effect on such day, (ii) the Federal Reserve Bank of New York rate in effect on such day plus ½ of 1% and (iii) the adjusted term SOFR for a one month interest period as published two U.S. government securities business days prior to such day (or if such day is not a business day, the immediately preceding business day) plus 1%, plus (b) an applicable margin, which may range from 0.50% to 0.75%, based on the Company's consolidated total net leverage ratio. As of March 1, 2022, the applicable margin was 1.75% for term benchmark borrowings and 0.75% for non-term benchmark borrowings. Commitments under the Revolver will be subject to a commitment fee on the unused portion of the Revolver of 25 basis points.

The Credit Facility contains various covenants that restrict the ability of the Company and its subsidiaries to take certain actions, including incurrence of indebtedness, creation of liens, mergers or consolidations, dispositions of assets, making certain investments, prepayments or redemptions of subordinated debt, or making certain restricted payments. In addition, the Credit Facility contains financial covenants that require the Company to maintain at the end of any of its fiscal quarters commencing with the fiscal quarter ending June 30, 2022, a maximum consolidated total net leverage ratio of 6.00 to 1.00. The Credit Facility also contains various customary events of default, including payment defaults, defaults under certain other indebtedness, and a change of control of the Company.

Item 2.01 Completion of Acquisition or Disposition of Assets.

At 12:01 a.m., Eastern Time, on the Distribution Date (the "Effective Time"), Zimmer Biomet effected the Distribution. The Distribution was made in the amount of one share of Company common stock for every ten shares of Zimmer Biomet common stock owned by Zimmer Biomet stockholders at the close of business on the Record Date. Fractional shares of Company common stock were not delivered in the Distribution. Any fractional share of Company common stock otherwise issuable to a Zimmer Biomet stockholder will be sold in the open market, and such stockholder will receive a cash payment for the fractional share based on the stockholder's pro rata portion of the net cash proceeds from sales of all fractional shares. As a result of the completion of the Distribution, the Company is now an independent public company trading under the symbol "ZIMV" on the Nasdaq Stock Market. Zimmer Biomet retained 19.7% of the outstanding shares of Company common stock.

The information set forth under Item 1.01 of this Current Report on Form 8-K is incorporated by reference in this Item 2.01.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information set forth under the subheading "Credit Agreement" under Item 1.01 of this Current Report on Form 8-K is incorporated by reference in this Item 2.03.

Item 3.03 Material Modifications to Rights of Security Holders.

The information set forth under Item 5.03 of this Current Report on Form 8-K regarding the Amended and Restated Certificate of Incorporation is incorporated by reference in this Item 3.03.

Item 5.01 Changes in Control of Registrant.

The information set forth under Item 1.01 and Item 2.01 of this Current Report on Form 8-K is incorporated by reference in this Item 5.01.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Appointment of Directors

Effective as of the Effective Time, Vinit Asar, Sally Crawford, Richard Kuntz, M.D. and Karen Matusinec were appointed to the Board of Directors of the Company (the "Board"). Vafa Jamali and David King, who were previously appointed to the Board, continue to serve as directors of the Company.

The Board is comprised of three classes, as follows:

- Class I: Vinit Asar and Richard Kuntz, M.D. are Class I directors, whose terms expire at the first annual meeting of the Company's stockholders following the Distribution;
- Class II: Sally Crawford and Karen Matusinec are Class II directors, whose terms expire at the second annual meeting of the Company's stockholders following the Distribution; and
- Class III: Vafa Jamali and David King are Class III directors, whose terms expire at the third annual meeting of the Company's stockholders following the Distribution.

In connection with their joining the Board, Mr. Asar, Ms. Crawford, Dr. Kuntz and Ms. Matusinec were appointed to the Audit Committee, the Compensation Committee, the Corporate Governance Committee and the Quality, Regulatory and Technology Committee of the Board (the "Board Committees"), effective as of the Effective Time. The current composition of each of the Board Committees is as follows:

- The Audit Committee consists of Vinit Asar, Sally Crawford, David King, Richard Kuntz, M.D. and Karen Matusinec, with Karen Matusinec serving as the Chairperson.
- The Compensation Committee consists of Vinit Asar, Sally Crawford, David King, Richard Kuntz, M.D. and Karen Matusinec, with Sally Crawford serving as the Chairperson.
- The Corporate Governance Committee consists of Vinit Asar, Sally Crawford, David King, Richard Kuntz, M.D. and Karen Matusinec, with David King serving as the Chairperson.
- The Quality, Regulatory and Technology Committee consists of Vinit Asar, Sally Crawford, David King, Richard Kuntz, M.D. and Karen Matusinec, with Vinit Asar serving as the Chairperson.

Except for the biographical information set forth below for Dr. Kuntz, biographical information for the Company's directors can be found in the information statement which is included as Exhibit 99.1 to the Company's Current Report on Form 8-K filed with the U.S. Securities and Exchange Commission (the "SEC") on February 22, 2022 (the "Information Statement") under the section entitled "Board of Directors and Corporate Governance". Information regarding the compensation of the Company's directors and the Company's director compensation plans can be found in the Information Statement under the section entitled "Director Compensation." Such information is incorporated by reference in this Item 5.02. There are no arrangements or understandings between any of the directors named above and any other person pursuant to which such director was appointed to the Board.

There are no relationships between the directors named above and Zimmer Biomet that would require disclosure pursuant to Item 404(a) of Regulation S-K.

Richard Kuntz, M.D., M.Sc., has served as Senior Vice President, Chief Medical and Scientific Officer of Medtronic plc (NYSE: MDT) since 2009. In that role, Dr. Kuntz is responsible for medical affairs, health policy and reimbursement, clinical research activities, and corporate technology. Prior to that, he served as Senior Vice President and President, Neuromodulation of Medtronic from October 2005 to August 2009. Before joining Medtronic, Dr. Kunz was an interventional cardiologist and Chief of the Division of Clinical Biometrics at Brigham and Women's Hospital and Associate Professor of Medicine and Chief Scientific Officer of the Harvard Clinical Research Institute. Dr. Kuntz served as a member of the Board of Governors of PCORI (Patient-Centered Outcomes Research Institute) from 2010 to 2018. Dr. Kuntz graduated from Miami University, and received his medical degree from Case Western Reserve University School of Medicine. He completed his residency and chief residency in internal medicine at the University of Texas Southwestern Medical School, and then completed fellowships in cardiovascular diseases and interventional cardiology at the Beth Israel Hospital and Harvard Medical School, Boston. Dr. Kuntz received his Master's of Science in biostatistics from the Harvard School of Public Health. Dr. Kunz will bring to the board expertise in medicine and medical devices, including clinical trials, biostatistics and evidence development, as well as executive leadership, business development and mergers and acquisitions experience.

Appointment of Executive Officers

Prior to the Effective Time, the following individuals were appointed to the positions below and continue to serve in such positions after the Distribution:

Vafa Jamali	President and Chief Executive Officer
Richard Heppenstall	Executive Vice President, Chief Financial Officer and Treasurer
Rebecca Whitney	Senior Vice President and President, Global Spine
Indraneel Kanaglekar	Senior Vice President and President, Global Dental
David Harmon	Senior Vice President, Chief Human Resources Officer
Heather Kidwell	Senior Vice President, Chief Legal and Compliance Officer and Corporate Secretary

Biographical information about and compensation information for each of the executive officers can be found in the Information Statement under the sections entitled "Management", "Executive Compensation" and "The Separation and Distribution—Treatment of Equity-Based Compensation". Such information is incorporated by reference in this Item 5.02.

Adoption of Equity Incentive Plans

As of March 1, 2022, the following equity compensation plans became effective:

- ZimVie Inc. 2022 Stock Incentive Plan (the "Stock Incentive Plan")
- ZimVie Inc. Stock Plan for Non-Employee Directors (the "Non-Employee Directors' Stock Plan")
- ZimVie Inc. Deferred Compensation Plan for Non-Employee Directors (the "Deferred Compensation Plan" and, together with the Stock Incentive Plan and the Non-Employee Directors' Stock Plan, collectively, the "Plans")

The descriptions included below of the Stock Incentive Plan, the Non-Employee Directors' Stock Plan and the Deferred Compensation Plan do not purport to be complete and are qualified in their entirety by reference to the full text of such Plans, which are included as Exhibits 10.10, 10.11 and 10.12, respectively, to this Current Report on Form 8-K and incorporated by reference in this Item 5.02.

Stock Incentive Plan

The purpose of the Stock Incentive Plan is to promote the success and enhance the value of the Company by linking the personal interests of the Company's employees and other service providers to those of the Company stockholders and by providing individuals who provide services to the Company with long-term incentives for outstanding performance. The plan provides for awards of options, stock appreciation rights, performance shares, performance units, restricted stock, and/or restricted stock units ("RSUs"). The maximum aggregate number of shares of Company common stock that may be issued under the Stock Incentive Plan will not exceed 3,000,000, excluding shares subject to issuance pursuant to awards of Zimmer Biomet stock options, RSUs or performance restricted stock units ("PRSUs") that will be converted to Company stock options, RSUs or PRSUs in connection with the Separation, which will be issued under the Stock Incentive Plan but will not be counted against the foregoing limitation. In addition, the Stock Incentive Plan will contain a limit on the number of shares of Company common stock available for grant in the form of incentive stock options of 1,000,000 shares. Additional information regarding the Stock Incentive Plan can be found in the Information Statement under the section entitled "Executive Compensation—ZimVie's Anticipated Executive Compensation Programs—2022 Stock Incentive Plan." Such information is incorporated by reference in this Item 5.02.

Non-Employee Directors' Stock Plan

The purpose of the Non-Employee Directors' Stock Plan is to provide the incentive inherent in increased ownership of shares of Company common stock by members of the Board who are not employees of the Company. The Non-Employee Directors' Stock Plan provides for awards of restricted stock, RSUs and/or stock options. The aggregate number of shares of Company common stock that may be issued under the Non-Employee Directors' Stock Plan will not exceed 400,000 shares, subject to adjustment. The sum of the grant date fair value of all awards payable in shares of Company common stock and the maximum cash value of any other award granted under the Non-Employee Directors' Stock Plan to an individual, together with cash compensation paid to such director, during any calendar year will not exceed $700,000.

Deferred Compensation Plan for Non-Employee Directors

Pursuant to the Deferred Compensation Plan, the Company will award each non-employee director deferred share units ("DSUs") annually with an initial value based on the price of Company common stock on that date. The Company will require that these annual DSU awards be credited to a deferred compensation account under the provisions of the Deferred Compensation Plan. DSUs will represent an unfunded, unsecured right to receive shares of Company common stock or the equivalent value in cash, and the value of DSUs will vary directly with the price of Company common stock. The Company will also require that 50% of a director's annual cash retainer be deferred and credited to his or her deferred compensation account in the form of DSUs with an initial value equal to the amount of fees deferred until the director holds a total of at least 5,000 DSUs. Non-employee directors may elect to defer receipt of compensation in excess of their mandatory deferral and annual DSU award. Elective deferrals will be credited to the director's deferred compensation account in the form of either treasury units, dollar units or DSUs with an initial value equal to the amount of fees deferred. Additional information regarding the Deferred Compensation Plan can be found in the Information Statement under the section entitled "Director Compensation—Equity-Based Compensation and Mandatory Referrals." Such information is incorporated by reference in this Item 5.02.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

In connection with the completion of the Separation and the Distribution, on February 28, 2022, the Company's Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws became effective. A summary of the Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws is included in the Information Statement under the section entitled "Description of Our Capital Stock." Such information is incorporated by reference in this Item 5.03. Such descriptions do not purport to be complete and are qualified in their entirety by reference to the full text of the Company's Amended and Restated Certificate of Incorporation and the Amended and Restated Bylaws, which are attached as Exhibits 3.1 and 3.2, respectively, to this Current Report on Form 8-K and incorporated by reference in this Item 5.03.

Item 8.01 Other Events.

On March 1, 2022, the Company issued a press release announcing the completion of the Distribution. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated by reference in this Item 8.01.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit No.	Description
2.1	Separation and Distribution Agreement, dated as of March 1, 2022, by and between Zimmer Biomet Holdings, Inc. and ZimVie Inc.
3.1	Amended and Restated Certificate of Incorporation of ZimVie Inc.
3.2	Amended and Restated Bylaws of ZimVie Inc.
10.1	Tax Matters Agreement, dated as of March 1, 2022, by and between Zimmer Biomet Holdings, Inc. and ZimVie Inc.
10.2	Employee Matters Agreement, dated as of March 1, 2022, by and between Zimmer Biomet Holdings, Inc. and ZimVie Inc.
10.3	Transition Services Agreement, dated as of March 1, 2022, by and between Zimmer Biomet Holdings, Inc. and ZimVie Inc.
10.4	Intellectual Property Matters Agreement, dated as of March 1, 2022, by and between Zimmer Biomet Holdings, Inc. and ZimVie Inc.
10.5	Stockholder and Registration Rights Agreement, dated as of March 1, 2022, by and between Zimmer Biomet Holdings, Inc. and ZimVie Inc.
10.6	Transition Manufacturing and Supply Agreement, dated as of March 1, 2022, by and between Zimmer Inc. and ZimVie Inc.
10.7	Reverse Transition Manufacturing and Supply Agreement, dated as of March 1, 2022, by and between Zimmer Inc. and ZimVie Inc.
10.8	Transitional Trademark License Agreement, dated as of March 1, 2022, by and between Zimmer Biomet Holdings, Inc. and ZimVie Inc.
10.9	Credit Agreement, dated as of December 17, 2021, by and among ZimVie Inc., as borrower, JPMorgan Chase Bank, N.A., as administrative agent and syndication agent, and the lenders and issuing banks named therein (incorporated by reference to Exhibit 10.18 of the Company's Amendment No. 1 to Form 10 Registration Statement filed with the SEC on February 2, 2022).
10.10	ZimVie Inc. 2022 Stock Incentive Plan (incorporated by reference to Exhibit 4.3 of the Company's Form S-8 Registration Statement (Registration No. 333-263069) filed with the SEC on February 28, 2022).
10.11	ZimVie Inc. Stock Plan for Non-Employee Directors (incorporated by reference to Exhibit 4.4 of the Company's Form S-8 Registration Statement (Registration No. 333-263069) filed with the SEC on February 28, 2022).
10.12	ZimVie Inc. Deferred Compensation Plan for Non-Employee Directors (incorporated by reference to Exhibit 4.5 of the Company's Form S-8 Registration Statement (Registration No. 333-263069) filed with the SEC on February 28, 2022).
99.1	Press release, dated as of March 1, 2022, announcing completion of the Separation and the Distribution.
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: March 1, 2022

ZIMVIE INC.

By: /s/ Heather Kidwell
Name: Heather Kidwell
Title: Senior Vice President, Chief Legal and Compliance Officer and Corporate Secretary

Exhibit 2.1

SEPARATION AND DISTRIBUTION AGREEMENT
BY AND BETWEEN
ZIMMER BIOMET HOLDINGS, INC.
AND
ZIMVIE INC.
DATED AS OF MARCH 1, 2022

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SCHEDULES

EXHIBITS

SEPARATION AND DISTRIBUTION AGREEMENT

This SEPARATION AND DISTRIBUTION AGREEMENT, dated as of March 1, 2022 (this "Agreement"), is by and between Zimmer Biomet Holdings, Inc., a Delaware corporation ("Parent"), and ZimVie Inc., a Delaware corporation ("SpinCo"). Capitalized terms used herein and not otherwise defined shall have the respective meanings assigned to them in Article I.

R E C I T A L S

WHEREAS, the board of directors of Parent (the "Parent Board") has determined that it is in the best interests of Parent and its stockholders to create a new publicly traded company that shall operate the SpinCo Business;

WHEREAS, in furtherance of the foregoing, the Parent Board has determined that it is appropriate and desirable for Parent to (a) separate the SpinCo Business from the Parent Business (the "Separation"), and (b) following the Separation, make a distribution, on a pro rata basis, to holders of Parent Shares on the Record Date of 80.3% of the outstanding SpinCo Shares (the "Distribution");

WHEREAS, SpinCo has been incorporated solely for these purposes and has not engaged in activities, except in connection with the Separation and the Distribution;

WHEREAS, in order to effect the Separation, the boards of directors of Parent and certain of its Subsidiaries have approved the transfer of the SpinCo Business, in a series of transactions, culminating in the contribution by Parent to SpinCo of all of its equity interests in ZimVie Holdings US 2 LLC, a Delaware limited liability company which has elected to be treated as a corporation for U.S. federal income tax purposes (such contribution, the "Contribution") in exchange for: (i) the issuance by SpinCo to Parent of SpinCo Shares and (ii) the SpinCo Cash Distribution;

WHEREAS, after receiving the SpinCo Cash Distribution, Parent will transfer the proceeds of the SpinCo Cash Distribution, together with cash on hand, to Parent creditors in satisfaction of Parent indebtedness in the manner described in the Private Letter Ruling;

WHEREAS, SpinCo Shares not distributed in the Distribution (the "Remainder Stock") are intended to be transferred by Parent to Parent creditors in satisfaction of Parent indebtedness in the manner described in the Private Letter Ruling;

WHEREAS, if any portion of the Remainder Stock has not been transferred to Parent creditors in satisfaction of Parent indebtedness, Parent will dispose of such Remainder Stock as soon as disposition is warranted consistent with the purpose for retaining such Remainder Stock and in all events within five (5) years of the Distribution;

WHEREAS, for U.S. federal income tax purposes, the Contribution and the Distribution, taken together, are intended to qualify as a transaction described in Sections 355 and 368(a)(1)(D) of the Code, and this Agreement is intended to be, and is hereby adopted as, a "plan of reorganization" within the meaning of Treasury Regulations Section 1.368-2(g);

WHEREAS, SpinCo and Parent have prepared, and SpinCo has filed with the SEC, the Form 10, which includes the Information Statement, and which sets forth disclosures concerning SpinCo, the Separation and the Distribution;

WHEREAS, each of Parent and SpinCo has determined that it is appropriate and desirable to set forth the principal corporate transactions required to effect the Separation and the Distribution and certain other agreements that will govern certain matters relating to the Separation and the Distribution and the relationship of Parent, SpinCo and the members of their respective Groups following the Distribution; and

WHEREAS, the Parties acknowledge that this Agreement and the Ancillary Agreements represent the integrated agreement of Parent and SpinCo relating to the Separation and the Distribution, are being entered into together, and would not have been entered into independently.

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I
DEFINITIONS

For the purpose of this Agreement, the following terms shall have the following meanings:

"Action" shall mean any demand, action, claim, dispute, suit, countersuit, arbitration, inquiry, subpoena, proceeding or investigation of any nature (whether criminal, civil, legislative, administrative, regulatory, prosecutorial or otherwise) by or before any federal, state, local, foreign or international Governmental Authority or any arbitration or mediation tribunal.

"Affiliate" shall mean, when used with respect to a specified Person, a Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified Person. For the purpose of this definition, "control" (including, with correlative meanings, "controlled by" and "under common control with"), when used with respect to any specified Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or other interests, by contract, agreement, obligation, indenture, instrument, lease, promise, arrangement, release, warranty, commitment, undertaking or otherwise. It is expressly agreed that, prior to, at and after the Effective Time, solely for purposes of this Agreement and the Ancillary Agreements, (a) no member of the SpinCo Group shall be deemed to be an Affiliate of any member of the Parent Group and (b) no member of the Parent Group shall be deemed to be an Affiliate of any member of the SpinCo Group.

"Agreement" shall have the meaning set forth in the Preamble.

"Ancillary Agreements" shall mean all agreements (other than this Agreement) entered into by the Parties or the members of their respective Groups (but only agreements as to which no Third Party is a party) in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, including the Transition Services Agreement, the Tax Matters Agreement, the Employee Matters Agreement, the Intellectual Property Matters Agreement, the Transitional Trademark License Agreement, the Stockholder and Registration Rights Agreement, the Transition Manufacturing and Supply Agreement, the Reverse Transition Manufacturing and Supply Agreement, the Fiber DBM License Agreement, the NaviScout Product Development Agreement, the ProOsteon Bill of Sale and Assignment, the CaP Spheres Assignment and Assumption Agreement, the CopiOs Non-Exclusive Trademark License, the Sulene Non-Exclusive Trademark License, the Protasul Non-Exclusive Trademark License, the Undisclosed Agent Agreement, the Net Economic Benefit Agreement, the Business Lease Agreements, the Business Transfer Agreements, any sublease agreements and the Transfer Documents.

"Approvals or Notifications" shall mean any consents, waivers, approvals, permits or authorizations to be obtained from, notices, registrations or reports to be submitted to, or other filings to be made with, any Third Party, including any Governmental Authority.

"Assets" shall mean, with respect to any Person, the assets, properties, claims and rights (including goodwill) of such Person, wherever located (including in the possession of vendors or other Third Parties or elsewhere), of every kind, character and description, whether real, personal or mixed, tangible, intangible or contingent, in each case whether or not recorded or reflected or required to be recorded or reflected on the books and records or financial statements of such Person, including rights and benefits pursuant to any contract, license, permit, indenture, note, bond, mortgage, agreement, concession, franchise, instrument, undertaking, commitment, understanding or other arrangement.

"Business Lease Agreements" shall mean the Zimmer GmbH Business Lease Agreement and the Zimmer Biomet France Business Lease Agreement.

"Business Transfer Agreements" shall mean the agreements set forth on Schedule 1.10.

"CaP Spheres Assignment and Assumption Agreement" shall mean the Assignment and Assumption Agreement to be entered into by and between Zimmer Biomet Spine, Inc. and Biomet Manufacturing LLC or their respective Subsidiaries in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement.

"Change of Control" shall mean with respect to a Person shall mean any occurrence resulting in (i) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) becoming the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities entitled to vote in the election of members of the board of directors or similar governing body of such Person having 50% or more of the then-outstanding voting power of such Person; (ii) such Person becoming a party to a merger, consolidation, share exchange, reorganization, sale of assets or other similar extraordinary transaction, or a proxy contest, in each case as a consequence of which members of the board of directors or similar governing body of such Person in office immediately prior to such transaction or event constitute less than a majority of such board or other body thereafter; or (iii) during any period of two (2) consecutive years, individuals who at the beginning of such period constituted the board of directors or similar governing body of such Person (including for this purpose any new director or similar person whose election or nomination for election was approved by a vote of at least two-thirds of the directors or similar persons then still in office who served in such capacities at the beginning of such period, other than those such directors or similar persons appointed, or nominated for election, in connection with an actual or threatened proxy contest or other non-consensual attempt to influence or modify such board or other body) ceasing for any reason to constitute at least a majority of such board or other body.

"CPR" shall have the meaning set forth in Section 7.2.

"CPR Rules" shall have the meaning set forth in Section 7.3(a).

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Contribution" shall have the meaning set forth in the Recitals.

"Controlling Party" shall have the meaning set forth in Section 5.9(b).

"CopiOs Non-Exclusive Trademark License" shall mean the CopiOs Non-Exclusive Trademark License to be entered into by and between Parent and SpinCo or their respective Subsidiaries in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement.

"Copyrights" shall mean any and all mask work rights, industrial designs, design and database rights, works of authorship (whether or not copyrightable), copyrights, copyrights and copyrightable subject matter and similar rights in protectable material, including "moral", "economic" rights and all applications and registrations for the foregoing, but in each case, excluding Know-How.

"Credit Support Instruments" shall mean any letters of credit, performance bonds, surety bonds (including, with respect to the surety bonds, letters of credit and performance bonds set forth on Schedule 1.1(a), the allocable portion of the surety bonds, letters of credit and performance bonds as set forth on Schedule 1.1(b)), bankers acceptances, or other similar arrangements.

"Custodial Party" shall have the meaning set forth in Section 6.4(a)

"Customer Information" shall mean, with respect to any business, all information relating to customers of such business, including names, addresses and transaction data (including merchandise or service purchased, purchase price paid, purchase location (such as particular branch or online), date and time of day of purchase, adjustments and related information and means of payment).

"D&O Policies" shall have the meaning set forth in Section 5.7.

"Deferred Market" shall have the meaning set forth in Section 2.4(a).

"Deferred SpinCo Local Businesses" shall have the meaning set forth in Section 2.4(a).

"Delayed Parent Asset" shall have the meaning set forth in Section 2.5(h).

"Delayed Parent Liability" shall have the meaning set forth in Section 2.5(h).

"Delayed SpinCo Asset" shall have the meaning set forth in Section 2.5(c).

"Delayed SpinCo Liability" shall have the meaning set forth in Section 2.5(c).

"Disclosure Document" shall mean any registration statement (including the Form 10) filed with the SEC by or on behalf of any Party or any member of its Group, and also includes any information statement (including the Information Statement), prospectus, offering memorandum, offering circular, periodic report or similar disclosure document, whether or not filed with the SEC or any other Governmental Authority, in each case that describes the Separation or the Distribution or the SpinCo Group or primarily relates to the transactions contemplated hereby.

"Dispute Notice" shall have the meaning set forth in Section 7.1.

"Disputes" shall have the meaning set forth in Section 7.1.

"Distribution" shall have the meaning set forth in the Recitals.

"Distribution Agent" shall mean the trust company or bank duly appointed by Parent to act as distribution agent, transfer agent and registrar for the SpinCo Shares in connection with the Distribution.

"Distribution Date" shall mean the date of the consummation of the Distribution, which shall be determined by the Parent Board in its sole and absolute discretion.

"e-mail" shall have the meaning set forth in Section 10.5.

"Effective Time" shall mean 12:01 AM, New York City time, on the Distribution Date.

"Employee Matters Agreement" shall mean the Employee Matters Agreement to be entered into by and between Parent and SpinCo or the members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, as it may be amended from time to time.

"Environmental Law" shall mean any Law relating to pollution, the environment, natural resources, human health and safety, or Hazardous Materials, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601 et seq., as amended, and the rules and regulations promulgated thereunder, and any similar international, foreign, federal, regional or state Law, whether or not in existence on the date hereof.

"Environmental Liabilities" shall mean all Liabilities relating to, arising out of or resulting from any Hazardous Materials, Environmental Law or other environmental, health or safety matters (including all removal, remediation or cleanup costs, investigatory costs, response costs, natural resources damages, property damages, personal injury damages, costs of compliance with any product take-back requirements or with any settlement, judgment or other determination of Liability and indemnity, contribution or similar obligations) and all costs and expenses, interest, fines, penalties or other monetary sanctions in connection therewith.

"Exchange Act" shall mean the U.S. Securities Exchange Act of 1934, as amended, together with the rules and regulations promulgated thereunder.

"Excluded IP" shall mean any and all Intellectual Property used (or held for use) in or relating to the products and technology listed on Schedule 1.2, other than the Trademarks (including domain names) listed on Schedule 1.7(a).

"Fiber DBM License Agreement" shall mean the Fiber DBM License Agreement to be entered into by and between Biomet Manufacturing, LLC and Biomet 3i, LLC or the members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, as it may be amended from time to time.

"Force Majeure" shall mean, with respect to a Party, an event beyond the reasonable control of such Party (or any Person acting on its behalf), which event (a) does not arise or result from the fault or negligence of such Party (or any Person acting on its behalf) and (b) by its nature would not reasonably have been foreseen by such Party (or such Person), or, if it would reasonably have been foreseen, was unavoidable, and includes acts of God, acts of civil or military authority, embargoes, epidemics, pandemics, war, riots, insurrections, fires, explosions, earthquakes and floods. Notwithstanding the foregoing, the receipt by a Party of an unsolicited takeover offer or other acquisition proposal, even if unforeseen or unavoidable, and such Party's response thereto shall not be deemed an event of Force Majeure.

"Form 10" shall mean the registration statement on Form 10 filed by SpinCo with the SEC to effect the registration of SpinCo Shares pursuant to the Exchange Act in connection with the Distribution, as such registration statement may be amended or supplemented from time to time prior to the Distribution.

"Former Business" shall mean any corporation, general or limited partnership, trust, joint venture, unincorporated organization, limited liability entity or other entity, division, business unit or business, including any business within the meaning of Rule 11-01(d) of Regulation S-X promulgated under the Exchange Act (in each case, including any Assets and Liabilities comprising the same) that is not owned, leased or operated by a Party or any member of its Group as of immediately prior to the Effective Time because it has been sold, conveyed, assigned, transferred or otherwise disposed of or divested to one or more Persons (other than a Party or any member of its Group) or the operations, activities or production of which has been discontinued, abandoned, completed or otherwise terminated, in each case, prior to the Effective Time.

"Governmental Approvals" shall mean any Approvals or Notifications to be made to, or obtained from, any Governmental Authority.

"Governmental Authority" shall mean any nation or government, any territory, state, municipality or other political subdivision thereof, and any entity, body, agency, commission, department, board, bureau, court, tribunal or other instrumentality, whether federal, state, local, domestic, foreign or multinational, exercising executive, legislative, judicial, regulatory, administrative or other similar functions of, or pertaining to, a government and any executive official thereof, including the NYSE, Nasdaq and any similar self-regulatory body under applicable securities Laws.

"Group" shall mean either the SpinCo Group or the Parent Group, as the context requires.

"Hazardous Materials" shall mean any chemical, material, substance (whether solid, liquid or gas, noise, ion, vapor or electromagnetic, and any natural or artificial substance), waste, pollutant, emission, discharge, release or contaminant that (a) could result in Liability under, or that is prohibited, limited or regulated by any Governmental Authority or pursuant to, any Environmental Law, (b) could pollute the environment or cause harm to human health, the health of any living organism, buildings or real property, or (c) is hazardous, toxic, radioactive or explosive, including petroleum, petroleum products, petroleum byproducts, petroleum breakdown products, asbestos and asbestos-containing materials, urea formaldehyde foam insulation, electronic, medical or infectious wastes, polychlorinated biphenyls, radon gas, radioactive substances, per- and polyfluoroalkyl substances, chlorofluorocarbons and all other ozone-depleting substances.

"Indemnifying Party" shall have the meaning set forth in Section 4.4(a).

"Indemnitee" shall have the meaning set forth in Section 4.4(a).

"Indemnity Payment" shall have the meaning set forth in Section 4.4(a).

"Information" shall mean any and all information, whether or not patentable or copyrightable, in written, oral, electronic or other tangible or intangible forms, stored in any medium, including studies, reports, records, books, contracts, instruments, surveys, discoveries, ideas, concepts, know-how, techniques, designs, specifications, drawings, blueprints, artwork, design, research and development files, diagrams, models, prototypes, samples, flow charts, data, computer data, disks, diskettes, tapes, computer programs or other software, marketing plans, Customer Information, cost information, sales and pricing data, customer prospect lists, supplier records and vendor data, correspondence and lists, product literature, communications by or to attorneys (including attorney-client privileged communications), memoranda and other materials prepared by attorneys or under their direction (including attorney work product), and other technical, financial, employee or business information or data; provided that "Information" shall not include any Intellectual Property.

"Information Statement" shall mean the information statement to be made available to the holders of Parent Shares in connection with the Distribution, as such information statement may be amended or supplemented from time to time prior to the Distribution.

"Insurance Proceeds" shall mean those monies:

(a) received by an insured from an insurance carrier; or

(b) paid by an insurance carrier on behalf of the insured;

(c) in any such case net of any applicable premium adjustments (including reserves and retrospectively rated premium adjustments) and net of any costs or expenses incurred in the collection thereof; provided that in each case Insurance Proceeds shall not include any monies received or paid from an insurance carrier that is an Affiliate of either Parent or SpinCo.

"Intellectual Property" shall mean any and all intellectual property, whether registered or unregistered, of every kind and description throughout the world, including any and all United States and non-United States: (a) Trademarks; (b) Patents; (c) Copyrights; (d) rights in Software; (e) Know-How; (f) all applications and registrations for the foregoing; (g) rights of privacy, publicity and in or with respect to social media; and (h) all rights to sue and collect damages or remedies for past, present, and future infringement, misappropriation, or other violation thereof.

"Intellectual Property Matters Agreement" shall mean the Intellectual Property Matters Agreement to be entered into by and between Parent and SpinCo or the members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, as it may be amended from time to time.

"Intercompany Leases" shall mean the real property leases by and between (i) a member of the Parent Group, as lessor, and a member of the SpinCo Group, as lessee, or (ii) a member of the SpinCo Group, as lessor, and a member of the Parent Group, as lessee, in each case, as set forth on Schedule 2.15 under the caption "Leases."

"Intercompany Subleases" shall mean the real property subleases (i) by and between a member of the Parent Group, as sublessor, and a member of the SpinCo Group, as sublessee, and (ii) by and between a member of the SpinCo Group, as sublessor, and a member of the Parent Group, as sublessee (if any), in each case as set forth on Schedule 2.15 under the caption "Subleases."

"IP Contracts" shall mean all contracts pursuant to which a Party or any of its Affiliates grants to a Third Party or obtains from a Third Party any rights to use or practice Intellectual Property (other than contracts in which such provisions relating to Intellectual Property are incidental to such contracts).

"IP/IT Contracts" shall mean IP Contracts and IT Contracts.

"IRS" shall mean the U.S. Internal Revenue Service.

"IT Assets" shall mean all Software, technology, hardware, computers, peripherals, servers, systems, workstations, routers, hubs, switches, interfaces, data communication lines, network and telecommunications equipment, internet-related information technology infrastructure, and other information technology equipment, rights, assets, and equipment, however delivered, and all associated documentation.

"IT Contracts" shall mean all contracts pursuant to which a Party or any of its Affiliates grants to a Third Party or obtains from a Third Party any rights to use or practice IT Assets (other than contracts in which such provisions relating to IT Assets are incidental to such contracts).

"Know-How" shall mean any and all trade secrets and other confidential or proprietary information, know-how, technical, scientific, regulatory and other information, data (including biological, chemical, pharmacological, toxicological, pharmaceutical, physical and analytical, safety, quality control, manufacturing, preclinical, non-clinical, in-vitro, regulatory, technical, or clinical data) inventions, invention disclosures, creations, techniques, compositions, processes, specifications, tools, apparatus, formulae, and methodologies, but in each case, excluding Patents.

"Law" shall mean any national, supranational, federal, state, territorial, provincial, local or similar law (including common law), statute, code, order, ordinance, rule, regulation, treaty (including any income tax treaty), license, permit, authorization, approval, consent, decree, injunction, binding judicial or administrative interpretation or other requirement, in each case enacted, promulgated, issued or entered by a Governmental Authority.

"Lease Assignments" shall mean the assignments of real property leases and subleases by and between a member of the Parent Group, as assignor, and a member of the SpinCo Group, as assignee, in each case as set forth on Schedule 2.15 under the caption "Lease Assignments."

"Liabilities" shall mean all debts, guarantees, assurances, commitments, liabilities, responsibilities, Losses, remediation, deficiencies, damages, fines, penalties, settlements, sanctions, costs, expenses, interest and obligations of any nature or kind, whether accrued or fixed, absolute or contingent, matured or unmatured, accrued or not accrued, asserted or unasserted, liquidated or unliquidated, foreseen or unforeseen, known or unknown, reserved or unreserved, or determined or determinable, including those arising under any Law, claim (including any Third-Party Claim), demand, Action, or order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority or arbitration tribunal, and those arising under any contract, agreement, obligation, indenture, instrument, lease, promise, arrangement, release, warranty, commitment or undertaking, or any fines, damages or equitable relief that is imposed, in each case, including all costs and expenses (including attorneys' fees) relating thereto.

"Linked" shall have the meaning set forth in Section 2.10(a).

"Local Closing" shall mean, with respect to a Deferred Market, the later of the consummation of the separation of any Deferred SpinCo Local Business in a Deferred Market and the transfer of the shares of the relevant Deferred Market entity to SpinCo or any SpinCo Subsidiary.

"Local Closing Date" shall mean, for each Deferred Market, the date of the applicable Local Closing.

"Losses" shall mean actual losses (including any diminution in value), costs, damages, penalties and expenses (including legal and accounting fees and expenses and costs of investigation and litigation), whether or not involving a Third-Party Claim.

"Nasdaq" shall mean The Nasdaq Global Select Market.

"NaviScout Product Development Agreement" shall mean the NaviScout Product Development Agreement to be entered into by and between Parent and SpinCo or their respective Subsidiaries in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement.

"Net Economic Benefit Agreement" shall mean the Net Economic Benefit Agreement with respect to the operation of the Deferred SpinCo Local Businesses that have been or are being entered into by and between Parent and SpinCo or their respective Subsidiaries in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement.

"Non-Controlling Party" shall have the meaning set forth in Section 5.9(b).

"Non-Custodial Party" shall have the meaning set forth in Section 6.4(a).

"NYSE" shall mean the New York Stock Exchange.

"Office Based Technologies" shall mean Parent's business unit that designs, manufactures and distributes noninvasive and implantable bone growth stimulation products.

"Parent" shall have the meaning set forth in the Preamble.

"Parent Accounts" shall have the meaning set forth in Section 2.10(a).

"Parent Actions" shall have the meaning set forth in Section 2.3(b).

"Parent Assets" shall have the meaning set forth in Section 2.2(b).

"Parent Board" shall have the meaning set forth in the Recitals.

"Parent Business" shall mean all businesses, operations and activities (whether or not such businesses, operations or activities are or have been terminated, divested or discontinued) conducted at any time prior to the Effective Time by either Party or any member of its Group, other than the SpinCo Business.

"Parent CSIs" shall have the meaning set forth in Section 2.7(d).

"Parent Group" shall mean Parent and each Person that is a Subsidiary of Parent (other than SpinCo and any other member of the SpinCo Group).

"Parent Indemnitees" shall have the meaning set forth in Section 4.2.

"Parent Liabilities" shall have the meaning set forth in Section 2.3(b).

"Parent Shares" shall mean the shares of common stock, par value $0.01 per share, of Parent.

"Parties" shall mean the parties to this Agreement.

"Patents" shall mean: (i) all national, regional and international patents and patent applications, including provisional patent applications, whether pending, enforced, abandoned or expired; (ii) all patent applications filed either from the patents, patent applications or provisional applications in clause (i) or from an application claiming priority from any of these, including divisionals, continuations, continuations-in-part, converted provisionals, and continued prosecution applications; (iii) all patents that have issued or in the future issue from the foregoing or counterparts thereof patent applications specified in clauses (i) and (ii), including utility models, petty patents, design patents and certificates of invention; and (iv) all patent term extensions or restorations by existing or future extension or restoration mechanisms, including any supplementary protection certificates and the like, as well as any revalidations, reissues, re-examinations, oppositions and the like of the foregoing patents or patent applications specified in clauses (i), (ii) and (iii).

"Permits" shall mean any permits, approvals, authorizations, registrations, consents, licenses or certificates issued by any Governmental Authority.

"Person" shall mean an individual, a general or limited partnership, a corporation, a trust, a joint venture, an unincorporated organization, a limited liability entity, any other entity and any Governmental Authority.

"Plan of Reorganization" shall mean the plan and structure set forth on Schedule 2.1(a).

"Policies" shall mean insurance policies, reinsurance policies and insurance contracts of any kind, including property, excess and umbrella, commercial general liability, director and officer liability, fiduciary liability, cyber technology, professional liability, libel liability, employment practices liability, automobile, aircraft, marine, workers' compensation and employers' liability, employee dishonesty/crime/fidelity, foreign, bonds and self-insurance and captive insurance company arrangements, together with the rights, benefits, privileges and obligations thereunder.

"Private Letter Ruling" shall have the meaning set forth in Section 3.3(a)(iii).

"Privileged Information" shall mean any information, in written, oral, electronic or other tangible or intangible forms, including any communications by or to attorneys (including attorney-client privileged communications), memoranda and other materials prepared by attorneys or under their direction (including attorney work product), as to which a Party or any member of its Group would be entitled to assert or have asserted a privilege or other protection, including the attorney-client and attorney work product privileges and any other rights, privileges, immunities or protections that may apply in any applicable jurisdiction.

"ProOsteon Bill of Sale and Assignment" shall mean the ProOsteon Bill of Sale to be entered into by and between Parent and SpinCo or their respective Subsidiaries in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement.

"Protasul Non-Exclusive Trademark License" shall mean the Protasul Non-Exclusive Trademark License to be entered into by and between Parent and SpinCo or their respective Subsidiaries in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement.

"Real Estate Guarantees" shall mean the guarantees or related obligations of any SpinCo Liability provided by any member of the Parent Group that relate to real property leases to which any member of the SpinCo Group is a party.

"Real Estate Separation Documents" shall mean the Intercompany Leases, the Intercompany Subleases and the Lease Assignments.

"Record Date" shall mean the close of business on the date to be determined by the Parent Board as the record date for determining holders of Parent Shares entitled to receive SpinCo Shares pursuant to the Distribution.

"Record Holders" shall mean the holders of record of Parent Shares as of the Record Date.

"Records Facility" shall have the meaning set forth in Section 6.4(a).

"Remainder Stock" shall have the meaning set forth in the Recitals.

"Representatives" shall mean, with respect to any Person, any of such Person's directors, officers, employees, agents, consultants, advisors, accountants, attorneys or other representatives.

"Retained Names and Marks" shall have the meaning set forth in Section 5.5

"Reverse Transition Manufacturing and Supply Agreement" shall mean the Reverse Transition Manufacturing and Supply Agreement to be entered into by and between Parent and SpinCo or any members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement.

"SEC" shall mean the U.S. Securities and Exchange Commission.

"Security Interest" shall mean any mortgage, security interest, pledge, lien, charge, claim, option, right to acquire, voting or other restriction, right-of-way, covenant, condition, easement, encroachment, restriction on transfer, or other encumbrance of any nature whatsoever.

"Security Requirements" shall have the meaning set forth in Section 6.11(a).

"Separation" shall have the meaning set forth in the Recitals.

"Shared Contract" shall have the meaning set forth in Section 2.9(a).

"Shared Existing Actions" shall have the meaning set forth in Section 5.9(b).

"Software" shall mean any and all (a) computer programs, including any and all software implementation of algorithms, models and methodologies, whether in source code, object code, human readable form or other form, (b) databases and compilations, including any and all data and collections of data, whether machine readable or otherwise, (c) descriptions, flow charts and other work products used to design, plan, organize and develop any of the foregoing, (d) screens, user interfaces, report formats, firmware, development tools, templates, menus, buttons and icons and (e) documentation, including user manuals and other training documentation, relating to any of the foregoing.

"SpinCo" shall have the meaning set forth in the Preamble.

"SpinCo Accounts" shall have the meaning set forth in Section 2.10(a).

"SpinCo Actions" shall have the meaning set forth in Section 2.3(a)(x).

"SpinCo Assets" shall have the meaning set forth in Section 2.2(a).

"SpinCo Balance Sheet" shall mean the pro forma combined balance sheet of the SpinCo Business, including any notes and subledgers thereto, as of September 30, 2021, as presented in the Information Statement made available to the Record Holders.

"SpinCo Business" shall mean the businesses comprising Parent's spine and dental business, including Office Based Technologies, conducted at any time prior to the Effective Time by any member of the SpinCo Group and any other businesses or operations conducted primarily through the use of the SpinCo Assets, as such businesses are described in the Information Statement, and shall include any SpinCo Former Business, SpinCo Discontinued Product, SpinCo Discontinued Project or SpinCo Discontinued Facility. For clarity, in no event shall "SpinCo Business" include the business, operations and activities conducted by Parent and its Subsidiaries with respect to any of the products or technology listed on Schedule 1.3(b).

"SpinCo Bylaws" shall mean the Amended and Restated Bylaws of SpinCo, substantially in the form of Exhibit B.

"SpinCo Cash Amount" shall mean a cash amount set forth on Schedule 1.4.

"SpinCo Cash Distribution" shall have the meaning set forth in Section 2.13(b).

"SpinCo Certificate of Incorporation" shall mean the Amended and Restated Certificate of Incorporation of SpinCo, substantially in the form of Exhibit A.

"SpinCo Contracts" shall mean the following contracts, agreements, arrangements, commitments or understandings to which either Party or any member of its Group is a party or by which it or any member of its Group or any of their respective Assets is bound, whether or not in writing (provided, that (a) SpinCo Contracts shall not include any contract or agreement that is contemplated to be retained by Parent or any member of the Parent Group from and after the Effective Time pursuant to any provision of this Agreement or any Ancillary Agreement and (b) in the case of any of the following contracts that relate to Intellectual Property or IT Assets where the provisions relating to Intellectual Property or IT Assets are not incidental to the overall purpose of the contract, the "SpinCo Contracts" will include only SpinCo IP/IT Contracts):

(i) (x) any customer, distribution, supply or vendor contract or agreement with a Third Party entered into prior to and in effect as of the Effective Time primarily related to the SpinCo Business (but excluding any IP/IT Contracts) and (y) with respect to any customer, distribution, supply or vendor contract or agreement with a Third Party entered into prior to and in effect as of the Effective Time that relates to the SpinCo Business but is not primarily related to the SpinCo Business, that portion of any such customer, distribution, supply or vendor contract or agreement that relates exclusively to the SpinCo Business (but excluding any IP/IT Contracts);

(ii) SpinCo IP/IT Contracts;

(iii) any consulting and/or development agreement (including, but not limited to, agreements relating to training and education, product development and clinical study) between a member of the SpinCo Group, on the one hand, and any physician or other healthcare professionals, on the other hand, entered into prior to and in effect as of the Effective Time primarily related to the SpinCo Business;

(iv) any contract that is, or portion of any contract containing, any guarantee, indemnity, representation, covenant, warranty or other Liability of either Party or any member of its Group in respect of any other SpinCo Contract, any SpinCo Liability or the SpinCo Business;

(v) any contract, agreement, arrangement, commitment or understanding or portion thereof that is entered into pursuant to this Agreement or any of the Ancillary Agreements to be assigned to SpinCo or any member of the SpinCo Group;

(vi) any interest rate, currency, commodity or other swap, collar, cap or other hedging or similar agreements or arrangements primarily related to the SpinCo Business;

(vii) any credit agreement, indenture, note or other financing agreement or instrument entered into by SpinCo and/or any member of the SpinCo Group in connection with the Separation, including any SpinCo Financing Arrangements;

(viii) any contract or agreement entered into in the name of, or expressly on behalf of, any division, business unit or member of the SpinCo Group;

(ix) any other contract or agreement not otherwise set forth herein and primarily related to the SpinCo Business or SpinCo Assets;

(x) any employment, restrictive covenant (e.g., non-compete), confidentiality, change of control, retention, consulting, indemnification, termination, severance or other similar agreements with any SpinCo Employee, consultants of the SpinCo Group or independent contractors that are in effect as of the Effective Time;

(xi) the Real Estate Separation Documents; and

(xii) any contracts, agreements or settlements set forth on Schedule 1.5(b), including the right to recover any amounts under such contracts, agreements or settlements.

"SpinCo Designees" shall mean any and all entities (including corporations, general or limited partnerships, trusts, joint ventures, unincorporated organizations, limited liability entities or other entities) designated by Parent that will be members of the SpinCo Group as of immediately prior to the Effective Time.

"SpinCo Discontinued Facilities" shall mean the closed or divested manufacturing, distribution, warehouse or research and development facilities or other real property operated prior to the Effective Time by either Party or any member of its Group that were solely or primarily related to the conduct of the any business, operations and activities that was (or would have been had such categories been in effect at the time of such discontinuation) categorized as part of Parent's publicly reported Dental & Spine product category (including Office Based Technologies products), as well as each closed or divested facility or property set forth on Schedule 1.6.

"SpinCo Discontinued Products" shall mean any product that was (or would have been had such categories been in effect at the time of such discontinuation) categorized as part of Parent's publicly reported Dental & Spine product category (including Office Based Technologies products) if such product, at any time prior to the Effective Time, was owned, licensed by or to, sub-licensed by or to, manufactured,

marketed, co-branded, co-promoted or otherwise promoted, distributed or sold anywhere in the world by or on behalf of either Party or any member of its Group, but in each case that, as of immediately prior to the Effective Time, neither Party nor any of their respective Subsidiaries is marketing, co-promoting, promoting, distributing or selling anywhere in the world, as well as each product not marketed, co-promoted, distributed or sold by either Party of any member of its Group as of immediately prior to the Effective Time to the extent set forth on Schedule 1.6.

"SpinCo Discontinued Projects" shall mean any discovery or research and development projects that were conducted at any time prior to the Effective Time by or on behalf of the business that was (or would have been had such categories been in effect at the time of such discontinuation) categorized as part of Parent's publicly reported Dental & Spine product category (including Office Based Technologies products) and that were terminated, divested or discontinued prior to the Effective Time by either Party or any member of its Group, as well as each terminated, divested of discontinued discovery or research and development project set forth on Schedule 1.6.

"SpinCo Financing Arrangements" means the Credit Agreement, dated as of December 17, 2021, among SpinCo, the Lenders (as defined therein) from time to time party thereto and JP Morgan Chase Bank, N.A., as administrative agent and collateral agent, providing for revolving loans in an aggregate amount of up to $175,000,000 and a term loan in an aggregate amount of up to $595,000,000.

"SpinCo Former Businesses" shall mean (a) the Former Businesses set forth on Schedule 1.6; and (b) any Former Business to the extent associated with, or to the extent engaged in the discovery, research, development, importation, exportation, manufacture, marketing, distribution, promotion or sale of a SpinCo Discontinued Product.

"SpinCo Group" shall mean (a) prior to the Effective Time, SpinCo and each Person that will be a Subsidiary of SpinCo as of immediately after the Effective Time, including the Transferred Entities, even if, prior to the Effective Time, such Person is not a Subsidiary of SpinCo; and (b) on and after the Effective Time, SpinCo and each Person that is a Subsidiary of SpinCo.

"SpinCo Employee" shall have the meaning set forth in the Employee Matters Agreement.

"SpinCo Indemnitees" shall have the meaning set forth in Section 4.3.

"SpinCo Intellectual Property" shall mean (a) the Trademarks (including domain names) listed on Schedule 1.7(a); (b) the Patents and invention disclosures listed on Schedule 1.7(b); (c) the Copyright registrations listed on Schedule 1.7(c); (d) the unregistered Copyrights that are owned by either Party or any member of its Group as of immediately prior to the Effective Time and exclusively used or exclusively held for use in the SpinCo Business; (e) the social media accounts listed on Schedule 1.7(e); and (f) the Know-How (other than invention disclosures) owned by either Party or any member of its Group as of immediately prior to the Effective Time and exclusively used or exclusively held for use in the SpinCo Business; provided, however, that in no event shall any or all of the following be included in the definition of SpinCo Intellectual Property: (i) Intellectual Property that is licensed to SpinCo or any of its Affiliates pursuant to any Ancillary Agreement; and (ii) Excluded IP.

"SpinCo IP Contracts" shall mean the IP Contracts entered into prior to and in effect as of the Effective Time that are exclusively used or exclusively held for use in the SpinCo Business.

"SpinCo IP/IT" shall have the meaning set forth in Section 2.2(a)(vii).

"SpinCo IP/IT Contracts" shall mean the SpinCo IP Contracts and SpinCo IT Contracts.

"SpinCo IT Assets" shall mean the Software and other IT Assets owned by either Party or any member of its Group as of immediately prior to the Effective Time that are primarily used or primarily held for use in the SpinCo Business, provided, however, that in no event shall any IT Assets that are licensed to SpinCo or any of its Affiliates pursuant to any Ancillary Agreement be included in the definition of SpinCo IT Assets.

"SpinCo IT Contracts" shall mean the IT Contracts entered into prior to and in effect as of the Effective Time that are primarily used or primarily held for use in the SpinCo Business.

"SpinCo Liabilities" shall have the meaning set forth in Section 2.3(a).

"SpinCo Permits" shall mean all Permits owned or licensed by either Party or any member of its Group primarily used or held for use in the SpinCo Business as of the Effective Time.

"SpinCo Products" shall mean products set forth on Schedule 1.8.

"SpinCo Shares" shall mean the shares of common stock, par value $0.01 per share, of SpinCo.

"Stored Records" shall have the meaning set forth in Section 6.4(a).

"Straddle Period" shall have the meaning set forth in Section 2.14.

"Subsidiary" shall mean, with respect to any Person, any corporation, limited liability company, joint venture or partnership of which such Person (a) beneficially owns, either directly or indirectly, more than fifty percent (50%) of (i) the total combined voting power of all classes of voting securities, (ii) the total combined equity interests or (iii) the capital or profit interests, in the case of a partnership, or (b) otherwise has the power to vote, either directly or indirectly, sufficient securities to elect a majority of the board of directors or similar governing body.

"Sulene Non-Exclusive Trademark License" shall mean the Sulene Non-Exclusive Trademark License to be entered into by and between Parent and SpinCo or their respective Subsidiaries in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement.

"Systems" shall have the meaning set forth in Section 6.11(a).

"Tangible Information" shall mean Information that is contained in written, electronic or other tangible forms.

"Tax" shall have the meaning set forth in the Tax Matters Agreement.

"Tax Matters Agreement" shall mean the Tax Matters Agreement to be entered into by and between Parent and SpinCo or any members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, as it may be amended from time to time.

"Tax Return" shall have the meaning set forth in the Tax Matters Agreement.

"Third Party" shall mean any Person other than the Parties or any members of their respective Groups.

"Third-Party Claim" shall have the meaning set forth in Section 4.5(a).

"Trademarks" shall mean all trademarks, trade names, brand and corporate names, internet domain names, service marks, trade dress, logos, slogans, and all other source indicators or indicia of origin, together with all goodwill associated therewith and all applications, registrations and renewals in connection therewith.

"Transfer Documents" shall have the meaning set forth in Section 2.1(b).

"Transferred Entities" shall mean the entities set forth on Schedule 1.9.

"Transition Committee" shall have the meaning set forth in Section 5.10.

"Transition Manufacturing and Supply Agreement" shall mean the Transition Manufacturing and Supply Agreement to be entered into by and between Parent and SpinCo or any members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement.

"Transition Services Agreement" shall mean the Transition Services Agreement to be entered into by and between Parent and SpinCo or any members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, as it may be amended from time to time.

"Transitional Trademark License Agreement" shall mean the Transitional Trademark License Agreement to be entered into by and between Parent and SpinCo or the members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, as it may be amended from time to time.

"Undisclosed Agent Agreement" shall mean the Undisclosed Agent Agreement to be entered into by and between Parent and SpinCo or their respective Subsidiaries in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement.

"Unreleased Parent Liability" shall have the meaning set forth in Section 2.6(b)(ii).

"Unreleased SpinCo Liability" shall have the meaning set forth in Section 2.6(a)(ii).

"Zimmer France Business Lease Agreement" shall mean that certain Business Lease Agreement, dated as of November 5, 2018, by and between LDR Medical SAS and Zimmer Biomet France SAS, as amended.

"Zimmer GmbH Business Lease Agreement" shall mean that certain Business Lease Agreement, dated as of November 5, 2018, by and between LDR Medical SAS and Zimmer GmbH, as amended.

"Zimmer US" shall have the meaning set forth in Section 2.5(k).

"Zimmer US Certificate of Incorporation" shall have the meaning set forth in Section 2.5(k).

ARTICLE II
THE SEPARATION

2.1 Transfer of Assets and Assumption of Liabilities.

(a) At or prior to the Effective Time in accordance with the Plan of Reorganization, but subject to Section 2.4 and Section 2.5:

(i) *Transfer and Assignment of SpinCo Assets*. Parent shall, and shall cause the applicable members of its Group to, contribute, assign, transfer, convey and deliver to SpinCo, or the applicable SpinCo Designees, and SpinCo or such SpinCo Designees shall accept from Parent and the applicable members of the Parent Group, all of Parent's and such Parent Group member's respective direct or indirect right, title and interest in and to all of the SpinCo Assets,

including all of the outstanding shares of capital stock or other ownership interests in the Transferred Entities, which shall result in SpinCo owning directly or indirectly all of the Transferred Entities (it being understood that if any SpinCo Asset shall be held by a Transferred Entity or a wholly owned Subsidiary of a Transferred Entity, such SpinCo Asset may be assigned, transferred, conveyed and delivered to SpinCo as a result of the transfer of all of the equity interests in such Transferred Entity from Parent or the applicable members of the Parent Group to SpinCo or the applicable SpinCo Designee);

(ii) *Acceptance and Assumption of SpinCo Liabilities*. SpinCo or the applicable SpinCo Designees shall accept, assume and agree faithfully to perform, discharge and fulfill all the SpinCo Liabilities in accordance with their respective terms. SpinCo or such SpinCo Designees shall be responsible for all SpinCo Liabilities, regardless of when or where such SpinCo Liabilities arose or arise, or whether the facts on which they are based occurred prior to or subsequent to the Effective Time, regardless of where or against whom such SpinCo Liabilities are asserted or determined (including any SpinCo Liabilities arising out of claims made by Parent's or SpinCo's respective Representatives or Affiliates against any member of the Parent Group or the SpinCo Group) or whether asserted or determined prior to the Effective Time, and regardless of whether such SpinCo Liabilities arise from or are alleged to arise from negligence, gross negligence, willful misconduct, bad faith, recklessness, violation of Law, fraud or misrepresentation by any member of the Parent Group or the SpinCo Group, or any of their respective Representatives or Affiliates;

(iii) *Transfer and Assignment of Parent Assets*. Parent and SpinCo shall cause SpinCo and the SpinCo Designees to contribute, assign, transfer, convey and deliver to Parent or certain members of the Parent Group designated by Parent, and Parent or such other members of the Parent Group shall accept from SpinCo and the SpinCo Designees, all of SpinCo's and such SpinCo Designees' respective direct or indirect right, title and interest in and to all Parent Assets held by SpinCo or a SpinCo Designee; and

(iv) *Acceptance and Assumption of Parent Liabilities*. Parent and certain members of the Parent Group designated by Parent shall accept and assume and agree faithfully to perform, discharge and fulfill all of the Parent Liabilities held by SpinCo or any SpinCo Designee and Parent and the applicable members of the Parent Group shall be responsible for all Parent Liabilities in accordance with their respective terms, regardless of when or where such Parent Liabilities arose or arise, whether the facts on which they are based occurred prior to or subsequent to the Effective Time, where or against whom such Parent Liabilities are asserted or determined (including any such Parent Liabilities arising out of claims made by Parent's or SpinCo's respective Representatives or Affiliates against any member of the Parent Group or the SpinCo Group) or whether asserted or determined prior to the Effective Time, and regardless of whether such Parent Liabilities arise from or are alleged to arise from negligence, gross negligence, willful misconduct, bad faith, recklessness, violation of Law, fraud or misrepresentation by any member of the Parent Group or the SpinCo Group, or any of their respective Representatives or Affiliates.

(b) *Transfer Documents*. In furtherance of the contribution, assignment, transfer, conveyance and delivery of the Assets and the assumption of the Liabilities in accordance with Section 2.1(a), each Party shall execute and deliver, and shall cause the applicable members of its Group to execute and deliver, to the other Party, (i) such bills of sale, quitclaim deeds, stock powers, certificates of title, assignments of contracts, short form Intellectual Property assignments, and other instruments of transfer, conveyance and assignment as and to the extent necessary to evidence the transfer, conveyance and assignment of all of such Party's and the applicable members of its Group's right, title and interest in and to such Assets to the other Party and the applicable members of its Group in accordance with Section 2.1(a), and (ii) such assumptions of contracts and other instruments of assumption as and to the extent necessary to evidence the valid and effective assumption of the Liabilities by such Party and the applicable members of its Group in accordance with Section 2.1(a). All of the foregoing documents contemplated by this Section 2.1(b) shall be referred to collectively herein as the "Transfer Documents."

(c) *Misallocations*. Except to the extent otherwise contemplated in connection with (i) a Deferred SpinCo Local Business under Section 2.4 or (ii) a Delayed SpinCo Asset, Delayed SpinCo Liability, Delayed Parent Asset or Delayed Parent Liability under Section 2.5, in the event that at any time or from time to time (whether prior to, at or after the Effective Time), one Party (or any member of such Party's Group) shall receive or otherwise possess any Asset that is allocated to the other Party (or any member of such other Party's Group) pursuant to this Agreement or any Ancillary Agreement, such Party shall promptly transfer, or cause to be transferred, such Asset to the Party so entitled thereto (or to any member of such Party's Group), and such Party (or member of such Party's Group) so entitled thereto shall accept such Asset. Prior to any such transfer, the Person receiving or possessing such Asset shall hold such Asset in trust for such other Person. Except to the extent otherwise contemplated in connection with (i) a Deferred SpinCo Local Business under Section 2.4 or (ii) a Delayed SpinCo Asset, Delayed SpinCo Liability, Delayed Parent Asset or Delayed Parent Liability under Section 2.5, in the event that at any time or from time to time (whether prior to, at or after the Effective Time), one Party hereto (or any member of such Party's Group) shall receive or otherwise assume any Liability that is allocated to the other Party (or any member of such Party's Group) pursuant to this Agreement or any Ancillary Agreement, such other Party shall promptly assume, or cause to be assumed, such Liability and agree to faithfully perform such Liability in accordance with this Agreement.

(d) *Waiver of Bulk-Sale and Bulk-Transfer Laws*. To the extent permissible under applicable Law, SpinCo hereby waives compliance by each and every member of the Parent Group with the requirements and provisions of any "bulk-sale" or "bulk-transfer" Laws of any jurisdiction that may otherwise be applicable with respect to the transfer or sale of any or all of the SpinCo Assets to any member of the SpinCo Group. To the extent permissible under applicable Law, Parent hereby waives compliance by each and every member of the SpinCo Group with the requirements and provisions of any "bulk-sale" or "bulk-transfer" Laws of any jurisdiction that may otherwise be applicable with respect to the transfer or sale of any or all of the Parent Assets to any member of the Parent Group.

2.2 SpinCo Assets; Parent Assets.

(a) *SpinCo Assets*. For purposes of this Agreement, "SpinCo Assets" shall mean, without duplication:

(i) all issued and outstanding capital stock or other equity interests of the Transferred Entities that are owned by either Party or any members of its Group as of the Effective Time;

(ii) all Assets of either Party or any members of its Group included or reflected as assets of the SpinCo Group on the SpinCo Balance Sheet, subject to any dispositions of such Assets subsequent to the date of the SpinCo Balance Sheet; provided that the amounts set forth on the SpinCo Balance Sheet with respect to any Assets shall not be treated as minimum amounts or limitations on the amount of such Assets that are included in the definition of SpinCo Assets pursuant to this clause (ii);

(iii) all Assets of either Party or any of the members of its Group as of the Effective Time that are of a nature or type that would have resulted in such Assets being included as Assets of SpinCo or members of the SpinCo Group on a pro forma combined balance sheet of the SpinCo Group or any notes or subledgers thereto as of the Effective Time (were such balance sheet, notes and subledgers to be prepared on a basis consistent with the determination of the Assets included on the SpinCo Balance Sheet), it being understood that (x) the SpinCo Balance Sheet

shall be used to determine the types of, and methodologies used to determine, those Assets that are included in the definition of SpinCo Assets pursuant to this clause (iii); and (y) the amounts set forth on the SpinCo Balance Sheet with respect to any Assets shall not be treated as minimum amounts or limitations on the amount of such Assets that are included in the definition of SpinCo Assets pursuant to this clause (iii);

(iv) all Assets of either Party or any of the members of its Group as of the Effective Time that are expressly provided by this Agreement or any Ancillary Agreement as Assets to be transferred to SpinCo or any other member of the SpinCo Group;

(v) all rights, interests and claims of either Party or any of the members of its Group as of the Effective Time to the SpinCo Products, including all rights, interests and claims of either Party or any of the members of its Group as of the Effective Time to all reports and analyses, product and marketing registrations and applications (which shall include all United States Food and Drug Administration and other regulatory approvals, clearances and licenses exclusively related to, and all related applications and other information (including, but not limited to, technical dossiers, technical documentation and labels/labeling) submitted for the purposes of or prepared in connection with obtaining an approval for, an SpinCo Product) to the extent exclusively related to the SpinCo Products; provided that, if the Assets to be transferred pursuant to this paragraph conflict with or expand the transfer of SpinCo IP/IT pursuant to clause (vii) of this definition, then clause (vii) and the definition of SpinCo IP/IT shall prevail;

(vi) all SpinCo Contracts as of the Effective Time and all rights, interests or claims of either Party or any of the members of its Group thereunder as of the Effective Time; provided that if there is deemed to be any inconsistency between this clause (vi) and Section 2.9(a), then Section 2.9(a) shall control;

(vii) all SpinCo Intellectual Property and SpinCo IT Assets as of the Effective Time (collectively, the "SpinCo IP/IT"), and any license of Intellectual Property or IT Assets of Parent or any member of the Parent Group to SpinCo or any member of the SpinCo Group pursuant to the terms of the Intellectual Property Matters Agreement or other Ancillary Agreements;

(viii) all SpinCo Permits as of the Effective Time and all rights, interests or claims of either Party or any of the members of its Group thereunder as of the Effective Time;

(ix) subject to applicable Law and the provisions of the applicable Ancillary Agreements, all rights, interests and claims of either Party or any of the members of its Group as of the Effective Time with respect to Information exclusively related to the SpinCo Assets, the SpinCo Liabilities, the SpinCo Business or the Transferred Entities; provided, that, for purposes of this clause (ix), "Information" shall not include any Intellectual Property;

(x) the SpinCo Cash Amount; and

(xi) any and all Assets set forth on Schedule 2.2(a)(xi).

Notwithstanding the foregoing, the SpinCo Assets shall not in any event include any Asset referred to in clauses (i) through (vi) of Section 2.2(b). For the avoidance of doubt, with respect to each Deferred SpinCo Local Business, the SpinCo Assets shall include all Assets referred to in clauses (i) through (xi) above as of the time of the transfer of legal title of such Deferred SpinCo Local Business from Parent or the applicable Parent Subsidiary to SpinCo or the applicable SpinCo Subsidiary.

(b) *Parent Assets*. For the purposes of this Agreement, "Parent Assets" shall mean all Assets of either Party or the members of its Group as of the Effective Time, other than the SpinCo Assets, it being understood that, notwithstanding anything herein to the contrary, the Parent Assets shall include:

(i) all Assets that are expressly contemplated by this Agreement or any Ancillary Agreement (or the Schedules hereto or thereto) as Assets to be retained by Parent or any other member of the Parent Group;

(ii) all contracts and agreements of either Party or any of the members of its Group as of the Effective Time (other than the SpinCo Contracts);

(iii) (x) the Intellectual Property set forth on Schedule 2.2(b)(iii)(x), (y) the IT Assets set forth on Schedule 2.2(b)(iii)(y), and (z) all Intellectual Property and IT Assets owned or licensed by either Party or any of the members of its Group as of the Effective Time (other than, in the case of this clause (z), the SpinCo IP/IT and the SpinCo IP/IT Contracts);

(iv) all Permits of either Party or any of the members of its Group as of the Effective Time (other than the SpinCo Permits);

(v) all cash and cash equivalents of either Party or any of the members of its Group as of the Effective Time (other than the SpinCo Cash Amount); and

(vi) any and all Assets set forth on Schedule 2.2(b)(vi).

2.3 SpinCo Liabilities; Parent Liabilities.

(a) *SpinCo Liabilities*. For the purposes of this Agreement, "SpinCo Liabilities" shall mean the following Liabilities of either Party or any of the members of its Group:

(i) all Liabilities of the SpinCo Group;

(ii) all Liabilities to the extent arising from (A) the operation or conduct of the SpinCo Business as conducted at any time prior to the Distribution (including any Liability to the extent relating to, arising out of or resulting from any act or failure to act by any director, officer, employee, agent or representative (whether or not such act or failure to act is or was within such Person's authority), which act or failure to act relates to the SpinCo Business); (B) the operation or conduct of the SpinCo Business or any other business conducted by SpinCo or any other member of the SpinCo Group at any time after the Distribution (including any Liability relating to, arising out of or resulting from any act or failure to act by any director, officer, employee, agent or representative (whether or not such act or failure to act is or was within such Person's authority)); or (C) the SpinCo Assets;

(iii) all Liabilities included or reflected as liabilities or obligations of SpinCo or the members of the SpinCo Group on the SpinCo Balance Sheet, subject to any discharge of such Liabilities subsequent to the date of the SpinCo Balance Sheet; provided that the amounts set forth on the SpinCo Balance Sheet with respect to any Liabilities shall not be treated as minimum amounts or limitations on the amount of such Liabilities that are included in the definition of SpinCo Liabilities pursuant to this clause (iii);

(iv) all Liabilities as of the Effective Time that are of a nature or type that would have resulted in such Liabilities being included or reflected as liabilities or obligations of SpinCo or the members of the SpinCo Group on a pro forma combined balance sheet of the SpinCo Group or any notes or subledgers thereto as of the Effective Time (were such balance sheet, notes and subledgers to be prepared on a basis consistent with the determination of the Liabilities

included on the SpinCo Balance Sheet), it being understood that (x) the SpinCo Balance Sheet shall be used to determine the types of, and methodologies used to determine, those Liabilities that are included in the definition of SpinCo Liabilities pursuant to this clause (iv); and (y) the amounts set forth on the SpinCo Balance Sheet with respect to any Liabilities shall not be treated as minimum amounts or limitations on the amount of such Liabilities that are included in the definition of SpinCo Liabilities pursuant to this clause (iv);

(v) all Liabilities, including Environmental Liabilities, relating to, arising out of or resulting from the actions, inactions, events, omissions, conditions, facts or circumstances occurring or existing prior to, at or after the Effective Time (whether or not such Liabilities cease being contingent, mature, become known, are asserted or foreseen, or accrue, in each case before, at or after the Effective Time), in each case to the extent that such Liabilities relate to, arise out of or result from the SpinCo Business or a SpinCo Asset;

(vi) any and all Liabilities that are expressly provided by this Agreement or any Ancillary Agreement (or the Schedules hereto or thereto) as Liabilities to be assumed by SpinCo or any other member of the SpinCo Group, and all agreements, obligations and Liabilities of any member of the SpinCo Group under this Agreement or any of the Ancillary Agreements;

(vii) all Liabilities relating to, arising out of or resulting from the SpinCo Contracts, the SpinCo Intellectual Property, the SpinCo IT Assets, or the SpinCo Permits;

(viii) all Liabilities relating to, arising out of or resulting from (A) the SpinCo Financing Arrangements, (B) any other indebtedness of SpinCo or any member of the SpinCo Group (whether incurred prior to, on or after the Effective Time) or (C) guarantees and obligations of the obligor under letters of credit issued in connection with the SpinCo Business;

(ix) except as expressly set forth in another Ancillary Agreement, all Liabilities relating to, arising out of, or resulting from the operation or conduct of any business conducted by SpinCo or any member of the SpinCo Group at any time after the Effective Time;

(x) each of the ongoing Actions primarily related to the SpinCo Business, including the matters set forth on Schedule 2.3(a)(x) (the "SpinCo Actions"), and the portion of each Shared Existing Action allocable to SpinCo and the Transferred Entities;

(xi) any and all Liabilities set forth on Schedule 2.3(a)(xi); and

(xii) all Liabilities arising out of claims made by any Third Party (including Parent's or SpinCo's respective Representatives or stockholders) against any member of the Parent Group or the SpinCo Group to the extent relating to, arising out of or resulting from the SpinCo Business or the SpinCo Assets or the other business, operations, activities or Liabilities of SpinCo referred to in clauses (i) through (xi) above;

provided that, notwithstanding the foregoing, the Parties agree that the Liabilities set forth on Schedule 2.3(b) and any Liabilities of any member of the Parent Group pursuant to the Ancillary Agreements shall not be SpinCo Liabilities but instead shall be Parent Liabilities. For the avoidance of doubt, with respect to each Deferred SpinCo Local Business, the SpinCo Liabilities shall include all Liabilities referred to in clauses (i) through (xii) above as of the time of the transfer of legal title of such Deferred SpinCo Local Business from Parent or the applicable Parent Subsidiary to SpinCo or the applicable SpinCo Subsidiary.

(b) *Parent Liabilities*. For the purposes of this Agreement, "Parent Liabilities" shall mean (i) all Liabilities relating to, arising out of or resulting from actions, inactions, events, omissions, conditions, facts or circumstances occurring or existing prior to the Effective Time (whether or not such Liabilities cease being contingent, mature, become known, are asserted or foreseen, or accrue, in each case

before, at or after the Effective Time) of any member of the Parent Group, in each case that are not SpinCo Liabilities, including any and all Liabilities set forth on Schedule 2.3(b); and (ii) all Liabilities arising out of claims made by any Third Party (including Parent's or SpinCo's respective Representatives or stockholders) against any member of the Parent Group or the SpinCo Group to the extent relating to, arising out of or resulting from the Parent Business or the Parent Assets (the "Parent Actions").

2.4 Deferred Markets.

(a) *Deferral of Certain Transfers of SpinCo Assets and SpinCo Liabilities*. The Parties acknowledge that due to the requirements of applicable Law, the need to obtain certain Approvals or Notifications from Governmental Authorities or for other business reasons, the Parties have agreed to defer until after the Effective Time the transfer of legal title to all or a portion of the SpinCo Assets and the assumption of all or a portion of the SpinCo Liabilities from Parent or the applicable Parent Subsidiary to SpinCo or the applicable SpinCo Subsidiary or designee, in each case, in each of the jurisdictions listed on Schedule 2.4(a), where Parent is continuing to operate certain activities of the SpinCo Business pursuant to the Net Economic Benefit Agreement and the Business Lease Agreements (each, a "Deferred Market" and the SpinCo Assets and SpinCo Liabilities in such Deferred Markets, the "Deferred SpinCo Local Businesses"). Notwithstanding the foregoing, any Deferred SpinCo Local Business shall continue to constitute SpinCo Assets or SpinCo Liabilities, as applicable, for all other purposes of this Agreement. The Parties intend that, for U.S. federal income tax purposes, the transfer of any SpinCo Assets or the assumption of any SpinCo Liabilities that are deferred pursuant to this Section 2.4 shall be treated as having been transferred or assumed, as applicable, at or prior to the Effective Time in accordance with the transactions set forth on Schedule 2.1(a). The immediately preceding sentence shall be deemed incorporated into Schedule 2.1(a) for purposes of the Tax Matters Agreement.

(b) *Treatment of Deferred SpinCo Local Businesses*. In each case, from and after the Effective Time, and until such time as the applicable Deferred SpinCo Local Business has been transferred to SpinCo or the applicable SpinCo Subsidiary or designee for the relevant Deferred Market subject and pursuant to the terms of the Net Economic Benefit Agreement or the Business Lease Agreements, as applicable, (i) the Deferred SpinCo Local Business shall be held and operated by Parent or, where applicable, by a Parent Subsidiary or designee, in trust on behalf of and for the benefit of SpinCo or, where applicable, a SpinCo Subsidiary or designee; (ii) Parent (or, where applicable, a Parent Subsidiary or designee) shall pay, perform and discharge fully when due and payable the Liabilities of the Deferred SpinCo Local Business on behalf of and for the benefit of SpinCo or, where applicable, a SpinCo Subsidiary or designee pursuant to the terms of the Net Economic Benefit Agreement or the Business Lease Agreements, as applicable; and (iii) insofar as reasonably practicable and to the extent permitted by applicable Law and subject to the terms of any Ancillary Agreement related to such Deferred SpinCo Local Business, Parent (or, where applicable, a Parent Subsidiary or designee) shall take such other actions as may reasonably be requested by SpinCo, including sales price determination, supply chain planning and order fulfillment, so that all the benefits and burdens relating to such Deferred SpinCo Local Business, including expenses, use, risk of loss, profits and losses, potential for gain and control over such Deferred SpinCo Local Business, shall inure from and after the Effective Time to SpinCo or, where applicable, a SpinCo Subsidiary or designee. Except as otherwise provided in a relevant Ancillary Agreement for such Deferred Market, the Parties agree that (A) Parent (or, where applicable, a Parent Subsidiary or designee) shall remit to SpinCo or a SpinCo Subsidiary or designee the amounts received in connection with the performance of each Deferred SpinCo Local Business; and (B) SpinCo or, where applicable, a SpinCo Subsidiary or designee shall reimburse Parent or a Parent Subsidiary or designee for all payments made in connection with the performance of each Deferred SpinCo Local Business and the discharge of any Liabilities in connection therewith.

(c) *Transfer of Deferred SpinCo Local Businesses*. The Parties shall, and shall cause the members of their respective Groups to, use commercially reasonable efforts to take all actions (including obtaining the requisite Approvals and Notifications from Governmental Authorities) to permit the legal transfer of the Deferred SpinCo Local Businesses as soon as reasonably practicable following the Effective Time. Upon receipt of all requisite Approvals and Notifications from Governmental Authorities and the occurrence of all other actions that permit the legal transfer of a Deferred SpinCo Local Business from a member of the Parent Group to a member of the SpinCo Group, the Parties shall promptly complete such transfer.

2.5 Approvals and Notifications.

(a) *Approvals and Notifications for SpinCo Assets and Liabilities*. To the extent that the transfer or assignment of any SpinCo Asset, the assumption of any SpinCo Liability, the Separation, or the Distribution requires any Approvals or Notifications, the Parties shall use their commercially reasonable efforts to obtain or make such Approvals or Notifications as soon as reasonably practicable; provided, however, that, except to the extent expressly provided in this Agreement or any of the Ancillary Agreements or as otherwise agreed between Parent and SpinCo, neither Parent nor SpinCo shall be obligated to contribute capital or pay any consideration in any form (including providing any letter of credit, guaranty or other financial accommodation) to any Person in order to obtain or make such Approvals or Notifications.

(b) *Delayed SpinCo Transfers*. If and to the extent that the valid, complete and perfected transfer or assignment to the SpinCo Group of any SpinCo Asset or assumption by the SpinCo Group of any SpinCo Liability in connection with the Separation or the Distribution would be a violation of applicable Law or require any Approvals or Notifications that have not been obtained or made by the Effective Time or the Local Closing Date, as applicable, then, unless the Parties shall otherwise mutually determine, the transfer or assignment to the SpinCo Group of such SpinCo Assets or the assumption by the SpinCo Group of such SpinCo Liabilities, as the case may be, shall be automatically deemed deferred and any such purported transfer, assignment or assumption shall be null and void until such time as all legal impediments are removed or such Approvals or Notifications have been obtained or made. Notwithstanding the foregoing, any such SpinCo Assets or SpinCo Liabilities shall continue to constitute SpinCo Assets and SpinCo Liabilities for all other purposes of this Agreement.

(c) *Treatment of Delayed SpinCo Assets and Delayed SpinCo Liabilities*. If any transfer or assignment of any SpinCo Asset (or a portion thereof) or any assumption of any SpinCo Liability (or a portion thereof) (in each case (other than Shared Contracts, which are governed solely by Section 2.8(c); or the leasehold interests, subleasehold interests, license interests or other real property interests under the Real Estate Separation Documents, which are governed solely by Section 2.17) intended to be transferred, assigned or assumed hereunder, as the case may be, is not consummated at or prior to the Effective Time or the Local Closing Date, as applicable, whether as a result of the provisions of Section 2.5(b) or for any other reason (any such SpinCo Asset (or a portion thereof), a "Delayed SpinCo Asset" and any such SpinCo Liability (or a portion thereof), a "Delayed SpinCo Liability"), then, insofar as reasonably possible and subject to applicable Law, the member of the Parent Group retaining such Delayed SpinCo Asset or such Delayed SpinCo Liability, as the case may be, shall thereafter hold such Delayed SpinCo Asset or Delayed SpinCo Liability, as the case may be, for the use and benefit of the member of the SpinCo Group entitled thereto (at the expense of the member of the SpinCo Group entitled thereto). In addition, the member of the Parent Group retaining such Delayed SpinCo Asset or such Delayed SpinCo Liability shall, insofar as reasonably possible and to the extent permitted by applicable Law, treat such Delayed SpinCo Asset or Delayed SpinCo Liability in the ordinary course of business in accordance with SpinCo Group past practice and take such other actions as may be reasonably requested by the member of the SpinCo Group to whom such Delayed SpinCo Asset is to be transferred or assigned, or which will assume such Delayed SpinCo Liability, as the case may be, in order to place such member of the SpinCo Group in a substantially similar position as if such Delayed SpinCo Asset or Delayed SpinCo Liability had been transferred, assigned or assumed as contemplated hereby and so that all the benefits and burdens relating to such Delayed SpinCo Asset or Delayed SpinCo Liability, as the case may be, including use, risk of loss, potential for gain, and dominion, control and command over such Delayed SpinCo Asset or Delayed SpinCo Liability, as the case may be, and all costs and expenses related thereto, shall inure from and after the Effective Time or the Local Closing Date, as applicable, to the SpinCo Group.

(d) *Transfer of Delayed SpinCo Assets and Delayed SpinCo Liabilities*. If and when the Approvals or Notifications, the absence of which caused the deferral of transfer or assignment of any Delayed SpinCo Asset or the deferral of assumption of any Delayed SpinCo Liability pursuant to Section 2.5(c), are obtained or made, and, if and when any other legal impediments for the transfer or assignment of any Delayed SpinCo Asset or the assumption of any Delayed SpinCo Liability have been removed (or, in the case of a Deferred SpinCo Local Business, if later, upon the Local Closing), the transfer or assignment of the applicable Delayed SpinCo Asset or the assumption of the applicable Delayed SpinCo Liability, as the case may be, shall be effected in accordance with the terms of this Agreement and/or the applicable Ancillary Agreement.

(e) *Costs for Delayed SpinCo Assets and Delayed SpinCo Liabilities*. Any member of the Parent Group retaining a Delayed SpinCo Asset or Delayed SpinCo Liability due to the deferral of the transfer or assignment of such Delayed SpinCo Asset or the deferral of the assumption of such Delayed SpinCo Liability, as the case may be, shall not be obligated, in connection with the foregoing, to expend any money, unless the necessary funds are advanced (or otherwise made available) by SpinCo or the member of the SpinCo Group entitled to the Delayed SpinCo Asset or Delayed SpinCo Liability, other than reasonable out-of-pocket expenses, attorneys' fees and recording or similar fees, all of which shall be promptly reimbursed by SpinCo or the member of the SpinCo Group entitled to such Delayed SpinCo Asset or Delayed SpinCo Liability; provided, however, that the Parent Group shall not knowingly allow the loss or diminution in value of any Delayed SpinCo Asset without first providing the SpinCo Group commercially reasonable notice of such potential loss or diminution in value and affording the SpinCo Group commercially reasonable opportunity to take action to prevent such loss or diminution in value.

(f) *Approvals and Notifications for Parent Assets*. To the extent that the transfer or assignment of any Parent Asset, the assumption of any Parent Liability, the Separation or the Distribution requires any Approvals or Notifications, the Parties shall use commercially reasonable efforts to obtain or make such Approvals or Notifications as soon as reasonably practicable; provided, however, that, except to the extent expressly provided in this Agreement or any of the Ancillary Agreements or as otherwise agreed between Parent and SpinCo, neither Parent nor SpinCo shall be obligated to contribute capital or pay any consideration in any form (including providing any letter of credit, guaranty or other financial accommodation) to any Person in order to obtain or make such Approvals or Notifications.

(g) *Delayed Parent Transfers*. If and to the extent that the valid, complete and perfected transfer or assignment to the Parent Group of any Parent Asset or assumption by the Parent Group of any Parent Liability in connection with the Separation or the Distribution would be a violation of applicable Law or require any Approval or Notification that has not been obtained or made by the Effective Time or the Local Closing Date, as applicable, then, unless the Parties mutually shall otherwise determine, the transfer or assignment to the Parent Group of such Parent Assets or the assumption by the Parent Group of such Parent Liabilities, as the case may be, shall be automatically deemed deferred and any such purported transfer, assignment or assumption shall be null and void until such time as all legal impediments are removed or such Approval or Notification has been obtained or made. Notwithstanding the foregoing, any such Parent Assets or Parent Liabilities shall continue to constitute Parent Assets and Parent Liabilities for all other purposes of this Agreement.

(h) *Treatment of Delayed Parent Assets and Delayed Parent Liabilities*. If any transfer or assignment of any Parent Asset (or a portion thereof) or any assumption of any Parent Liability (or a portion thereof) intended to be transferred, assigned or assumed hereunder, as the case may be, is not consummated at or prior to the Effective Time or the Local Closing Date, as applicable, whether as a result

of the provisions of Section 2.5(g) or for any other reason (any such Parent Asset (or a portion thereof), a "Delayed Parent Asset" and any such Parent Liability (or a portion thereof), a "Delayed Parent Liability"), then, insofar as reasonably possible and subject to applicable Law, the member of the SpinCo Group retaining such Delayed Parent Asset or such Delayed Parent Liability, as the case may be, shall thereafter hold such Delayed Parent Asset or Delayed Parent Liability, as the case may be, for the use and benefit of the member of the Parent Group entitled thereto (at the expense of the member of the Parent Group entitled thereto). In addition, the member of the SpinCo Group retaining such Delayed Parent Asset or such Delayed Parent Liability shall, insofar as reasonably possible and to the extent permitted by applicable Law, treat such Delayed Parent Asset or Delayed Parent Liability in the ordinary course of business in accordance with Parent Group past practice and take such other actions as may be reasonably requested by the member of the Parent Group to which such Delayed Parent Asset is to be transferred or assigned, or which will assume such Delayed Parent Liability, as the case may be, in order to place such member of the Parent Group in a substantially similar position as if such Delayed Parent Asset or Delayed Parent Liability had been transferred, assigned or assumed and so that all the benefits and burdens relating to such Delayed Parent Asset or Delayed Parent Liability, as the case may be, including use, risk of loss, potential for gain, and dominion, control and command over such Delayed Parent Asset or Delayed Parent Liability, as the case may be, and all costs and expenses related thereto, shall inure from and after the Effective Time or the Local Closing Date, as applicable, to the Parent Group.

(i) *Transfer of Delayed Parent Assets and Delayed Parent Liabilities*. If and when the Approvals or Notifications, the absence of which caused the deferral of transfer or assignment of any Delayed Parent Asset or the deferral of assumption of any Delayed Parent Liability pursuant to Section 2.5(h), are obtained or made, and, if and when any other legal impediments for the transfer or assignment of any Delayed Parent Asset or the assumption of any Delayed Parent Liability have been removed, the transfer or assignment of the applicable Delayed Parent Asset or the assumption of the applicable Delayed Parent Liability, as the case may be, shall be effected in accordance with the terms of this Agreement and/or the applicable Ancillary Agreement.

(j) *Costs for Delayed Parent Assets and Delayed Parent Liabilities*. Any member of the SpinCo Group retaining a Delayed Parent Asset or Delayed Parent Liability due to the deferral of the transfer or assignment of such Delayed Parent Asset or the deferral of the assumption of such Delayed Parent Liability, as the case may be, shall not be obligated, in connection with the foregoing, to expend any money, unless the necessary funds are advanced (or otherwise made available) by Parent or the member of the Parent Group entitled to the Delayed Parent Asset or Delayed Parent Liability, other than reasonable out-of-pocket expenses, attorneys' fees and recording or similar fees, all of which shall be promptly reimbursed by Parent or the member of the Parent Group entitled to such Delayed Parent Asset or Delayed Parent Liability; provided, however, that the SpinCo Group shall not knowingly allow the loss or diminution in value of any Delayed Parent Asset without first providing the Parent Group commercially reasonable notice of such potential loss or diminution in value and affording the Parent Group commercially reasonable opportunity to take action to prevent such loss or diminution in value.

(k) *Liquidation of Zimmer US, Inc*. It is acknowledged and agreed that, pursuant to the Second Amended and Restated Certificate of Incorporation of Zimmer US, Inc., a Delaware corporation ("Zimmer US"), dated as of August 3, 2018 (the "Zimmer US Certificate of Incorporation"), in the event of any liquidation, dissolution or winding up of Zimmer US following the Effective Time, certain members of the SpinCo Group may be entitled to distributions by virtue of such members being former holders of common stock of Zimmer US who were Patrons (as such term is defined in the Zimmer US Certificate of Incorporation) of Zimmer US. Notwithstanding anything in the Zimmer US Certificate of Incorporation to the contrary, the Parties agree that all of the benefits and burdens of any liquidation, dissolution or winding up of Zimmer US, including any distributions resulting therefrom, shall inure from and after the Effective Time to the Parent Group, and that any distributions received by a member of the SpinCo Group as a result of any liquidation, dissolution or winding up of Zimmer US shall be transferred to a member of the Parent Group as promptly as reasonably practicable following receipt thereof.

2.6 Novation of Liabilities.

(a) *Novation of SpinCo Liabilities*.

(i) Except as set forth in Schedule 2.6(a), each of Parent and SpinCo, at the request of the other, shall use its commercially reasonable efforts to obtain, or to cause to be obtained, as soon as reasonably practicable, any consent, substitution, approval, amendment or release required to novate or assign all SpinCo Liabilities and obtain in writing the unconditional release of each member of the Parent Group that is a party to any such arrangements, so that, in any such case, the members of the SpinCo Group shall be solely responsible for such SpinCo Liabilities; provided, however, that, except as otherwise expressly provided in this Agreement or any of the Ancillary Agreements, neither Parent nor SpinCo shall be obligated to contribute any capital or pay any consideration in any form (including providing any letter of credit, guaranty or other financial accommodation) to any Third Party from whom any such consent, substitution, approval, amendment or release is requested.

(ii) If Parent or SpinCo is unable to obtain, or to cause to be obtained, any such required consent, substitution, approval, amendment or release and the applicable member of the Parent Group continues to be bound by such agreement, lease, license or other obligation or Liability (each, an "Unreleased SpinCo Liability"), SpinCo shall, except as otherwise agreed in any Ancillary Agreement and to the extent not prohibited by applicable Law, as indemnitor, guarantor, agent or subcontractor for such member of the Parent Group, as the case may be, (x) pay, perform and discharge fully all the obligations or other Liabilities of such member of the Parent Group that constitute Unreleased SpinCo Liabilities from and after the Effective Time and (y) use its commercially reasonable efforts to effect such payment, performance or discharge prior to any demand for such payment, performance or discharge is permitted to be made by the obligee thereunder on any member of the Parent Group. Subject to Section 2.4 with respect to the Local Closing of a Deferred SpinCo Local Business, if and when any such consent, substitution, approval, amendment or release shall be obtained or the Unreleased SpinCo Liabilities shall otherwise become assignable or able to be novated, Parent shall promptly assign or novate, or cause to be assigned or novated, and SpinCo or the applicable SpinCo Group member shall assume, such Unreleased SpinCo Liabilities without exchange of further consideration.

(b) *Novation of Parent Liabilities*.

(i) Each of Parent and SpinCo, at the request of the other, shall use its commercially reasonable efforts to obtain, or to cause to be obtained, as soon as reasonably practicable, any consent, substitution, approval, amendment or release required to novate or assign all Parent Liabilities and obtain in writing the unconditional release of each member of the SpinCo Group that is a party to any such arrangements, so that, in any such case, the members of the Parent Group shall be solely responsible for such Parent Liabilities; provided, however, that, except as otherwise expressly provided in this Agreement or any of the Ancillary Agreements, neither Parent nor SpinCo shall be obligated to contribute any capital or pay any consideration in any form (including providing any letter of credit, guaranty or other financial accommodation) to any Third Party from whom any such consent, substitution, approval, amendment or release is requested.

(ii) If Parent or SpinCo is unable to obtain, or to cause to be obtained, any such required consent, substitution, approval, amendment or release and the applicable member of the SpinCo Group continues to be bound by such agreement, lease, license or other obligation or Liability (each, an "Unreleased Parent Liability"), Parent shall, except as otherwise agreed in any

Ancillary Agreement and to the extent not prohibited by applicable Law, as indemnitor, guarantor, agent or subcontractor for such member of the SpinCo Group, as the case may be, (x) pay, perform and discharge fully all the obligations or other Liabilities of such member of the SpinCo Group that constitute Unreleased Parent Liabilities from and after the Effective Time and (y) use its commercially reasonable efforts to effect such payment, performance or discharge prior to any demand for such payment, performance or discharge is permitted to be made by the obligee thereunder on any member of the SpinCo Group. If and when any such consent, substitution, approval, amendment or release shall be obtained or the Unreleased Parent Liabilities shall otherwise become assignable or able to be novated, SpinCo shall promptly assign or novate, or cause to be assigned or novated, and Parent or the applicable Parent Group member shall assume, such Unreleased Parent Liabilities without exchange of further consideration.

2.7 Release of Guarantees; Credit Support Instruments. In furtherance of, and not in limitation of, the obligations set forth in Section 2.6:

(a) At or prior to the Effective Time or as soon as practicable thereafter, each of Parent and SpinCo shall, at the request of the other Party and with the reasonable cooperation of such other Party and the applicable member(s) of such other Party's Group, except as provided in any of the Real Estate Separation Documents or any other guarantee entered into solely in connection with the Separation or the Distribution, use commercially reasonable efforts to (i) have any member(s) of the Parent Group removed as guarantor of or obligor for any SpinCo Liability to the extent that such guarantee or obligation relates to SpinCo Liabilities, including the removal of any Security Interest on or in any Parent Asset that may serve as collateral or security for any such SpinCo Liability; and (ii) have any member(s) of the SpinCo Group removed as guarantor of or obligor for any Parent Liability to the extent that such guarantee or obligation relates to Parent Liabilities, including the removal of any Security Interest on or in any SpinCo Asset that may serve as collateral or security for any such Parent Liability.

(b) To the extent required to obtain a release from a guarantee of:

(i) any member of the Parent Group, SpinCo shall execute a guarantee agreement in the form of the existing guarantee or such other form as is agreed to by the relevant parties to such guarantee agreement, which agreement shall include the removal of any Security Interest on or in any Parent Asset that may serve as collateral or security for any SpinCo Liability, except to the extent that such existing guarantee contains representations, covenants or other terms or provisions either (x) with which SpinCo would be reasonably unable to comply or (y) which SpinCo would not reasonably be able to avoid breaching; and

(ii) any member of the SpinCo Group, Parent shall execute a guarantee agreement in the form of the existing guarantee or such other form as is agreed to by the relevant parties to such guarantee agreement, which agreement shall include the removal of any Security Interest on or in any SpinCo Asset that may serve as collateral or security for any Parent Liability, except to the extent that such existing guarantee contains representations, covenants or other terms or provisions either (x) with which Parent would be reasonably unable to comply or (y) which Parent would not reasonably be able to avoid breaching.

(c) If Parent or SpinCo is unable to obtain, or to cause to be obtained, any such required removal or release as set forth in clauses (a) and (b) of this Section 2.7, (i) the Party or the relevant member of its Group that has assumed the Liability with respect to such guarantee shall indemnify, defend and hold harmless the guarantor or obligor against or from any Liability arising from or relating thereto in accordance with the provisions of Article IV and shall, as agent or subcontractor for such guarantor or obligor, pay, perform and discharge fully all the obligations or other Liabilities of such guarantor or obligor thereunder; and (ii) each of Parent and SpinCo, on behalf of itself and the other members of their respective

Groups, agree not to renew or extend the term of, increase any obligations under, or transfer to a Third Party, any loan, guarantee, lease, contract or other obligation for which the other Party or a member of its Group is or may be liable, unless the other Party consents in writing or all obligations of such other Party and the members of such other Party's Group with respect thereto are thereupon terminated by documentation reasonably satisfactory in form and substance to such other Party.

(d) Parent and SpinCo shall cooperate and SpinCo shall use commercially reasonable efforts to replace all Credit Support Instruments issued by Parent or other members of the Parent Group on behalf of or in favor of any member of the SpinCo Group or the SpinCo Business (the "Parent CSIs") as promptly as practicable with Credit Support Instruments from SpinCo or a member of the SpinCo Group as of the Effective Time (or, in the case of any Deferred SpinCo Local Business, as of the Local Closing Date). With respect to any Parent CSIs that remain outstanding after the Effective Time (or, in the case of any Deferred SpinCo Local Business, after the Local Closing Date), (i) SpinCo shall, and shall cause the members of the SpinCo Group to, jointly and severally indemnify and hold harmless the Parent Indemnitees for any Liabilities arising from or relating to such Credit Support Instruments, including any fees in connection with the issuance and maintenance thereof and any funds drawn by (or for the benefit of), or disbursements made to, the beneficiaries of such Parent CSIs in accordance with the terms thereof, (ii) SpinCo shall reimburse the applicable member of the Parent Group for all out of pocket expenses incurred by it arising out of or related to any such Credit Support Instrument, and (iii) without the prior written consent of Parent, SpinCo shall not, and shall not permit any member of the SpinCo Group to, enter into, renew or extend the term of, increase its obligations under, or transfer to a third party, any loan, lease, Contract or other obligation in connection with which Parent or any member of the Parent Group has issued any Credit Support Instruments which remain outstanding. Neither Parent nor any member of the Parent Group will have any obligation to renew any Credit Support Instruments issued on behalf of or in favor of any member of the SpinCo Group or the SpinCo Business after the expiration of any such Credit Support Instrument.

2.8 Termination of Agreements.

(a) Except as set forth in Section 2.8(b), in furtherance of the releases and other provisions of Section 4.1, SpinCo and each member of the SpinCo Group, on the one hand, and Parent and each member of the Parent Group, on the other hand, (i) hereby terminate any and all agreements, arrangements, commitments or understandings, whether or not in writing, between or among SpinCo and/or any member of the SpinCo Group, on the one hand, and Parent and/or any member of the Parent Group, on the other hand, effective as of the Effective Time (including any provision thereof which purports to survive termination), and (ii) all agreements, arrangements, commitments or understandings, whether or not in writing, between or among SpinCo and/or any member of the SpinCo Group, on the one hand, and Parent and/or any member of the Parent Group, on the other hand, entered into prior to a Local Closing of a Deferred SpinCo Local Business shall be terminated effective as of such Local Closing (including any provision thereof which purports to survive termination). Each Party shall, at the reasonable request of the other Party, take, or cause to be taken, such other actions as may be necessary to effect the foregoing.

(b) The provisions of Section 2.8(a) shall not apply to any of the following agreements, arrangements, commitments or understandings (or to any of the provisions thereof): (i) this Agreement and the Ancillary Agreements (and each other agreement or instrument expressly contemplated by this Agreement or any Ancillary Agreement to be entered into by any of the Parties or any of the members of their respective Groups or to be continued from and after the Effective Time); (ii) any agreements, arrangements, commitments or understandings listed or described on Schedule 2.8(b)(ii); (iii) any agreements, arrangements, commitments or understandings to which any Third Party is a party thereto; (iv) any intercompany accounts payable or accounts receivable accrued as of the Effective Time (or, in the case of any Deferred SpinCo Local Business, as of the Local Closing Date) that are reflected in the books and records of the Parties or otherwise documented in writing in accordance with past practices, which shall

be settled in the manner contemplated by Section 2.8(c); (v) any agreements, arrangements, commitments or understandings to which any non-wholly owned Subsidiary of Parent or SpinCo, as the case may be, is a party (it being understood that directors' qualifying shares or similar interests will be disregarded for purposes of determining whether a Subsidiary is wholly owned); and (vi) any Shared Contracts.

(c) All of the intercompany accounts receivable and accounts payable between any member of the Parent Group, on the one hand, and any member of the SpinCo Group, on the other hand, outstanding as of the Effective Time (or, in the case of any Deferred SpinCo Local Business, as of the Local Closing Date) shall, as promptly as reasonably practicable after the Effective Time (or, as applicable, such Local Closing Date), be repaid, settled or otherwise eliminated by means of cash payments, a dividend, capital contribution, a combination of the foregoing, or otherwise as determined by Parent in its sole and absolute discretion (it being understood and agreed by the Parties that all guarantees and Credit Support Instruments shall be governed by Section 2.7).

2.9 Treatment of Shared Contracts.

(a) Subject to applicable Law and without limiting the generality of the obligations set forth in Section 2.1, unless the Parties otherwise agree or the benefits of any contract, agreement, arrangement, commitment or understanding described in this Section 2.8(c) are expressly conveyed to the applicable Party pursuant to this Agreement or an Ancillary Agreement, any contract or agreement, a portion of which is a SpinCo Contract, but the remainder of which is a Parent Asset (any such contract or agreement, including those set forth on Schedule 2.9, a "Shared Contract"), shall be assigned in relevant part to the applicable member(s) of the applicable Group, if so assignable, or appropriately amended prior to, on or after the Effective Time (or, in the case of any Deferred SpinCo Local Business, as of prior to the Local Closing Date), so that each Party or the member of its Group shall, as of the Effective Time (or the Local Closing Date, as applicable), (i) be entitled to the rights and benefits, (ii) assume the related portion of any Liabilities, inuring to its respective businesses and (iii) take any actions set forth on Schedule 2.9 with respect to such Shared Contract; provided, however, that (x) in no event shall any member of any Group be required to assign (or amend) any Shared Contract in its entirety or to assign a portion of any Shared Contract that is not assignable (or cannot be amended) by its terms (including any terms imposing consents or conditions on an assignment where such consents or conditions have not been obtained or fulfilled) and (y) except as set forth in any Ancillary Agreement or any other agreement between a member of the SpinCo Group, on the one hand, and a member of the Parent Group, on the other hand, entered into in connection with the Separation, if any Shared Contract cannot be so partially assigned by its terms or otherwise, or cannot be amended or if such assignment or amendment would impair the benefit the parties thereto derive from such Shared Contract, then the Parties shall, and shall cause each of the members of their respective Groups to, take such other reasonable and permissible actions (including by providing prompt notice to the other Party with respect to any relevant claim of Liability or other relevant matters arising in connection with a Shared Contract so as to allow such other Party the ability to exercise any applicable rights under such Shared Contract) to cause a member of the SpinCo Group or the Parent Group, as the case may be, to receive the rights and benefits of that portion of each Shared Contract that relates to the SpinCo Business or the Parent Business, as the case may be (in each case, to the extent so related), as if such Shared Contract had been assigned to a member of the applicable Group (or amended to allow a member of the applicable Group to exercise applicable rights under such Shared Contract) pursuant to this Section 2.8(c), and to bear the burden of the corresponding Liabilities (including any Liabilities that may arise by reason of such arrangement), as if such Liabilities had been assumed by a member of the applicable Group pursuant to this Section 2.8(c).

(b) Each of Parent and SpinCo shall, and shall cause the members of its Group to, (i) treat for all Tax purposes the portion of each Shared Contract inuring to its respective businesses as an Asset owned by, and/or a Liability of, as applicable, such Party, or the members of its Group, as applicable, not later than the Effective Time, and (ii) neither report nor take any Tax position (on a Tax Return or otherwise) inconsistent with such treatment (unless required by applicable Law).

(c) Nothing in this Section 2.8(c) shall require any member of either Group to make any non-*de minimis* payment (except to the extent advanced, assumed or agreed in advance to be reimbursed by any member of the other Group), incur any non-*de minimis* obligation or grant any non-*de minimis* concession for the benefit of any member of the other Group in order to effect any transaction contemplated by this Section 2.8(c).

2.10 Bank Accounts; Cash Balances.

(a) Each Party agrees to take, or cause the members of its Group to take, at the Effective Time (or such earlier time as the Parties may agree) (or, in the case of any Deferred SpinCo Local Business, as of prior to the Local Closing Date), all actions necessary to amend all contracts or agreements governing each bank and brokerage account owned by SpinCo or any other member of the SpinCo Group (collectively, the "SpinCo Accounts") and all contracts or agreements governing each bank or brokerage account owned by Parent or any other member of the Parent Group (collectively, the "Parent Accounts") so that each such SpinCo Account and Parent Account, if currently linked (whether by automatic withdrawal, automatic deposit or any other authorization to transfer funds from or to, hereinafter "Linked") to any Parent Account or SpinCo Account, respectively, is de-Linked from such Parent Account or SpinCo Account, respectively.

(b) It is intended that, following consummation of the actions contemplated by Section 2.10(a), there will be in place a cash management process pursuant to which the SpinCo Accounts will be managed and funds collected will be transferred into one (1) or more accounts maintained by SpinCo or a member of the SpinCo Group.

(c) It is intended that, following consummation of the actions contemplated by Section 2.10(a), there will continue to be in place a cash management process pursuant to which the Parent Accounts will be managed and funds collected will be transferred into one (1) or more accounts maintained by Parent or a member of the Parent Group.

(d) Without limiting the rights to indemnification provided in this Agreement, with respect to any outstanding checks issued or payments initiated by Parent, SpinCo, or any of the members of their respective Groups prior to the Effective Time (or, in the case of any Deferred SpinCo Local Business, prior to the Local Closing Date), such outstanding checks and payments shall be honored following the Effective Time (or, as applicable, following the Local Closing Date) by the Person or Group owning the account on which the check is drawn or from which the payment was initiated, respectively.

(e) Subject, in the case of any Deferred SpinCo Local Business, to Section 2.4, as between Parent and SpinCo (and the members of their respective Groups), all payments made and reimbursements received after the Effective Time by either Party (or member of its Group) that relate to a business, Asset or Liability of the other Party (or member of its Group), shall be held by such Party in trust for the use and benefit of the Party entitled thereto and, as promptly as reasonably practicable following receipt by such Party of any such payment or reimbursement, such Party shall pay over, or shall cause the applicable member of its Group to pay over to the other Party, the amount of such payment or reimbursement without right of set-off, and such payments shall be documented in a manner satisfactory to the Parties.

2.11 Ancillary Agreements. Effective at or prior to the Effective Time, each of Parent and SpinCo shall, or shall cause the applicable members of their Groups to, execute and deliver all Ancillary Agreements to which it or such member, as applicable, is a party.

2.12 Disclaimer of Representations and Warranties.

(a) EACH OF PARENT (ON BEHALF OF ITSELF AND EACH MEMBER OF THE PARENT GROUP) AND SPINCO (ON BEHALF OF ITSELF AND EACH MEMBER OF THE SPINCO GROUP) UNDERSTANDS AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN ANY ANCILLARY AGREEMENT, NO PARTY TO THIS AGREEMENT, ANY ANCILLARY AGREEMENT OR ANY OTHER AGREEMENT OR DOCUMENT CONTEMPLATED BY THIS AGREEMENT, ANY ANCILLARY AGREEMENT OR OTHERWISE, IS (X) REPRESENTING OR WARRANTING IN ANY WAY AS TO: (A) THE ASSETS, BUSINESSES OR LIABILITIES TRANSFERRED OR ASSUMED AS CONTEMPLATED HEREBY OR THEREBY, (B) ANY CONSENTS OR APPROVALS REQUIRED IN CONNECTION HEREWITH OR THEREWITH, (C) THE VALUE OR FREEDOM FROM ANY SECURITY INTERESTS OF, OR ANY OTHER MATTER CONCERNING, ANY ASSETS OF SUCH PARTY, (D) THE ABSENCE OF ANY DEFENSES OR RIGHT OF SET-OFF OR FREEDOM FROM COUNTERCLAIM WITH RESPECT TO ANY CLAIM OR OTHER ASSET, INCLUDING ANY ACCOUNTS RECEIVABLE, OF ANY PARTY, OR (E) AS TO THE LEGAL SUFFICIENCY OF ANY ASSIGNMENT, DOCUMENT OR INSTRUMENT DELIVERED HEREUNDER OR THEREUNDER TO CONVEY TITLE TO ANY ASSET OR THING OF VALUE UPON THE EXECUTION, DELIVERY AND FILING HEREOF OR THEREOF, OR (Y) MAKING ANY OTHER REPRESENTATIONS OR GRANTING ANY WARRANTIES, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, BY STATUTE OR OTHERWISE. EACH PARTY SPECIFICALLY DISCLAIMS ANY OTHER WARRANTIES, WHETHER WRITTEN OR ORAL, OR EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF QUALITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR USE OR PURPOSE OR ANY WARRANTY AS TO THE VALIDITY OF ANY PATENTS OR THE NON-INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES. EXCEPT AS MAY EXPRESSLY BE SET FORTH HEREIN OR IN ANY ANCILLARY AGREEMENT, ALL SUCH ASSETS ARE BEING TRANSFERRED OR LICENSED ON AN “AS IS,” “WHERE IS” BASIS (AND, IN THE CASE OF ANY REAL PROPERTY, BY MEANS OF A QUITCLAIM OR SIMILAR FORM OF DEED OR CONVEYANCE) AND THE RESPECTIVE TRANSFEREES OR LICENSEES SHALL BEAR THE ECONOMIC AND LEGAL RISKS THAT (I) ANY CONVEYANCE WILL PROVE TO BE INSUFFICIENT TO VEST IN THE TRANSFEREE GOOD AND MARKETABLE TITLE, FREE AND CLEAR OF ANY SECURITY INTEREST, AND (II) ANY NECESSARY APPROVALS OR NOTIFICATIONS ARE NOT OBTAINED OR MADE OR THAT ANY REQUIREMENTS OF LAWS OR JUDGMENTS ARE NOT COMPLIED WITH.

(b) Each of Parent (on behalf of itself and each of member of the Parent Group) and SpinCo (on behalf of itself and each of member of the SpinCo Group) further understands and agrees that if the disclaimer of express or implied representations and warranties contained in Section 2.12(a) is held unenforceable or is unavailable for any reason under the Laws of any jurisdiction outside the United States or if, under the Laws of a jurisdiction outside the United States, both Parent or any member of the Parent Group, on the one hand, and SpinCo or any member of the SpinCo Group, on the other hand, are jointly or severally liable for any SpinCo Liability or any Parent Liability, respectively, then, the Parties intend that, notwithstanding any provision to the contrary under the Laws of such foreign jurisdictions, the provisions of this Agreement and the Ancillary Agreements (including the disclaimer of all representations and warranties, allocation of Liabilities among the Parties and their respective Subsidiaries, releases, indemnification and contribution of Liabilities) shall prevail for any and all purposes among the Parties and their respective Subsidiaries.

2.13 Credit Facilities; SpinCo Financing Arrangements; SpinCo Cash Distribution.

(a) *Financing Arrangements*. Prior to the Effective Time, the SpinCo Financing Arrangements shall have been consummated.

(b) *SpinCo Cash Distribution*. Pursuant to the Contribution, SpinCo shall make a cash distribution to Parent in an amount equal to approximately $540,566,710 (the "SpinCo Cash Distribution").

2.14 Financial Information Certifications. Parent's disclosure controls and procedures and internal control over financial reporting (as each is contemplated by the Exchange Act) are currently applicable to SpinCo as its Subsidiary. In order to enable the principal executive officer and principal financial officer of SpinCo to make the certifications required of them under Section 302 of the Sarbanes-Oxley Act of 2002 following the Distribution in respect of any quarterly or annual fiscal period of SpinCo that begins on or prior to the Distribution Date in respect of which financial statements are not included in the Form 10 (a "Straddle Period"), upon twenty (20) business days' advance written request by SpinCo, Parent shall provide SpinCo with one (1) or more certifications with respect to such disclosure controls and procedures and the effectiveness thereof and whether there were any changes in the internal controls over financial reporting that have materially affected or are reasonably likely to materially affect the internal control over financing reporting, which certification(s) shall (x) be with respect to the applicable Straddle Period (it being understood that no certification need be provided with respect to any period or portion of any period after the Distribution Date) and (y) be in substantially the same form as those that had been provided by officers or employees of Parent in similar certifications delivered prior to the Distribution Date, with such changes thereto as Parent may reasonably determine. Such certification(s) shall be provided by Parent (and not by any officer or employee in their individual capacity).

2.15 Real Estate Separation Documents. Prior to the Distribution, the Parties shall, and shall cause their respective applicable Group members to, use reasonable best efforts to obtain and make any necessary Approvals or Notifications (whether from Third Parties or Governmental Authorities) and enter into the Real Estate Separation Documents to make the Real Estate Separation Documents effective at or prior to the Distribution; provided, however, that nothing in this Agreement shall be deemed to require entering into any Real Estate Separation Document unless and until any necessary Approvals or Notifications are obtained or made, as applicable. In the event any such Approvals or Notifications have not been obtained prior to the Distribution, the Parties shall use reasonable best efforts (subject to the terms of this Section 2.15) to obtain or make such Approval or Notification as promptly as reasonably practicable following the Distribution and, upon receipt of such Approval or Notification, shall execute the applicable Real Estate Separation Document; provided, however, that neither Party nor any member of its Group shall be required to contribute capital, pay or grant any consideration or concession in any form (including providing any letter of credit, guaranty or other financial accommodation or the relinquishment or forbearance of any rights) to any Person in order to obtain or make any such Approval or Notification (other than reasonable out-of-pocket expenses, attorneys' fees and recording or similar fees). If any Real Estate Separation Document is not effective prior to the Distribution, then the Parties shall, and shall cause their respective Group members to, cooperate in any reasonable and permissible arrangement to provide that, following the Distribution and until such time of effectiveness of the applicable Real Estate Separation Document, a member of the SpinCo Group shall receive the interest in the benefits and obligations of SpinCo or the applicable member of the SpinCo Group under the proposed terms of such Real Estate Separation Document and a member of the Parent Group shall receive the interest in the benefits and obligations of Parent or the applicable member of the Parent Group under the proposed terms of such Real Estate Separation Document. In the event of a conflict between this Agreement and any Real Estate Separation Document, the applicable Real Estate Separation Document shall govern. To the extent any matter is not addressed in a Real Estate Separation Document, but is addressed in this Agreement, the terms of this Agreement shall control as to such matter.

ARTICLE III
THE DISTRIBUTION

3.1 Sole and Absolute Discretion; Cooperation.

(a) Notwithstanding anything to the contrary set forth in this Agreement or in any Ancillary Agreement, until the Effective Time, Parent shall, in its sole and absolute discretion, determine whether to proceed with the Distribution and any and all terms of the Distribution, including the form, structure and terms of any transaction(s) and/or offering(s) to effect the Distribution and the timing and conditions to the consummation of the Distribution. In addition, Parent may, in its sole discretion, determine the Distribution Date and may, at any time and from time to time until the consummation of the Distribution, modify or change the terms of the Distribution, including by accelerating or delaying the timing of the consummation of all or part of the Distribution. Nothing herein shall in any way limit Parent's right to terminate this Agreement or the Distribution as set forth in Article IX or alter the consequences of any such termination from those specified in Article IX.

(b) SpinCo shall cooperate with Parent to accomplish the Distribution and shall, at Parent's direction, promptly take any and all actions necessary or desirable to effect the Distribution, including in respect of the registration under the Exchange Act of SpinCo Shares on the Form 10. Parent shall select any investment bank or manager in connection with the Distribution, as well as any financial printer, solicitation and/or exchange agent and financial, legal, accounting and other advisors for Parent and SpinCo. SpinCo and Parent, as the case may be, will provide to the Distribution Agent any information required in order to complete the Distribution.

3.2 Actions Prior to the Distribution. Prior to the Effective Time and subject to the terms and conditions set forth herein, the Parties shall take, or cause to be taken, the following actions in connection with the Distribution:

(a) *Notice to the NYSE*. Parent shall, to the extent possible, give the NYSE not less than ten (10) days' advance notice of the Record Date in compliance with Rule 10b-17 under the Exchange Act.

(b) *SpinCo Certificate of Incorporation and SpinCo Bylaws*. On or prior to the Distribution Date, Parent and SpinCo shall take all necessary actions so that, as of the Effective Time, the SpinCo Certificate of Incorporation and the SpinCo Bylaws shall become the certificate of incorporation and bylaws of SpinCo, respectively.

(c) *SpinCo Directors and Officers*. On or prior to the Distribution Date, Parent and SpinCo shall take all necessary actions so that as of the Effective Time: (i) the directors and executive officers of SpinCo shall be those set forth in the Information Statement made available to the Record Holders prior to the Distribution Date, unless otherwise agreed by the Parties; (ii) each individual referred to in clause (i) shall have resigned from his or her position, if any, as a member of the Parent Board and/or as an executive officer of Parent; and (iii) SpinCo shall have such other officers as SpinCo shall appoint, subject to Parent's approval.

(d) *Nasdaq Listing*. SpinCo shall prepare and file, and shall use its reasonable best efforts to have approved, an application for the listing of the SpinCo Shares to be distributed in the Distribution and the SpinCo Shares to be reserved for issuance pursuant to any director or employee benefit plan or arrangement on Nasdaq (and such other stock exchanges as may be necessary or desirable), subject to official notice of distribution.

(e) *Securities Law Matters*. Parent and SpinCo shall prepare, and SpinCo shall file, any amendments or supplements to the Form 10 as may be necessary or advisable in order to cause the Form 10 to become and remain effective as required by the SEC or federal, state or other applicable securities Laws. Parent and SpinCo shall cooperate in preparing, filing with the SEC and causing to become effective registration statements or amendments thereof which are required to reflect the establishment of, or amendments to, any employee benefit and other plans necessary or advisable in connection with the transactions contemplated by this Agreement and the Ancillary Agreements. Parent and SpinCo shall prepare, and SpinCo shall, to the extent required under applicable Law, file with the SEC any such documentation and any requisite no-action letters that Parent determines are necessary or desirable to effectuate the Distribution, and Parent and SpinCo shall each use reasonable best efforts to obtain all necessary approvals from the SEC with respect thereto as soon as practicable. Parent and SpinCo shall take all such action as may be necessary or advisable under the securities or blue sky laws of the United States (and any comparable Laws under any non-U.S. jurisdiction) in connection with the Distribution.

(f) *Availability of Information Statement*. Parent shall, as soon as is reasonably practicable after the Form 10 is declared effective under the Exchange Act and the Parent Board has approved the Distribution, cause the Information Statement to be made available to the Record Holders.

(g) *The Distribution Agent*. Parent shall enter into a distribution agent agreement with the Distribution Agent or otherwise provide instructions to the Distribution Agent regarding the Distribution.

3.3 Conditions to the Distribution.

(a) The consummation of the Distribution shall be subject to the satisfaction, or waiver by Parent, in whole or in part, in its sole and absolute discretion, of the following conditions:

(i) The SEC shall have declared effective the Form 10; no order suspending the effectiveness of the Form 10 shall be in effect; and no proceedings for such purposes shall have been instituted or threatened by the SEC;

(ii) The Information Statement shall have been made available to the Record Holders;

(iii) Parent shall have received a private letter ruling from the IRS, satisfactory to the Parent Board, regarding certain U.S. federal income tax matters (the "Private Letter Ruling") and the Private Letter Ruling remains in force;

(iv) Parent shall have received an opinion from White & Case LLP, satisfactory to the Parent Board, regarding the qualification of the Contribution and the Distribution, taken together, as a transaction described in Sections 355 and 368(a)(1)(D) of the Code;

(v) The transfer of the SpinCo Assets (other than any Delayed SpinCo Asset and any SpinCo Assets deferred as part of a Deferred SpinCo Local Business) and SpinCo Liabilities (other than any Delayed SpinCo Liability and any SpinCo Liabilities deferred as part of a Deferred SpinCo Local Business) contemplated to be transferred from Parent (or the applicable members of its Group) to SpinCo on or prior to the Distribution shall have occurred as contemplated by Section 2.1, and the transfer of the Parent Assets (other than any Delayed Parent Asset) and Parent Liabilities (other than any Delayed Parent Liability) contemplated to be transferred from SpinCo to Parent (or the applicable members of its Group) on or prior to the Distribution Date shall have occurred as contemplated by Section 2.1, in each case pursuant to the Plan of Reorganization;

(vi) The actions and filings necessary or advisable under applicable U.S. federal, U.S. state or other securities Laws or blue sky Laws and the rules and regulations thereunder shall have been taken or made, and, where applicable, have become effective or been accepted by the applicable Governmental Authority;

(vii) The Parent Board shall have declared the Distribution and approved all related transactions (and such declaration or approval shall not have been withdrawn);

(viii) Any required approvals of any Governmental Authority necessary to consummate the transactions contemplated by this Agreement and the Ancillary Agreements shall have been obtained and be in full force and effect;

(ix) Each of the Ancillary Agreements shall have been duly executed and delivered by the applicable parties thereto;

(x) No order, injunction or decree issued by any Governmental Authority of competent jurisdiction or other legal restraint or prohibition preventing the consummation of the Separation, the Distribution or any of the transactions related thereto shall be pending or in effect;

(xi) The SpinCo Shares to be distributed to the Parent stockholders in the Distribution shall have been accepted for listing on Nasdaq, subject to official notice of distribution;

(xii) Parent shall have received the proceeds from the SpinCo Cash Distribution; and

(xiii) No other events or developments shall exist or shall have occurred that, in the judgment of the Parent Board, in its sole and absolute discretion, makes it inadvisable to effect the Separation, the Distribution or the other transactions contemplated by this Agreement or any Ancillary Agreement.

(b) The foregoing conditions are for the sole benefit of Parent and not for the benefit of any other Person and shall not give rise to or create any duty on the part of Parent or the Parent Board to waive or not waive any such condition or in any way limit Parent's right to terminate this Agreement as set forth in Article IX or alter the consequences of any such termination from those specified in Article IX. Any determination made by the Parent Board prior to the Distribution concerning the satisfaction or waiver of any or all of the conditions set forth in Section 3.3(a) shall be conclusive and binding on the Parties. If Parent waives any material condition, it shall promptly issue a press release disclosing such fact and file a Current Report on Form 8-K with the SEC describing such waiver.

3.4 The Distribution.

(a) Subject to Section 3.3, at or prior to the Effective Time, SpinCo shall deliver to the Distribution Agent, for the benefit of the Record Holders, book-entry transfer authorizations for such number of the outstanding SpinCo Shares as is necessary to effect the Distribution, and shall cause the transfer agent for the Parent Shares to instruct the Distribution Agent to distribute at the Effective Time the appropriate number of SpinCo Shares to each such Record Holder or designated transferee or transferees thereof by way of direct registration in book-entry form. SpinCo shall not issue paper stock certificates in respect of the SpinCo Shares. The Distribution shall be effective at the Effective Time.

(b) Subject to Sections 3.3 and 3.4(c), each Record Holder will be entitled to receive in the Distribution one SpinCo Share for every ten Parent Shares held by such Record Holder on the Record Date, rounded down to the nearest whole number.

(c) No fractional shares shall be distributed or credited to book-entry accounts in connection with the Distribution, and any such fractional share interests to which a Record Holder would otherwise be entitled shall not entitle such Record Holder to vote or to any other rights as a stockholder

of SpinCo. In lieu of any such fractional shares, each Record Holder who, but for the provisions of this Section 3.4(c), would be entitled to receive a fractional share interest of a SpinCo Share pursuant to the Distribution, shall be paid cash, without any interest thereon, as hereinafter provided. As soon as practicable after the Effective Time, Parent shall direct the Distribution Agent to determine the number of whole and fractional SpinCo Shares allocable to each Record Holder, to aggregate all such fractional shares into whole shares, and to sell the whole shares obtained thereby in the open market at the then-prevailing prices on behalf of each Record Holder who otherwise would be entitled to receive fractional share interests (with the Distribution Agent, in its sole and absolute discretion, determining when, how and through which broker-dealer and at what price to make such sales), and to cause to be distributed to each such Record Holder, in lieu of any fractional share, such Record Holder's ratable share of the total proceeds of such sale, after deducting any Taxes required to be withheld and applicable transfer Taxes, and after deducting the costs and expenses of such sale and distribution, including brokers fees and commissions. None of Parent, SpinCo or the Distribution Agent shall be required to guarantee any minimum sale price for the fractional SpinCo Shares sold in accordance with this Section 3.4(c). Neither Parent nor SpinCo shall be required to pay any interest on the proceeds from the sale of fractional shares. Neither the Distribution Agent nor the broker-dealers through which the aggregated fractional shares are sold shall be Affiliates of Parent or SpinCo. Solely for purposes of computing fractional share interests pursuant to this Section 3.4(c) and Section 3.4(d), the beneficial owner of Parent Shares held of record in the name of a nominee in any nominee account shall be treated as the Record Holder with respect to such shares.

(d) Any SpinCo Shares or cash in lieu of fractional shares with respect to SpinCo Shares that remain unclaimed by any Record Holder one hundred eighty (180) days after the Distribution Date shall be delivered to SpinCo, and SpinCo or its transfer agent shall hold such SpinCo Shares and cash for the account of such Record Holder, and the Parties agree that all obligations to provide such SpinCo Shares and cash, if any, in lieu of fractional share interests shall be obligations of SpinCo, subject in each case to applicable escheat or other abandoned property Laws, and Parent shall have no Liability with respect thereto.

(e) Until the SpinCo Shares are duly transferred in accordance with this Section 3.4 and applicable Law, from and after the Effective Time, SpinCo shall regard the Persons entitled to receive such SpinCo Shares as record holders of SpinCo Shares in accordance with the terms of the Distribution without requiring any action on the part of such Persons. SpinCo agrees that, subject to any transfers of such shares, from and after the Effective Time, (i) each such holder shall be entitled to receive all dividends, if any, payable on, and exercise voting rights and all other rights and privileges with respect to, the SpinCo Shares then held by such holder, and (ii) each such holder will be entitled, without any action on the part of such holder, to receive evidence of ownership of the SpinCo Shares then held by such holder.

ARTICLE IV
MUTUAL RELEASES; INDEMNIFICATION

4.1 Release of Pre-Distribution Claims.

(a) *SpinCo Release of Parent*. Except as provided in Sections 4.1(c) and 4.1(d), effective as of the Effective Time, SpinCo does hereby, for itself and each other member of the SpinCo Group, and their respective successors and assigns, and, to the extent permitted by applicable Law, all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of the SpinCo Group (in each case, in their respective capacities as such), remise, release and forever discharge (i) Parent and the members of the Parent Group, and their respective successors and assigns, (ii) all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of the Parent Group (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns, and (iii) all Persons who at any time prior to the Effective Time are or have been stockholders, directors, officers,

agents or employees of a Transferred Entity and who are not, as of immediately following the Effective Time, directors, officers or employees of SpinCo or a member of the SpinCo Group, in each case from: (A) all SpinCo Liabilities, (B) all Liabilities arising from or in connection with the transactions contemplated hereby and all other activities to implement the Separation and the Distribution and (C) all Liabilities arising from or in connection with actions, inactions, events, omissions, conditions, facts or circumstances occurring or existing prior to the Effective Time (whether or not such Liabilities cease being contingent, mature, become known, are asserted or foreseen, or accrue, in each case before, at or after the Effective Time), in each case to the extent relating to, arising out of or resulting from the SpinCo Business, the SpinCo Assets or the SpinCo Liabilities. In furtherance of the foregoing, SpinCo hereby, for itself and each other member of the SpinCo Group, and their respective successors and assigns, and, to the extent permitted by applicable Law, all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of the SpinCo Group (in each case, in their respective capacities as such) waives any claim or remedy now or hereafter available under any Environmental Law against (i) Parent and the members of the Parent Group, and their respective successors and assigns, (ii) all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of the Parent Group (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns, and (iii) all Persons who at any time prior to the Effective Time are or have been stockholders, directors, officers, agents or employees of a Transferred Entity and who are not, as of immediately following the Effective Time, directors, officers or employees of SpinCo or a member of the SpinCo Group.

(b) *Parent Release of SpinCo*. Except as provided in Sections 4.1(c) and 4.1(d), effective as of the Effective Time, Parent does hereby, for itself and each other member of the Parent Group and their respective successors and assigns, and, to the extent permitted by applicable Law, all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of the Parent Group (in each case, in their respective capacities as such), remise, release and forever discharge (i) SpinCo and the members of the SpinCo Group and their respective successors and assigns, and (ii) all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of the SpinCo Group (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns, from (A) all Parent Liabilities, (B) all Liabilities arising from or in connection with the transactions contemplated hereby and all other activities to implement the Separation and the Distribution and (C) all Liabilities arising from or in connection with actions, inactions, events, omissions, conditions, facts or circumstances occurring or existing prior to the Effective Time (whether or not such Liabilities cease being contingent, mature, become known, are asserted or foreseen, or accrue, in each case before, at or after the Effective Time), in each case to the extent relating to, arising out of or resulting from the Parent Business, the Parent Assets or the Parent Liabilities.

(c) *Obligations Not Affected*. Nothing contained in Section 4.1(a) or 4.1(b) shall impair any right of any Person to enforce this Agreement, any Ancillary Agreement or any agreements, arrangements, commitments or understandings that are specified in Section 2.8(b) (or the applicable Schedules thereto) after the Effective Time, in each case in accordance with their respective terms. Nothing contained in Section 4.1(a) or 4.1(b) shall release any Person from:

(i) any Liability provided in or resulting from any agreement among any members of the Parent Group or any members of the SpinCo Group that is specified in Section 2.8(b) (or the applicable Schedules thereto) to continue after the Effective Time, or any other Liability specified in Section 2.8(b) to continue after the Effective Time;

(ii) any Liability, contingent or otherwise, assumed, transferred, assigned or allocated to the Group of which such Person is a member in accordance with, or any other Liability of any member of any Group under, this Agreement or any Ancillary Agreement;

(iii) any Liability for the sale, lease, construction or receipt of goods, property or services purchased, obtained or used in the ordinary course of business by a member of one Group from a member of the other Group prior to the Effective Time;

(iv) any Liability that the Parties may have with respect to indemnification or contribution or other obligation pursuant to this Agreement, any Ancillary Agreement or otherwise for claims brought against the Parties by Third Parties, which Liability shall be governed by the provisions of this Article IV and Article V and, if applicable, the appropriate provisions of the Ancillary Agreements; or

(v) any Liability the release of which would result in the release of any Person other than a Person released pursuant to this Section 4.1.

In addition, nothing contained in Section 4.1(a) shall release any member of the Parent Group from honoring its existing obligations to indemnify any director, officer or employee of a member of the SpinCo Group who was a director, officer or employee of any member of the Parent Group at or prior to the Effective Time, to the extent such director, officer or employee is or becomes a named defendant in any Action with respect to which such director, officer or employee was entitled to such indemnification pursuant to such existing obligations; provided, that if a director of SpinCo receives indemnification payments from Parent or SpinCo, as the case may be, with respect to a particular Liability for which such director is entitled to indemnification, such director shall not be entitled to receive indemnification payments from the other Party with respect to the same Liability to the extent of the indemnification payments previously received by such director from Parent or SpinCo, as the case may be; provided, further, that if the underlying obligation giving rise to such Action is a SpinCo Liability, SpinCo shall indemnify Parent for such Liability (including Parent's costs to indemnify the director, officer or employee) in accordance with the provisions set forth in this Article IV.

(d) *No Claims*. SpinCo shall not make, and shall not permit any other member of the SpinCo Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against Parent or any other member of the Parent Group, or any other Person released pursuant to Section 4.1(a), with respect to any Liabilities released pursuant to Section 4.1(a). Parent shall not make, and shall not permit any other member of the Parent Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against SpinCo or any other member of the SpinCo Group, or any other Person released pursuant to Section 4.1(b), with respect to any Liabilities released pursuant to Section 4.1(b).

(e) *Execution of Further Releases*. At any time at or after the Effective Time, at the request of either Party, the other Party shall cause each member of its respective Group to execute and deliver releases reflecting the provisions of this Section 4.1.

4.2 Indemnification by SpinCo. Except as otherwise specifically set forth on Schedule 4.2, in this Agreement or in any Ancillary Agreement, to the fullest extent permitted by applicable Law, SpinCo shall, and shall cause the other members of the SpinCo Group to, indemnify, defend and hold harmless Parent, each member of the Parent Group and each of their respective past, present and future directors, officers, employees and agents, in each case in their respective capacities as such, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the "Parent Indemnitees"), from and against any and all Liabilities of the Parent Indemnitees relating to, arising out of or resulting from, directly or indirectly, any of the following items (without duplication):

(a) any SpinCo Liability;

(b) any failure of SpinCo, any other member of the SpinCo Group or any other Person to pay, perform or otherwise promptly discharge any SpinCo Liabilities in accordance with their terms, whether prior to, on or after the Effective Time;

(c) any breach by SpinCo or any other member of the SpinCo Group of this Agreement or any of the Ancillary Agreements;

(d) the conduct of any business, operation or activity by SpinCo or any member of the SpinCo Group whether before or after the Effective Time;

(e) except to the extent it relates to a Parent Liability, any guarantee, indemnification or contribution obligation, surety bond or other credit support agreement, arrangement, commitment or understanding for the benefit of any member of the SpinCo Group by any member of the Parent Group that survives following the Distribution, including, but not limited to, the Real Estate Guarantees; and

(f) any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, with respect to all information contained in the Form 10, the Information Statement (as amended or supplemented if SpinCo shall have furnished any amendments or supplements thereto) or any other Disclosure Document, other than the matters described in clause (f) of Section 4.3.

4.3 Indemnification by Parent. Except as otherwise specifically set forth in this Agreement or in any Ancillary Agreement, to the fullest extent permitted by applicable Law, Parent shall, and shall cause the other members of the Parent Group to, indemnify, defend and hold harmless SpinCo, each member of the SpinCo Group and each of their respective past, present and future directors, officers, employees or agents, in each case in their respective capacities as such, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the "SpinCo Indemnitees"), from and against any and all Liabilities of the SpinCo Indemnitees relating to, arising out of or resulting from, directly or indirectly, any of the following items (without duplication):

(a) any Parent Liability;

(b) any failure of Parent, any other member of the Parent Group or any other Person to pay, perform or otherwise promptly discharge any Parent Liabilities in accordance with their terms, whether prior to, on or after the Effective Time;

(c) any breach by Parent or any other member of the Parent Group of this Agreement or any of the Ancillary Agreements;

(d) the conduct of any business, operation or activity by Parent or any member of the Parent Group from and after the Effective Time (other than the conduct of business, operations, or activities for the benefit of SpinCo or any of the members of its Group pursuant to this Agreement or any Ancillary Agreement);

(e) except to the extent it relates to a SpinCo Liability, any guarantee, indemnification or contribution obligation, surety bond or other credit support agreement, arrangement, commitment or understanding for the benefit of any member of the Parent Group by any member of the SpinCo Group that survives following the Distribution; and

(f) any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, with respect to statements made explicitly in Parent's name in the Form 10, the Information Statement (as amended or supplemented if SpinCo shall have furnished any amendments or supplements thereto) or any other Disclosure Document; it being agreed that the statements set forth on Schedule 4.3(f) shall be the only statements made explicitly in Parent's name in the Form 10, the Information Statement or any other Disclosure Document, and all other information contained in the Form 10, the Information Statement or any other Disclosure Document shall be deemed to be information supplied by SpinCo.

4.4 Indemnification Obligations Net of Insurance Proceeds and Other Amounts.

(a) The Parties intend that any Liability subject to indemnification, contribution or reimbursement pursuant to this Article IV or Article V will be net of Insurance Proceeds or other amounts actually recovered (net of any out-of-pocket costs or expenses incurred in the collection thereof) from any Person by or on behalf of the Indemnitee in respect of any indemnifiable Liability. Accordingly, the amount that either Party (an "Indemnifying Party") is required to pay to any Person entitled to indemnification or contribution hereunder (an "Indemnitee") shall be reduced by any Insurance Proceeds or other amounts actually recovered (net of any out-of-pocket costs or expenses incurred in the collection thereof) from any Person by or on behalf of the Indemnitee in respect of the related Liability. If an Indemnitee receives a payment (an "Indemnity Payment") required by this Agreement from an Indemnifying Party in respect of any Liability and subsequently receives Insurance Proceeds or any other amounts in respect of such Liability, then within thirty (30) days of receiving such payment, the Indemnitee shall pay to the Indemnifying Party an amount equal to the excess of the Indemnity Payment received over the amount of the Indemnity Payment that would have been due if the Insurance Proceeds or such other amounts (net of any out-of-pocket costs or expenses incurred in the collection thereof) had been received, realized or recovered before the Indemnity Payment was made.

(b) The Parties agree that an insurer that would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto or, solely by virtue of any provision contained in this Agreement or in any Ancillary Agreement, have any subrogation rights with respect thereto, it being understood that no insurer or any other Third Party shall be entitled to a "windfall" (*i.e.*, a benefit they would not be entitled to receive in the absence of the indemnification provisions) by virtue of the indemnification and contribution provisions hereof. Each Party shall, and shall cause the members of its Group to, use commercially reasonable efforts (taking into account the probability of success on the merits and the cost of expending such efforts, including attorneys' fees and expenses) to collect or recover any Insurance Proceeds that may be collectible or recoverable respecting the Liabilities for which indemnification or contribution may be available under this Article IV. Notwithstanding the foregoing, an Indemnifying Party may not delay making any indemnification payment required, or otherwise satisfying any indemnification obligation, under the terms of this Agreement pending the outcome of any Action to collect or recover Insurance Proceeds, and an Indemnitee need not attempt to collect any Insurance Proceeds prior to making a claim for indemnification or contribution or receiving any Indemnity Payment otherwise owed to it under this Agreement or any Ancillary Agreement.

4.5 Procedures for Indemnification of Third-Party Claims.

(a) *Notice of Claims*. If, at or following the Effective Time, an Indemnitee shall receive notice or otherwise learn of the assertion by a Person (including any Governmental Authority) who is not a member of the Parent Group or the SpinCo Group of any claim or of the commencement by any such Person of any Action (collectively, a "Third-Party Claim") with respect to which an Indemnifying Party may be obligated to provide indemnification to such Indemnitee pursuant to Section 4.2 or 4.3, or any other Schedule or Section of this Agreement or any Ancillary Agreement, such Indemnitee shall give such Indemnifying Party written notice thereof as soon as practicable, but in any event within thirty (30) days (or sooner if the nature of the Third-Party Claim so requires) after becoming aware of such Third-Party Claim. Any such notice shall describe the Third-Party Claim in reasonable detail, including the facts and circumstances giving rise to such claim for indemnification, and include copies of all notices and documents (including court papers) received by the Indemnitee relating to the Third-Party Claim. Notwithstanding the foregoing, the failure of an Indemnitee to provide notice in accordance with this Section 4.5(a) shall not relieve an Indemnifying Party of its indemnification obligations under this Agreement, except to the extent to which the Indemnifying Party is actually prejudiced by the Indemnitee's failure to provide notice in accordance with this Section 4.5(a).

(b) *Control of Defense*. An Indemnifying Party shall defend (and seek to settle or compromise), at its own expense and with its own counsel, any Third-Party Claim; provided, that, prior to the Indemnifying Party assuming and controlling the defense of such Third-Party Claim, it shall first confirm to the Indemnitee in writing that, assuming the facts presented to the Indemnifying Party by the Indemnitee are true, the Indemnifying Party shall indemnify the Indemnitee for any such damages to the extent resulting from, or arising out of, such Third-Party-Claim. Notwithstanding the foregoing, if in the course of defending such Third-Party Claim, (i) the Indemnifying Party discovers that the facts presented at the time the Indemnifying Party acknowledged its indemnification obligation in respect of such Third-Party Claim were not true in all material respects and (ii) such untruth provides a reasonable basis for asserting that the Indemnifying Party does not have an indemnification obligation in respect of such Third-Party Claim, then (A) the Indemnifying Party shall promptly thereafter provide the Indemnitee written notice of its assertion that it does not have an indemnification obligation in respect of such Third-Party Claim and (B) the Indemnitee shall assume the defense of such Third-Party Claim; provided, however, that the Indemnifying Party shall not assume the defense of any Third-Party Claim to the extent such Third-Party Claim (x) is an Action by a Governmental Authority, (y) involves an allegation of a criminal violation or (z) seeks injunctive relief against the Indemnitee.

(c) *Allocation of Defense Costs*. An Indemnifying Party shall be solely liable for all fees and expenses incurred by it in connection with the defense of a Third-Party Claim and shall not be entitled to seek any indemnification or reimbursement from the Indemnitee for any such fees or expenses incurred by the Indemnifying Party during the course of the defense of such Third-Party Claim by such Indemnifying Party, regardless of any subsequent decision by the Indemnifying Party to reject or otherwise abandon its assumption of such defense.

(d) *Right to Monitor and Participate*. An Indemnitee shall have the right to employ separate counsel (including local counsel as necessary) of its own choosing to monitor and participate in (but not control) the defense of any Third-Party Claim for which it is a potential Indemnitee, but the fees and expenses of such counsel shall be at the expense of such Indemnitee, and the provisions of Section 4.5(c) shall not apply to such fees and expenses. Notwithstanding the foregoing, but subject to Sections 6.7 and 6.8, the Indemnitee shall cooperate with the Indemnifying Party in the defense of any Third-Party Claim and make available to the Indemnifying Party, at the Indemnitee's expense, all witnesses, information and materials in the Indemnitee's possession or under the Indemnitee's control relating thereto as are reasonably required by the Indemnifying Party. In addition to the foregoing, if any Indemnitee reasonably determines in good faith that such Indemnitee and the Indemnifying Party have actual or potential differing defenses or conflicts of interest between them that make joint representation inappropriate, then the Indemnitee shall have the right to employ separate counsel (including local counsel) and to participate in (but not control) the defense, compromise, or settlement thereof, and in such case the Indemnifying Party shall bear the reasonable fees and expenses of such counsel for all Indemnitees.

(e) *No Settlement*. Neither any member of the Parent Group, nor any member of the SpinCo Group, may settle or compromise any Third-Party Claim for which a SpinCo Indemnitee or a Parent Indemnitee, respectively, is seeking or is reasonably expected to seek to be indemnified hereunder without the prior written consent of SpinCo or Parent, respectively, which consent may not be unreasonably withheld, unless such settlement or compromise is solely for monetary damages that are fully payable by the settling or compromising Party, does not involve any admission, finding or determination of wrongdoing or violation of Law by any SpinCo Indemnitee or any Parent Indemnitee, respectively, provides for a full, unconditional and irrevocable release of each SpinCo Indemnitee or each Parent Indemnitee,

respectively, from all Liability in connection with the Third-Party Claim. The Parties hereby agree that if a Party delivers the other Party a written notice containing a proposal to settle or compromise a Third-Party Claim for which an Indemnitee is seeking to be indemnified hereunder and the Party receiving such proposal does not respond in any manner to the Party presenting such proposal within ten (10) business days or such longer period, not to exceed twenty (20) days, as may be agreed by the Parties, (or within any such shorter time period that may be required by applicable Law or court order) of receipt of such proposal, then the Party receiving such proposal shall be deemed to have consented to the terms of such proposal.

(f) *Allocation of Proceeding Liabilities*. The Parties acknowledge that Liabilities for Actions (regardless of the parties to the applicable Action) may be partly Parent Liabilities and partly SpinCo Liabilities. If the Parties cannot agree on an allocation of any such Liabilities for Actions (or such matters or types of matters have not been allocated or addressed either in the definition of SpinCo Liabilities, in Schedule 2.3(a)(x), or otherwise as set forth in this Agreement or any Ancillary Agreement), they shall resolve the matter pursuant to the procedures set forth in Article VII. Neither Party shall, nor shall either Party permit its Subsidiaries to, file Third Party claims or cross-claims against the other Party or its Subsidiaries in an Action in which a Third-Party Claim is being resolved.

(g) *Cooperation as to Removal*. Each of the Parties agrees that at all times from and after the Effective Time, if an Action is commenced by a Third Party naming two or more Parties (or any Affiliates of such Parties) as defendants and with respect to which one or more named Parties (or any Affiliates of such Parties) is a nominal defendant and/or such Action is related solely to an Asset or Liability that the other Party has been allocated under this Agreement or any Ancillary Agreement, then the other Party or Parties shall use commercially reasonable efforts to cause such nominal defendant to be removed from such Action, as soon as reasonably practicable.

4.6 Additional Matters.

(a) *Timing of Payments*. Indemnification or contribution payments in respect of any Liabilities for which an Indemnitee is entitled to indemnification or contribution under this Article IV shall be paid reasonably promptly (but in any event within thirty (30) days of the final determination of the amount that the Indemnitee is entitled to indemnification or contribution under this Article IV) by the Indemnifying Party to the Indemnitee as such Liabilities are incurred upon demand by the Indemnitee, including reasonably satisfactory documentation setting forth the basis for the amount of such indemnification or contribution payment, including documentation with respect to calculations made and consideration of any Insurance Proceeds that actually reduce the amount of such Liabilities. The indemnity and contribution provisions contained in this Article IV shall remain operative and in full force and effect, regardless of (i) any investigation made by or on behalf of any Indemnitee, and (ii) the knowledge by the Indemnitee of Liabilities for which it might be entitled to indemnification hereunder.

(b) *Notice of Direct Claims*. Any claim for indemnification or contribution under this Agreement or any Ancillary Agreement that does not result from a Third-Party Claim shall be asserted by written notice given by the Indemnitee to the applicable Indemnifying Party within thirty (30) days of such determination that such matter has given, or will likely give rise to, a right of indemnification under this Agreement or any Ancillary Agreement; provided that the failure by an Indemnitee to so assert any such claim shall not prejudice the ability of the Indemnitee to do so at a later time, except to the extent (if any) that the Indemnifying Party is actually prejudiced thereby. Such Indemnifying Party shall have a period of thirty (30) days after the receipt of such notice within which to respond thereto. If such Indemnifying Party does not respond within such thirty (30)-day period, such specified claim shall be conclusively deemed a Liability of the Indemnifying Party under this Section 4.6(b) or, in the case of any written notice in which the amount of the claim (or any portion thereof) is estimated, on such later date when the amount of the claim (or such portion thereof) becomes finally determined. If such Indemnifying Party does not respond within such thirty (30)-day period or rejects such claim in whole or in part, such Indemnitee shall, subject to the provisions of Article VII, be free to pursue such remedies as may be available to such party as contemplated by this Agreement and the Ancillary Agreements, as applicable, without prejudice to its continuing rights to pursue indemnification or contribution hereunder.

(c) *Pursuit of Claims Against Third Parties*. If (i) a Party incurs any Liability arising out of this Agreement or any Ancillary Agreement; (ii) an adequate legal or equitable remedy is not available for any reason against the other Party to satisfy the Liability incurred by the incurring Party; and (iii) a legal or equitable remedy may be available to the other Party against a Third Party for such Liability, then the other Party shall use its commercially reasonable efforts to cooperate with the incurring Party, at the incurring Party's expense, to permit the incurring Party to obtain the benefits of such legal or equitable remedy against such Third Party.

(d) *Subrogation*. In the event of payment by or on behalf of any Indemnifying Party to any Indemnitee in connection with any Third-Party Claim, such Indemnifying Party shall be subrogated to and shall stand in the place of such Indemnitee as to any events or circumstances in respect of which such Indemnitee may have any right, defense or claim relating to such Third-Party Claim against any claimant or plaintiff asserting such Third-Party Claim or against any other Person. Such Indemnitee shall cooperate with such Indemnifying Party in a reasonable manner, and at the cost and expense of such Indemnifying Party, in prosecuting any subrogated right, defense or claim.

(e) *Substitution*. In the event of an Action in which the Indemnifying Party is not a named defendant, if either the Indemnitee or Indemnifying Party shall so request, the Parties shall endeavor to substitute the Indemnifying Party for the named defendant. If such substitution or addition cannot be achieved for any reason or is not requested, the named defendant shall allow the Indemnifying Party to manage the Action as set forth in Section 4.5 and this Section 4.6, and the Indemnifying Party shall fully indemnify the named defendant against all reasonable costs of defending the Action (including court costs, sanctions imposed by a court, attorneys' fees, experts fees and all other external expenses), the costs of any judgment or settlement and the cost of any interest or penalties relating to any judgment or settlement.

(f) *Tax Matters Agreement Coordination*. The provisions of Section 4.2 through Section 4.10 (including Section 4.6(a)-(e)) shall not apply to Taxes to the extent specifically addressed in the Tax Matters Agreement, subject to the terms thereof. It is understood and agreed that Taxes and Tax matters, including the control of Tax-related proceedings, shall be governed by the Tax Matters Agreement to the extent specifically addressed in the Tax Matters Agreement, subject to the terms thereof. In the case of any conflict or inconsistency between this Agreement and the Tax Matters Agreement in relation to any matters addressed by the Tax Matters Agreement, the Tax Matters Agreement shall prevail.

4.7 Right of Contribution.

(a) *Contribution*. If any right of indemnification contained in Section 4.2 or 4.3 is held unenforceable or is unavailable for any reason, or is insufficient to hold harmless an Indemnitee in respect of any Liability for which such Indemnitee is entitled to indemnification hereunder, then the Indemnifying Party shall contribute to the amounts paid or payable by the Indemnitees as a result of such Liability (or actions in respect thereof) in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and the members of its Group, on the one hand, and the Indemnitees entitled to contribution, on the other hand, as well as any other relevant equitable considerations.

(b) *Allocation of Relative Fault*. Solely for purposes of determining relative fault pursuant to this Section 4.7: (i) any fault associated with the business conducted with the Deferred SpinCo Local Businesses, Delayed SpinCo Assets or Delayed SpinCo Liabilities (except for the intentional misconduct of a member of the Parent Group) or with the ownership, operation or activities of the SpinCo Business prior to the Effective Time shall be deemed to be the fault of SpinCo and the other members of the SpinCo Group, and no such fault shall be deemed to be the fault of Parent or any other

member of the Parent Group; (ii) any fault associated with the business conducted with Delayed Parent Assets or Delayed Parent Liabilities (except for the intentional misconduct of a member of the SpinCo Group) shall be deemed to be the fault of Parent and the other members of the Parent Group, and no such fault shall be deemed to be the fault of SpinCo or any other member of the SpinCo Group; and (iii) any fault associated with the ownership, operation or activities of the Parent Business prior to the Effective Time shall be deemed to be the fault of Parent and the other members of the Parent Group, and no such fault shall be deemed to be the fault of SpinCo or any other member of the SpinCo Group.

4.8 Covenant Not to Sue. Each Party hereby covenants and agrees that none of it, the members of such Party's Group or any Person claiming through it shall bring suit or otherwise assert any claim against any Indemnitee, or assert a defense against any claim asserted by any Indemnitee, before any court, arbitrator, mediator or administrative agency anywhere in the world, alleging that: (a) the assumption of any SpinCo Liabilities by SpinCo or a member of the SpinCo Group on the terms and conditions set forth in this Agreement and the Ancillary Agreements is void or unenforceable for any reason; (b) the retention of any Parent Liabilities by Parent or a member of the Parent Group on the terms and conditions set forth in this Agreement and the Ancillary Agreements is void or unenforceable for any reason; or (c) the provisions of this Article IV are void or unenforceable for any reason.

4.9 Remedies Cumulative. The remedies provided in this Article IV shall be the sole monetary remedies available in respect of this Agreement.

4.10 Survival of Indemnities. The rights and obligations of each of Parent and SpinCo and their respective Indemnitees under this Article IV shall survive (a) the sale or other transfer by either Party or any member of its Group of any assets or businesses or the assignment by it of any Liabilities; or (b) any merger, consolidation, business combination, sale of all or substantially all of its Assets, restructuring, recapitalization, reorganization or similar transaction involving either Party or any of the members of its Group.

ARTICLE V
CERTAIN OTHER MATTERS

5.1 Insurance Matters.

(a) SpinCo acknowledges and agrees, on its own behalf and on behalf of each member of the SpinCo Group and the SpinCo Indemnitees, that, from and after the Effective Time, neither SpinCo nor any member of the SpinCo Group nor any of the SpinCo Indemnitees shall have any rights to or under any of Parent's or the Parent Group's insurance policies, except as expressly provided in this Agreement or any Ancillary Agreement.

(b) Notwithstanding Section 5.1(a), from and after the Effective Time, with respect to any Liability incurred by SpinCo or any member of the SpinCo Group or SpinCo Indemnitees prior to the Effective Time (or, with respect to any Deferred SpinCo Local Business, prior to the Local Closing Date), to the extent reasonably possible, Parent or the member of the Parent Group that is insured thereunder will undertake commercially reasonable efforts to cause the applicable insurance company or companies to (i) continue to provide SpinCo and the members of the SpinCo Group and SpinCo Indemnitees with access to and coverage under the applicable insurance policies, and (ii) reasonably cooperate with SpinCo and the members of the SpinCo Group and SpinCo Indemnitees and take commercially reasonable actions as reasonably may be requested to assist SpinCo and the members of the SpinCo Group and SpinCo Indemnitees in connection with such claims under applicable insurance policies; provided, that SpinCo shall in any event be solely responsible for any and all applicable deductibles, self-insured retentions, retrospective premiums, claims-handling charges, co-payments or any other expenses, charges or fees relating to such claims, including, without limitation, expenses, charges or fees of Parent personnel. In furtherance thereof, except as otherwise addressed in another Ancillary Agreement, to the extent Parent or

any of the members of the Parent Group is billed by an insurance carrier or a third-party administrator (including under any workers compensation or auto liability policies) for claims that constitute SpinCo Liabilities or that Parent pays for such claims within a deductible or self-insured retention, Parent shall submit a statement to SpinCo following the end of each quarter (or with such lesser frequency as may be appropriate) setting forth the amount of such claims, and SpinCo shall reimburse Parent within thirty (30) days any amounts paid by it in respect of such SpinCo Liabilities. Notwithstanding the foregoing, subject to Section 5.7, neither Parent nor the insurance company or any member of the Parent Group shall be required to maintain any such insurance policies. For the avoidance of doubt, if an accident, first loss or first occurrence date is after the Effective Time (or, with respect to any Deferred SpinCo Local Business, prior to the Local Closing Date), or with respect to any claims-made policies the claim first is made after the Effective Time and is not provided for in Section 5.1(a), Section 5.1(b) or Section 5.7, then no payment for any damages, settlement(s), indemnification(s), costs of defense or any other sums with respect to such accident, first loss, first occurrence or claim shall be available to SpinCo or the members of the SpinCo Group and SpinCo Indemnitees under any such insurance policies. Neither SpinCo nor any member of the SpinCo Group or SpinCo Indemnitee, in connection with making a claim under any insurance policy of Parent or any member of the Parent Group pursuant to this Section 5.1(b), shall take, nor shall Parent or any member of the Parent Group be required to take, any action that would be reasonably likely to: (A) have an adverse impact on the then-current relationship between Parent or any member of the Parent Group or Parent Indemnitee, on the one hand, and the applicable insurance company, on the other hand; (B) result in the applicable insurance company terminating, materially changing or reducing coverage, or increasing the amount of any premium owed by Parent or any member of the Parent Group under the applicable insurance policy; or (C) otherwise compromise, jeopardize or interfere with the rights of Parent or any member of the Parent Group or Parent Indemnitee under the applicable insurance policy. At all times, the Parties shall, and shall cause their respective Groups and Indemnitees to, cooperate with reasonable requests for information by the other Party or the insurance companies regarding any such insurance policy claim.

(c) At the Effective Time, SpinCo shall have in effect all insurance programs required to comply with SpinCo's statutory, contractual and regulatory obligations and all such other insurance policies as are reasonably necessary or customary for companies operating a business similar to the SpinCo Business in every jurisdiction in which SpinCo may operate or face potentially covered exposures. Such insurance programs shall include, without limitation, general and excess liability, workers' compensation, employers liability, product liability, employment practices liability, D&O liability, fiduciary liability (specifically as provided in Section 5.7), property (including business income and additional and other customary extensions and types of coverage provided to businesses similar to the SpinCo Business) and, to the extent SpinCo or the members of the SpinCo Group participate in any clinical trials, clinical trial coverage.

(d) SpinCo agrees, on its own behalf and on behalf of the members of the SpinCo Group, that, from the Effective Time until the sixth anniversary of the Effective Time, in addition to the requirements of Section 5.1, it or they shall request of all insurance companies that Parent and the members of the Parent Group shall be named as additional insureds or loss payee, whichever is appropriate, under SpinCo's or the members of the SpinCo Group's insurance policies in respect of any Parent Liabilities arising out of the SpinCo Business or any accidents, occurrences or actual or alleged wrongful acts or omissions prior to the Effective Time, and provide Parent with proof of such status as additional insured or loss payee. SpinCo and the members of the SpinCo Group shall indemnify, hold harmless and reimburse Parent and the members of the Parent Group and Parent Indemnitees for any and all costs or expenses incurred by Parent or the members of the Parent Group or Parent Indemnitees to the extent resulting from any of SpinCo's or the members of the SpinCo Group's insurance policies in which Parent or any of the members of the Parent Group are named as additional insureds or resulting from any of Parent's or the members of the Parent Group's insurance policies in connection with claims made under such insurance policies for the benefit of SpinCo's or the members of the SpinCo Group's directors and officers, including, without limitation, costs or expenses of or associated with any deductibles, self-insured retentions or uninsured losses, including, without limitation, under any D&O Policies referenced in Section 5.7.

(e) Neither Parent nor any of the members of the Parent Group shall have any obligation to secure extended reporting for any claims under any of Parent's or the Parent Group's claims-made or occurrence-reported liability policies for any acts or omissions by SpinCo or any member of the SpinCo Group or SpinCo Indemnitee incurred prior to the Effective Time.

(f) This Agreement shall not be considered as a contract of insurance and shall not be construed to waive any right or remedy of either Parent or any member of the Parent Group or Parent Indemnitee in respect of any of the Parent insurance policies and programs, or any other contract or policy of insurance or any claim whatsoever.

5.2 Late Payments. Except as expressly provided to the contrary in this Agreement or in any Ancillary Agreement, any amount not paid when due pursuant to this Agreement or any Ancillary Agreement (and any amounts billed or otherwise invoiced or demanded and properly payable that are not paid within thirty (30) days of such bill, invoice or other demand) shall accrue interest at a rate of five percent (5%) per annum.

5.3 Inducement. Each of SpinCo and Parent acknowledges and agrees that the other Party's willingness to cause, effect and consummate the Separation and the Distribution has been conditioned upon and induced by its covenants and agreements in this Agreement and the Ancillary Agreements, including its assumption and/or retention of the SpinCo Liabilities or the Parent Liabilities, as applicable, pursuant to the Separation and the provisions of this Agreement and its covenants and agreements contained in Article IV.

5.4 Post-Effective Time Conduct. The Parties acknowledge that, after the Effective Time, each Party shall be independent of the other Party, with responsibility for its own actions and inactions and its own Liabilities relating to, arising out of or resulting from the conduct of its business, operations and activities following the Effective Time, except as may otherwise be provided in any Ancillary Agreement, and each Party shall (except as otherwise provided in Article IV) use commercially reasonable efforts to prevent such Liabilities from being inappropriately borne by the other Party.

5.5 Use of Retained Names and Marks. SpinCo hereby acknowledges that Parent or its Affiliates or its or their licensors own all right, title and interest in and to any and all Retained Names and Marks (as defined below) and that, except as expressly provided herein or in the Ancillary Agreements, any and all right of SpinCo to use the Retained Names and Marks shall terminate as of the Distribution Date and shall immediately revert to Parent or its Affiliates, along with any and all goodwill associated therewith. SpinCo further acknowledges that it has no rights in any of the Retained Names and Marks, and that it is not acquiring any rights, directly or indirectly, to use the Retained Names and Marks, except as expressly provided herein or in the Ancillary Agreements. For purposes hereof, "Retained Names and Marks" means any and all company names and other Trademarks that were owned by either Party or any of the members of its Group as of the Effective Time (including all variations, translations, transliterations and acronyms thereof and all company names, Trademarks, internet domain names, social media accounts, addresses and all other identifiers and other identifiers of source or goodwill containing, incorporating or associated with any of the foregoing), excluding, on and after the Distribution Date, Trademarks included in the SpinCo Assets.

5.6 No Hire and No Solicitation of Employees. From and after the Distribution Date until the date that is twelve (12) months from Distribution Date, none of Parent, SpinCo or any member of their respective Groups will, without the prior written consent of the other applicable Party, either directly or indirectly, on their own behalf or in the service or on behalf of others, agree to an employment, contractual or other relationship or otherwise hire, retain or employ any employee of any other Party's

respective Group. Until the date that is twelve (12) months from the Distribution Date, none of Parent, SpinCo or any member of their respective Groups will, without the prior written consent of the other applicable Party, either directly or indirectly, on their own behalf or in the service or on behalf of others, solicit, aid, induce or encourage any employee of any other Party's respective Group to leave his or her employment. Notwithstanding the foregoing, nothing in this Section 5.6 shall restrict or preclude Parent, SpinCo or any member of their respective Groups from soliciting or hiring (i) during the nonsolicitation period referenced above, any employee who responds to a general solicitation or advertisement or contact by a recruiter, whether in-house or external, that is not specifically targeted or focused on the employees employed by any other Party's respective Group (and nothing shall prohibit such generalized searches for employees through various means, including, but not limited to, the use of advertisements in the media (including trade media) or the engagement of search firms to engage in such searches); provided that the applicable Party has not encouraged or advised such firm to approach any such employee; (ii) any employee whose employment has been terminated by the other Party's respective Group; or (iii) any employee whose employment has been terminated by such employee after sixty (60) days from the date of termination of such employee's employment. For purposes of this Section 5.6, receipt of the written consent of the then-serving Senior Vice President of Human Resources of Parent or SpinCo, as applicable, shall be required for Parent's or SpinCo's consent, as applicable, to be deemed to have been granted.

5.7 Directors and Officers Insurance; Fiduciary Liability Insurance. On and after the Distribution Date, Parent shall not, and shall cause the members of the Parent Group not to, take any action that would limit the coverage of the individuals who acted as directors or officers of SpinCo (or members of the SpinCo Group) prior to the Distribution Date under any directors and officers liability insurance policies or fiduciary liability insurance policies (collectively, "D&O Policies") maintained by the members of the Parent Group in respect of claims relating to a period prior to the Distribution Date. Parent shall, and shall cause the members of the Parent Group to, reasonably cooperate with the individuals who acted as directors or officers of SpinCo (or members of the SpinCo Group) prior to the Distribution Date in their pursuit of any coverage claims under such D&O Policies which could inure to the benefit of such individuals. Parent shall, and shall cause members of the Parent Group to, allow SpinCo and its agents and representatives, upon reasonable prior notice and during regular business hours, to examine the relevant D&O Policies maintained by Parent and members of the Parent Group pursuant to this Section 5.7. Parent shall provide, and shall cause other members of the Parent Group to provide, such cooperation as is reasonably requested by SpinCo in order for SpinCo to have in effect on and after the Distribution Date such new D&O Policies as SpinCo deems appropriate with respect to claims reported on or after the Distribution Date.

5.8 No Right to Use Regulatory Information. Except as otherwise set forth on Schedule 5.8 or provided in this Agreement or any Ancillary Agreement, (a) none of Parent or any member of the Parent Group shall have a right of reference to or otherwise be entitled to use the regulatory filings or other regulatory information to the extent exclusively related to any SpinCo Products; and (b) none of SpinCo or any member of the SpinCo Group shall have a right of reference to or otherwise be entitled to use the regulatory filings or other regulatory information owned or controlled by Parent or any member of the Parent Group for any products in the Parent Business.

5.9 Procedures Related to Certain Actions.

(a) Without limiting the provisions of Section 4.5, and subject to Section 5.1, the Parties acknowledge and agree that SpinCo shall exclusively conduct and control the defense, settlement and/or other resolution of the SpinCo Actions and Parent shall exclusively conduct and control the defense, settlement and/or other resolution of the Parent Actions. Each Party agrees that if the other Party is wrongly named in its claim, such Party shall use commercially reasonable efforts to remove the wrongly named Party from the claim and shall consult with the wrongly named Party until its removal from the claim.

(b) A list of Actions asserted against, involving or potentially involving both Parent, the members of the Parent Group and/or the Parent Business and SpinCo, the members of the SpinCo Group and/or the SpinCo Business as of the date hereof for which costs and liability will be shared is set forth on Schedule 5.9(b) (the "Shared Existing Actions") together with (x) the Party allocated responsibility to conduct and control the defense, settlement and/or other resolution of such matters (such named Party, the "Controlling Party") and (y) unless otherwise agreed by the Controlling Party and the other Party (the "Non-Controlling Party"), each Party's respective share of costs and liability for any such Shared Existing Action.

(c) With respect to any Actions arising after the date hereof that implicates both Parties in any material respect due to the allocation of Liabilities, responsibilities for management of defense and related indemnities pursuant to this Agreement or any of the Ancillary Agreements, the Parties agree the Party that has primary responsibility for Liabilities arising in connection with such Action shall be the Controlling Party with respect to such Action (unless the control of such defense has otherwise been allocated or addressed in Schedule 2.3(a)(x), Schedule 5.9(b), or otherwise as set forth in this Agreement or any Ancillary Agreement). To the extent that the Parties' respective share of costs and Liability with respect to any such Action is not set forth on Schedule 5.9(b), the Parties shall negotiate in good-faith to allocate responsibility for such costs and liability based on the extent to which such Action relates, on the one hand, to SpinCo, the SpinCo Business, a SpinCo Asset and a SpinCo Liability, and, on the other hand, Parent, the Parent Business, a Parent Asset and a Parent Liability.

(d) The Parties shall, and shall cause their respective Affiliates to, cooperate in the defense and settlement of any Action described in Sections 5.9(b) and 5.9(c). The Controlling Party shall use its commercially reasonable efforts to include the Non-Controlling Party in the defense and resolution of any Action described in Sections 5.9(b) and 5.9(c); provided, however, that the Non-Controlling Party shall be responsible for its proportionate share of any costs and expenses incurred in connection therewith (including its share of any settlement, judgement, award or other resolution and any incremental cost to the Controlling Party of including the Non-Controlling Party in such settlement); provided further, that the Non-Controlling Party shall be permitted in good faith to opt out of any settlement if the Non-Controlling Party agrees to be responsible for defending and settling any remaining claims with respect to such Action.

5.10 Transition Committee. Prior to the Effective Time, the Parties shall establish a transition committee (the "Transition Committee") that shall consist of an equal number of members designated by Parent and SpinCo at all times, with each Party having the right to replace the Transition Committee members delegated by it from time to time and taking such efforts as are necessary from time to time to cause the Transition Committee to consist of an equal number of representatives of Parent and SpinCo (in a total number determined from time to time by the Parties). The initial members of the Transition Committee shall be the individuals specified on Schedule 5.10. The Transition Committee shall be responsible for monitoring and managing all matters related to any of the transactions contemplated by this Agreement or any Ancillary Agreements. The Transition Committee shall have the authority, but not the obligation, to (a) establish one or more subcommittees from time to time as it deems appropriate or as may be described in any Ancillary Agreements, with each such subcommittee comprised of an equal number of members representing each Party, and each such subcommittee having such scope of responsibility as may be determined by the Transition Committee from time to time; (b) delegate to any such committee any of the powers of the Transition Committee; and (c) combine, modify the scope of responsibility of, and disband any such subcommittees, and to modify or reverse any such delegations. The Transition Committee shall establish general procedures for managing the responsibilities delegated to it under this Section 5.10, and may modify such procedures from time to time. All decisions by the Transition Committee or any subcommittee thereof shall be effective only with majority approval, and any such approval must include the approval of at least one member of the Transition Committee designated by Parent and at least one member of the Transition Committee designated by SpinCo. The Parties shall utilize the procedures set forth in Article VII to resolve any matters as to which the Transition Committee is not able to reach a decision.

ARTICLE VI
EXCHANGE OF INFORMATION; CONFIDENTIALITY

6.1 Agreement for Exchange of Information and Cooperation.

(a) Subject to Section 6.9, any other applicable confidentiality obligations and the record retention programs of each Party, each of Parent and SpinCo, on behalf of itself and each member of its Group, agrees to use commercially reasonable efforts to provide or make available, or cause to be provided or made available, to the other Party and the members of such other Party's Group, at any time before, on or after the Effective Time, as soon as reasonably practicable after request therefor, any Information and documents or other materials (or a copy thereof) in the possession or under the control of such Party or its Group that the requesting Party or its Group requests to the extent that (i) such Information relates to the SpinCo Business, or any SpinCo Asset or SpinCo Liability, if SpinCo is the requesting Party, or to the Parent Business, or any Parent Asset or Parent Liability, if Parent is the requesting Party; (ii) such Information is reasonably requested in connection with the requesting Party's required compliance with its obligations under this Agreement or any Ancillary Agreement or under any contract, agreement, obligation, indenture, instrument, lease, promise, arrangement, release, warranty, commitment or undertaking to which it or any member of its Group is a party or by which any of their respective properties or assets are bound; (iii) such Information is reasonably requested in connection with the requesting Party's compliance with any obligation imposed by any Governmental Authority or under any applicable Law or securities exchange rule; or (iv) such Information is reasonably requested by the requesting Party in evaluating its potential exposure to Liabilities of the other Party's Group under guarantees and other obligations that have not been fully novated, replaced and/or transferred to such Party's Group in accordance with Sections 2.6 or 2.7; provided, however, that, in the event that the Party to whom the request has been made determines that any such provision of Information could be commercially detrimental to the Party providing the Information, violate any Law or agreement, or waive any privilege available under applicable Law, including any attorney-client privilege, then the Parties shall use commercially reasonable efforts to permit compliance with such obligations to the extent and in a manner that avoids any such harm or consequence. The Party providing Information pursuant to this Section 6.1 shall only be obligated to provide such Information in the form, condition and format in which it then exists, and in no event shall such Party be required to perform any improvement, modification, conversion, updating or reformatting of any such Information, and nothing in this Section 6.1 shall expand the obligations of any Party under Section 6.4.

(b) Without limiting the generality of the foregoing, following the Effective Time, each Party shall use its commercially reasonable efforts to cooperate with the other Party in its Information requests and other reasonable requests to enable (i) the other Party to meet its applicable financial reporting and related obligations under applicable Laws and securities exchange rules and timetable for dissemination of its earnings releases, financial statements and management's assessment of the effectiveness of its disclosure controls and procedures and its internal control over financial reporting in accordance with Items 307 and 308, respectively, of Regulation S-K promulgated under the Exchange Act; (ii) the other Party's accountants to timely complete their review of the quarterly financial statements and audit of the annual financial statements, including, to the extent applicable to such Party, its auditor's audit of its internal control over financial reporting and management's assessment thereof in accordance with Section 404 of the Sarbanes-Oxley Act of 2002, the SEC's and Public Company Accounting Oversight Board's rules and auditing standards thereunder and any other applicable Laws; (iii) the other Party to meet its other applicable obligations imposed by any Governmental Authority or under any applicable Law or securities exchange rule and (iv) the other Party to meet its applicable obligations under any contract, agreement, obligation, indenture, instrument, lease, promise, arrangement, release, warranty, commitment or undertaking to which it or any member of its Group is a party or by which any of their respective properties or assets are bound.

(c) Each Party agrees that all requests for Information pursuant to this Section 6.1 shall be made in accordance with the procedures and processes that may be reasonably established by the other Party to respond to such requests.

6.2 Ownership of Information. The provision of any Information pursuant to Section 6.1 or 6.7 shall not affect the ownership of such Information (which shall be determined solely in accordance with the terms of this Agreement and the Ancillary Agreements), or constitute a grant of rights in or to any such Information.

6.3 Compensation for Providing Information. The Party requesting Information agrees to reimburse the other Party for the reasonable costs, if any, of creating, gathering, copying, transporting and otherwise complying with the request with respect to such Information (including any reasonable costs and expenses incurred in any review of Information for purposes of protecting the Privileged Information of the providing Party or in connection with the restoration of backup media for purposes of providing the requested Information). Except as may be otherwise specifically provided elsewhere in this Agreement, any Ancillary Agreement or any other agreement between the Parties, such costs shall be computed in accordance with the providing Party's standard methodology and procedures.

6.4 Stored Records.

(a) The Parties agree and acknowledge that it is not practicable to separate all Tangible Information belonging to the Parties or their Subsidiaries, and that following the Effective Time, each Party (or its Subsidiaries) will have some of the Tangible Information belonging to the other Party and its Subsidiaries stored under its care, custody or control at internal or Third Party records storage locations or otherwise (which may include data on servers) (each, a "Records Facility"). Tangible Information held in a Records Facility maintained or arranged for by the Party other than the Party that owns such Tangible Information is referred to as "Stored Records." The Party that maintains the Records Facility where Stored Records are held is referred to as the "Custodial Party" and the Party that owns the Stored Records held in the other Party's Records Facility is referred to as the "Non-Custodial Party." The Custodial Party shall make such Stored Records available to the Non-Custodial Party upon its request. The Non-Custodial Party agrees to reimburse the Custodial Party for the reasonable costs, if any, of creating, gathering, redacting (where required), copying, storing, transporting and otherwise complying with the request to provide or make available such Stored Records (including any reasonable costs and expenses incurred in connection with the restoration of backup media for purposes of providing the requested Stored Records). Except as may be otherwise specifically provided elsewhere in this Agreement or in any Ancillary Agreement, such costs shall be computed in accordance with the providing Party's standard methodology and procedures.

(b) Each Party shall use commercially reasonable efforts: (i) to maintain the Stored Records as to which it is the Custodial Party in accordance with its regular records retention policies and procedures and the terms of this Section 6.4; and (ii) to comply with the requirements of any "Litigation Hold" that relates to Stored Records as to which it is the Custodial Party that relate to (x) any Action that is pending as of the Effective Time; or (y) any Action that arises or becomes threatened or reasonably anticipated after the Effective Time as to which the Custodial Party has received a written preservation notice of the applicable "Litigation Hold" from the Non-Custodial Party to which the Stored Records are subject. Upon the termination of any "Litigation Hold" related to Stored Records, the Non-Custodial Party shall promptly notify the Custodial Party so that the Custodial Party can destroy the relevant Stored Records where appropriate. Each Party agrees, with respect to the Stored Records as to which it is the Custodial Party, to notify the Non-Custodial Party in the event of a data loss or cyber event that affects the Stored Records of the Non-Custodial Party.

6.5 Limitations of Liability. Neither Party shall have any Liability to the other Party in the event that any Information exchanged or provided pursuant to this Agreement is found to be inaccurate in the absence of gross negligence, bad faith or willful misconduct by the Party providing such Information. Neither Party shall have any Liability to any other Party if any Information is destroyed after commercially reasonable efforts by such Party to comply with the provisions of Section 6.4.

6.6 Other Agreements Providing for Exchange of Information.

(a) The rights and obligations granted under this Article VI are subject to any specific limitations, qualifications or additional provisions on the sharing, exchange, retention or confidential treatment of Information set forth in any Ancillary Agreement. For the avoidance of doubt, in the case of any conflict or inconsistency between this Article VI and the Tax Matters Agreement, the Tax Matters Agreement shall prevail.

(b) Any party that receives, pursuant to a request for Information in accordance with this Article VI, Tangible Information that is not relevant to its request shall, at the request of the providing Party, (i) return it to the providing Party or, at the providing Party's request, destroy such Tangible Information; and (ii) deliver to the providing Party a written confirmation that such Tangible Information was returned or destroyed, as the case may be, which confirmation shall be signed by an authorized representative of the requesting Party.

(c) When any Tangible Information provided by one Party to the other Party (other than Tangible Information provided pursuant to Section 6.4) is no longer needed for the purposes contemplated by this Agreement or any Ancillary Agreement or is no longer required to be retained by applicable Law, the receiving Party shall promptly, after request of the other Party, either return to the other Party all Tangible Information in the form in which it was originally provided (including all copies thereof and all notes, extracts or summaries based thereon) or, if the providing Party has requested that the other Party destroy such Tangible Information, confirm to the other Party that it has destroyed such Tangible Information (and such copies thereof and such notes, extracts or summaries based thereon); provided that this obligation to return or destroy such Tangible Information shall not apply to any Tangible Information solely related to the receiving Party's business, Assets, Liabilities, operations or activities.

6.7 Production of Witnesses; Records; Cooperation.

(a) After the Effective Time, except in the case of a Dispute between Parent and SpinCo, or any members of their respective Groups, each Party shall use its commercially reasonable efforts to make available to the other Party, upon written request, the former, current and future directors, officers, employees, other personnel and agents of the members of its respective Group as witnesses and any books, records or other documents or Information within its control or which it otherwise has the ability to make available without undue burden, to the extent that any such person (giving consideration to business demands of such directors, officers, employees, other personnel and agents) or books, records or other documents or Information may reasonably be required in connection with any Action in which the requesting Party (or member of its Group) may from time to time be involved, regardless of whether such Action is a matter with respect to which indemnification may be sought hereunder. The requesting Party shall bear all costs and expenses in connection therewith.

(b) If an Indemnifying Party elects to defend or to seek to compromise or settle any Third-Party Claim, the other Party shall make available to such Indemnifying Party, upon written request, the former, current and future directors, officers, employees, other personnel and agents of the members of its respective Group as witnesses and any books, records or other documents or Information within its control or which it otherwise has the ability to make available without undue burden, to the extent that any such person (giving consideration to business demands of such directors, officers, employees, other personnel and agents) or books, records or other documents or Information may reasonably be required in connection with such defense or any related settlement or compromise, or such prosecution, evaluation or pursuit, as the case may be, and shall otherwise cooperate in such defense or any related settlement or compromise, or such prosecution, evaluation or pursuit, as the case may be.

(c) Without limiting the foregoing, the Parties shall use commercially reasonable efforts to cooperate and consult to the extent reasonably necessary with respect to any Actions and in accordance with the provisions regarding cooperation and/or consultation set forth in any Ancillary Agreement, except in the case of a Dispute between Parent and SpinCo, or any members of their respective Groups.

(d) Without limiting any provision of this Section 6.7, each of the Parties agrees to cooperate, and to cause each member of its respective Group to cooperate, with each other in the defense of any infringement or similar claim with respect to any Intellectual Property and shall not claim to acknowledge, or permit any member of its respective Group to claim to acknowledge, the validity or infringing use of any Intellectual Property of a Third Party in a manner that would hamper or undermine the defense of such infringement or similar claim.

(e) The obligation of the Parties to provide witnesses pursuant to this Section 6.7 is intended to be interpreted in a manner so as to facilitate cooperation and shall include the obligation to provide as witnesses directors, officers, employees, other personnel and agents without regard to whether such person or the employer of such person could assert a possible business conflict (subject to the exception set forth in the first sentence of Section 6.7(a)).

6.8 Privileged Matters.

(a) The Parties recognize that legal and other professional services that have been and will be provided prior to the Effective Time have been and will be rendered for the collective benefit of each of the members of the Parent Group and the SpinCo Group, and that each of the members of the Parent Group and the SpinCo Group should be deemed to be the client with respect to such services for the purposes of asserting all privileges and immunities that may be asserted under applicable Law in connection therewith. The Parties recognize that legal and other professional services shall be provided following the Effective Time, which services will be rendered solely for the benefit of the Parent Group or the SpinCo Group, as the case may be.

(b) The Parties agree as follows:

(i) Parent shall be entitled, in perpetuity, to control the assertion or waiver of all privileges and immunities in connection with any Privileged Information that relates solely to the Parent Business and not to the SpinCo Business, whether or not the Privileged Information is in the possession or under the control of any member of the Parent Group or any member of the SpinCo Group. Parent shall also be entitled, in perpetuity, to control the assertion or waiver of all privileges and immunities in connection with any Privileged Information that relates solely to any Parent Liabilities resulting from any Actions that are now pending or may be asserted in the future, whether or not the Privileged Information is in the possession or under the control of any member of the Parent Group or any member of the SpinCo Group.

(ii) SpinCo shall be entitled, in perpetuity, to control the assertion or waiver of all privileges and immunities in connection with any Privileged Information that relates solely to the SpinCo Business and not to the Parent Business, whether or not the Privileged Information is in the possession or under the control of any member of the SpinCo Group or any member of the Parent Group. SpinCo shall also be entitled, in perpetuity, to control the assertion or waiver of all privileges and immunities in connection with any Privileged Information that relates solely to any SpinCo Liabilities resulting from any Actions that are now pending or may be asserted in the future, whether or not the Privileged Information is in the possession or under the control of any member of the SpinCo Group or any member of the Parent Group.

(iii) If the Parties do not agree as to whether certain information is Privileged Information, then such information shall be treated as Privileged Information, and the Party that believes that such information is Privileged Information shall be entitled to control the assertion or waiver of all privileges and immunities in connection with any such information, unless the Parties otherwise agree. The Parties shall use the procedures set forth in Article VII to resolve any disputes as to whether any information relates solely to the Parent Business, solely to the SpinCo Business, or to both the Parent Business and the SpinCo Business.

(c) Subject to the remaining provisions of this Section 6.8, the Parties agree that they shall have a shared privilege or immunity with respect to (i) all privileges and immunities not allocated pursuant to Section 6.8(b) and (ii) all privileges and immunities relating to any Actions or other matters that involve both Parties (or one (1) or more members of their respective Groups) and in respect of which both Parties have Liabilities under this Agreement, and that no such shared privilege or immunity may be waived by either Party without the consent of the other Party.

(d) If any Dispute arises between the Parties or any members of their respective Groups regarding whether a privilege or immunity should be waived to protect or advance the interests of either Party and/or any member of their respective Groups, each Party agrees that it shall (i) negotiate with the other Party and provide a clear, written explanation of its position on the Dispute; (ii) endeavor to minimize any prejudice to the rights of the other Party; and (iii) not unreasonably withhold consent to any request for waiver by the other Party. Further, each Party specifically agrees that it shall not withhold its consent to the waiver of a privilege or immunity for any purpose, except in good faith to protect its own legitimate interests.

(e) Upon receipt by either Party, or by any member of its respective Group, of any subpoena, discovery or other request that may reasonably be expected to result in the production or disclosure of Privileged Information subject to a shared privilege or immunity or as to which another Party has the sole right hereunder to assert a privilege or immunity, or if either Party obtains knowledge that any of its, or any member of its respective Group's, current or former directors, officers, agents or employees have received any subpoena, discovery or other requests that may reasonably be expected to result in the production or disclosure of such Privileged Information, such Party shall promptly notify the other Party of the existence of the request (which notice shall be delivered to such other Party no later than five (5) business days following the receipt of any such subpoena, discovery or other request) and, prior to the production or disclosure of any Privileged Information, shall provide the other Party a reasonable opportunity to review the Privileged Information and to assert any rights it or they may have under this Section 6.8 or otherwise, to prevent the production or disclosure of such Privileged Information.

(f) Any furnishing of, or access to or transfer of, any information pursuant to this Agreement is made in reliance on the agreement between Parent and SpinCo set forth in this Section 6.8 and in Section 6.9 to maintain the confidentiality of Privileged Information and to assert and maintain all applicable privileges and immunities. The Parties agree that (i) their respective rights to any access to information, witnesses and other Persons, the furnishing of notices and documents and other cooperative efforts between the Parties contemplated by this Agreement, and the transfer of Privileged Information between the Parties and members of their respective Groups as needed pursuant to this Agreement, shall not be deemed a waiver of any privilege or immunity that has been or may be asserted under this Agreement or otherwise, and (ii) in the event of any exchange by one Party to the other Party of any Privileged Information that should not have been transferred pursuant to the terms of this Article VI, the Party receiving such Privileged Information shall promptly return such Privileged Information to and at the request of the Party that has the right to assert the privilege or immunity. The Parties agree that they have

or may in the future have common legal interests in the Parent Liabilities and any corresponding legal rights, in the SpinCo Liabilities and any corresponding legal rights, in the Privileged Information and in the preservation of the protected status of the Privileged Information. The Parties have disclosed and exchanged, and will disclose and exchange, certain Privileged Information between and among themselves in order to further the Parties' common legal interests.

(g) In connection with any matter contemplated by Section 6.7 or this Section 6.8, the Parties agree to, and to cause the applicable members of their Group to, use commercially reasonable efforts to maintain their respective separate and joint privileges and immunities, including by executing joint defense and/or common interest agreements to implement and/or supersede the provisions of Section 6.7 or this Section 6.8 where necessary or useful for this purpose.

6.9 Confidentiality.

(a) *Confidentiality*. Subject to Section 6.10 and without prejudice to any longer period that may be provided for in any of the Ancillary Agreements, from and after the Effective Time until the five (5)-year anniversary of the Effective Time, and in the case of trade secrets, until the relevant trade secret no longer retains its status or qualifies as trade secrets under applicable Laws (other than due to any act or omission of the receiving Party in breach of its obligations hereunder), each of Parent and SpinCo, on behalf of itself and each member of its respective Group, agrees to hold, and to cause its respective Representatives to hold, in strict confidence, with at least the same degree of care that applies to Parent's confidential, personal and proprietary information pursuant to policies in effect as of the Effective Time, all confidential, personal and proprietary information concerning the other Party or any member of the other Party's Group or their respective businesses that is either in its possession (including confidential, personal and proprietary information in its possession prior to the date hereof) or furnished by any such other Party or any member of such other Party's Group or their respective Representatives at any time pursuant to this Agreement, any Ancillary Agreement or otherwise, and shall not use any such confidential, personal and proprietary information other than for such purposes as shall be expressly permitted hereunder or thereunder, except, in each case, to the extent that such confidential and proprietary information has been (i) in the public domain or generally available to the public, other than as a result of a disclosure by such Party or any member of such Party's Group or any of their respective Representatives in violation of this Agreement, (ii) later lawfully acquired from other sources by such Party (or any member of such Party's Group), which sources are not themselves bound by a confidentiality obligation or other contractual, legal or fiduciary obligation of confidentiality with respect to such confidential and proprietary information or (iii) independently developed or generated without reference to or use of any proprietary or confidential information of such other Party or any member of such other Party's Group. If any confidential, personal and proprietary information of one Party or any member of its Group is disclosed to the other Party or any member of such other Party's Group in connection with providing services to such first Party or any member of such first Party's Group under this Agreement or any Ancillary Agreement, then such disclosed confidential, personal and proprietary information shall be used only as required to perform such services.

(b) *No Release; Return or Destruction*. Each Party agrees not to release or disclose, or permit to be released or disclosed, any information addressed in Section 6.9(a) to any other Person, except its Representatives who need to know such information in their capacities as such (who shall be advised of their obligations hereunder with respect to such information), and except in compliance with Section 6.10. Without limiting the foregoing, when any such information is no longer needed for the purposes contemplated by this Agreement or any Ancillary Agreement, and is no longer subject to any legal hold or other document preservation obligation, each Party shall promptly, at the request of the other Party, either return to the other Party all such information in a tangible form (including all copies thereof and all notes, extracts or summaries based thereon) or notify the other Party in writing that it has destroyed such information (and such copies thereof and such notes, extracts or summaries based thereon); provided, that the Parties may retain electronic backup versions of such information maintained on routine computer

system backup tapes, disks or other backup storage devices; provided further, that any such information so retained shall remain subject to the confidentiality provisions of this Agreement or any Ancillary Agreement. Each Party agrees to comply with all applicable privacy, data protection, data security or other applicable Laws, policies and contracts with regard to the collection, maintenance, disclosure, retention or destruction the personal information in its possession, custody or control.

(c) *Third-Party Information; Privacy or Data Protection Laws*. Each Party acknowledges that it and members of its Group may presently have and, following the Effective Time, may gain access to or possession of confidential or proprietary information of, personal information relating to, Third Parties (i) that was received under privacy policies and/or confidentiality or non-disclosure agreements entered into between such Third Parties, on the one hand, and the other Party or members of such other Party's Group, on the other hand, prior to the Effective Time; or (ii) that, as between the two (2) Parties, was originally collected by the other Party or members of such other Party's Group and that may be subject to and protected by privacy policies, as well as privacy, data protection, data security or other applicable Laws. Each Party agrees that it shall hold, protect and use, and shall cause the members of its Group and its and their respective Representatives to hold, protect and use, in strict confidence the confidential and proprietary information of, or personal information relating to, Third Parties in accordance with privacy policies and privacy, data protection or other applicable Laws and the terms of any agreements that were either entered into before the Effective Time or affirmative commitments or representations that were made before the Effective Time by, between or among the other Party or members of the other Party's Group, on the one hand, and such Third Parties, on the other hand.

6.10 Protective Arrangements. In the event that a Party or any member of its Group either determines on the advice of its counsel that it is required to disclose any information pursuant to applicable Law or receives any request or demand under lawful process or from any Governmental Authority to disclose or provide information of the other Party (or any member of the other Party's Group) that is subject to the confidentiality provisions hereof, such Party shall notify the other Party (to the extent legally permitted) as promptly as practicable under the circumstances prior to disclosing or providing such information and shall cooperate, at the expense of the other Party, in seeking any appropriate protective order requested by the other Party. In the event that such other Party fails to receive such appropriate protective order in a timely manner and the Party receiving the request or demand reasonably determines that its failure to disclose or provide such information shall actually prejudice the Party receiving the request or demand, then the Party that received such request or demand may thereafter disclose or provide information to the extent required by such Law (as so advised by its counsel) or by lawful process or such Governmental Authority, and the disclosing Party shall promptly provide the other Party with a copy of the information so disclosed, in the same form and format so disclosed, together with a list of all Persons to whom such information was disclosed, in each case to the extent legally permitted.

6.11 Security.

(a) If either Party is given access to the other Party's (or its Affiliate's) computer systems or Software (collectively, the "Systems") or physical facilities in connection with the exchange of Information under this Agreement, such Party shall comply with all of the other Party's reasonable policies, procedures and requirements in relation to Systems or physical facilities (collectively, "Security Requirements") and will not tamper with, compromise, attempt to circumvent or circumvent any security or audit measures employed by such other Party. In the event of any conflict between this Agreement and any Security Requirements, this Agreement will govern. Each Party shall access and use only those Systems of the other Party for which it has been granted the right to access and use, and only to the extent reasonably necessary in connection with the provision or receipt, as applicable, of Information. Each Party shall be responsible for its employees' compliance with the confidentiality provisions of this Agreement in connection with such access, including access to comingled or sensitive Information.

(b) Each Party will ensure that only those of its personnel who are specifically authorized to have access to the Systems or physical facilities of the other Party (or its Affiliates) gain such access, and will prohibit the unauthorized access, use, destruction, alteration or loss of Information or other property contained therein, including notifying its personnel of the restrictions set forth in this Agreement and of the Security Requirements.

(c) If, at any time, either Party determines that (i) any of its personnel has sought to circumvent, or has circumvented, the Security Requirements of the other Party, (ii) any unauthorized personnel of such Party has accessed the Systems or physical facilities of the other Party, or (iii) any of the personnel of such Party has engaged in activities that may lead or leads to the unauthorized access, use, destruction, alteration or loss of Information or Software, such Party shall immediately terminate any such personnel's access to the Systems or physical facilities of the other Party and immediately notify the other Party. In addition, each Party shall have the right to deny the personnel of the other Party access to any Systems or physical facilities upon written notice to the other Party in the event that such Party reasonably believes that such personnel have engaged in any of the activities set forth above in this Section 6.11(c). Each Party will cooperate with the other Party in investigating any apparent unauthorized access to the Systems or facilities of the other Party.

ARTICLE VII
DISPUTE RESOLUTION

7.1 Negotiation. Any controversy or claim arising out of or relating to this Agreement or any Ancillary Agreements, or the breach thereof (a "Dispute"), shall be resolved within a reasonable period of time as follows: (a) first, by negotiation by the applicable local or functional leads as set forth in the Ancillary Agreements (as applicable), (b) and then, if there remains a Dispute that is not resolved as a result of the negotiations described in clause (a) or if a Dispute exists involving multiple Ancillary Agreements, this Agreement or otherwise, by good faith negotiations between the designated leaders of the Transition Committee, (c) and then, if a Dispute continues to remain unresolved, by good faith negotiations between the individuals specified on Schedule 7.1. Such reasonable period of time shall not exceed sixty (60) days from initiation of the resolution provisions herein unless agreed to in writing by the Parties. If either party serves written notice of a Dispute upon the other party, the parties will first attempt to resolve such Dispute by direct discussions and negotiation (including as set forth in this Section 7.1 or, as applicable, in accordance with the applicable Ancillary Agreement). Resolution of a Dispute pursuant to this Section 7.1 shall be confidential, and no written or oral statements or offers made by the Parties during such settlement negotiations shall be admissible for any purpose in any subsequent proceedings, including any arbitration proceeding pursuant to Section 7.3; provided, further, that in the event of any arbitration in accordance with Section 7.3 hereof, the Parties shall not assert the defenses of statute of limitations and laches arising during the period beginning on the date of receipt of the Dispute notice and ending on the date that is sixty (60) days thereafter, and any contractual time period or deadline under this Agreement or any Ancillary Agreement to which such Dispute relates occurring after notice of the Dispute ("Dispute Notice") is received shall not be deemed to have passed until such Dispute has been resolved. The initiation of mediation or arbitration hereunder will toll the applicable statute of limitations for the duration of any such proceedings.

7.2 Mediation. Upon mutual agreement of the Parties, the Parties may attempt to resolve a Dispute by a mediation administered by the International Institute for Conflict Prevention & Resolution ("CPR") under its Mediation Procedure.

7.3 Arbitration.

(a) If a Dispute is not resolved in accordance with Sections 7.1 and 7.2 (or if otherwise mutually agreed by the Parties), either Party shall have the right to commence arbitration. The arbitration

shall be administered by CPR pursuant to its Administered Arbitration Rules and Procedures (the "CPR Rules"). References herein to any arbitration rules or procedures mean such rules or procedures as amended from time to time, including any successor rules or procedures, and references herein to the CPR include any successor thereto. The arbitration panel shall consist of a sole arbitrator or three arbitrators in accordance with the CPR Rules. Where the arbitrator panel shall consist of three (3) arbitrators, each Party shall designate one (1) arbitrator in accordance with the "screened" appointment procedure provided in the CPR Rules. The two (2) party-appointed arbitrators will select the third, who will serve as the panel's chair or president. This arbitration provision, and the arbitration itself, shall be governed by the laws of Delaware and the Federal Arbitration Act, 9 U.S.C. §§ 1-16.

(b) Consistent with the expedited nature of arbitration, each Party will, upon the written request of the other Party, promptly provide the other with copies of documents on which the producing Party may rely in support of or in opposition to any claim or defense. At the request of a Party, the arbitration panel shall have the discretion to order examination by deposition of witnesses to the extent the arbitration panel deems such additional discovery relevant and appropriate. Depositions shall be limited to a maximum of five (5) per Party and shall be held within forty-five (45) days of the grant of a request. Additional depositions may be scheduled only with the permission of the arbitration panel, and for good cause shown. Each deposition shall be limited to a maximum of one (1) day's duration. All objections are reserved for the arbitration hearing except for objections based on privilege and proprietary or confidential information. The Parties shall not utilize any other discovery mechanisms, including international processes and United States federal statutes, to obtain additional evidence for use in the arbitration. Any Dispute regarding discovery, or the relevance or scope thereof, shall be determined by the arbitration panel, which determination shall be conclusive. All discovery shall be completed within 180 days following the appointment of the arbitration panel. All costs and fees relating to the retrieval, review and production of electronic discovery shall be paid by the Party requesting such discovery.

(c) The arbitration panel shall have no power to award non-monetary or equitable relief of any sort. The arbitration panel shall have no power or authority, under the CPR Rules or otherwise, to relieve the Parties from their agreement hereunder to arbitrate or otherwise to amend or disregard any provision of this Agreement or any Ancillary Agreements. The award of the arbitration panel shall be final, binding and the sole and exclusive remedy to the Parties. Either Party may seek to confirm and enforce any final award entered in arbitration, in any court of competent jurisdiction.

(d) If an arbitral award does not impose an injunction on the losing Party or contain a money damages award in excess of $25,000,000, then the arbitral award shall not be appealable and shall only be subject to such challenges as would otherwise be permissible under the Federal Arbitration Act, 9 U.S.C. §§ 1-16. In the event that the arbitration does result in an arbitral award, which imposes an injunction or a monetary award in excess of $25,000,000, such award may be appealed to a tribunal of appellate arbitrators via the CPR Arbitration Appeal Procedure.

(e) Except as may be required by Law, neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties.

7.4 Litigation and Unilateral Commencement of Arbitration. Notwithstanding the foregoing provisions of this Article VII, (a) a Party may seek preliminary provisional or injunctive judicial relief with respect to a Dispute without first complying with the procedures set forth in Sections 7.1, 7.2 and 7.3 if such action is reasonably necessary to avoid irreparable damage (including, for clarity, with respect to any Dispute under the Fiber DBM License Agreement or any Dispute relating to Intellectual Property) and (b) either Party may initiate arbitration before the expiration of the periods specified in Sections 7.1, 7.2 and 7.3 if such Party has submitted a Dispute Notice and the other Party has failed to comply with Sections 7.1, 7.2 and 7.3 with respect to such negotiation and/or the commencement and engagement in arbitration. In such event, the other Party may commence and prosecute such arbitration unilaterally in accordance with the provisions of the CPR Rules, as applicable.

7.5 Conduct During Dispute Resolution Process. Unless otherwise agreed in writing, the Parties shall, and shall cause the respective members of their Groups to, continue to honor all commitments under this Agreement and each Ancillary Agreement to the extent required by such agreements during the course of dispute resolution pursuant to the provisions of this Article VII, unless such commitments are the specific subject of the Dispute at issue.

7.6 Treatment of Arbitration. The Parties agree that any arbitration hereunder shall be kept confidential, and that the existence of the proceeding and all of its elements (including any pleadings, briefs or other documents submitted or exchanged, any testimony or other oral submissions, and any awards) shall be deemed confidential, and shall not be disclosed beyond the arbitral tribunal, the Parties, their counsel, and any Person necessary to the conduct of the proceeding, except as and to the extent required by law and to defend or pursue any legal right. In the event any Party makes application to any court in connection with this Article VII, that Party shall (i) take all steps reasonably within its power to cause such application and any exhibits to be filed under seal, (ii) shall oppose any challenge by any Third Party to such sealing, and (iii) give the other Party immediate notice of such challenge.

7.7 Consolidation. The arbitration panel may consolidate an arbitration under this Agreement with any arbitration arising under or relating to the Ancillary Agreements or any other agreement between the Parties entered into pursuant hereto, as the case may be, if the subject of the Disputes thereunder arises out of or relates essentially to the same set of facts or transactions. Such consolidated arbitration shall be determined by the arbitration panel appointed for the arbitration proceeding that was commenced first in time.

ARTICLE VIII
FURTHER ASSURANCES

8.1 Further Assurances.

(a) In addition to the actions specifically provided for elsewhere in this Agreement, each of the Parties shall use its reasonable best efforts, prior to, on and after the Effective Time, to take, or cause to be taken, all actions, and to do, or cause to be done, all things, reasonably necessary, proper or advisable under applicable Laws, regulations and agreements to consummate and make effective the transactions contemplated by this Agreement and the Ancillary Agreements.

(b) Without limiting the foregoing and except to the extent otherwise contemplated in connection with a Deferred SpinCo Local Business under Section 2.4, prior to, on and after the Effective Time, each Party shall cooperate with the other Party, and without any further consideration, but at the expense of the requesting Party, to execute and deliver, or use its reasonable best efforts to cause to be executed and delivered, all instruments, including instruments of conveyance, assignment and transfer, and to make all filings with, and to obtain all Approvals or Notifications of, any Governmental Authority or any other Person under any permit, license, agreement, indenture or other instrument (including any consents or Governmental Approvals), and to take all such other actions as such Party may reasonably be requested to take by the other Party from time to time, consistent with the terms of this Agreement and the Ancillary Agreements, in order to effectuate the provisions and purposes of this Agreement and the Ancillary Agreements and the transfers of the SpinCo Assets and the Parent Assets and the assignment and assumption of the SpinCo Liabilities and the Parent Liabilities and the other transactions contemplated hereby and thereby. Without limiting the foregoing, each Party shall, at the reasonable request, cost and expense of the other Party, take such other actions as may be reasonably necessary to vest in such other Party good and marketable title to the Assets allocated to such Party under this Agreement or any of the Ancillary Agreements, free and clear of any Security Interest, if and to the extent it is practicable to do so.

(c) At or prior to the Effective Time, Parent and SpinCo in their respective capacities as direct and indirect stockholders of the members of their Groups, shall each ratify any actions that are reasonably necessary or desirable to be taken by Parent, SpinCo or any of the members of their respective Groups, as the case may be, to effectuate the transactions contemplated by this Agreement and the Ancillary Agreements.

ARTICLE IX
TERMINATION

9.1 Termination. This Agreement and all Ancillary Agreements may be terminated and the Distribution may be amended, modified or abandoned at any time prior to the Effective Time by Parent, in its sole and absolute discretion, without the approval or consent of any other Person, including SpinCo. After the Effective Time, this Agreement may not be terminated, except by an agreement in writing signed by a duly authorized officer of each of the Parties.

9.2 Effect of Termination. In the event of any termination of this Agreement prior to the Effective Time, this Agreement shall become null and void and no Party (nor any member of its Group or any of its Representatives or Affiliates) shall have any Liability or further obligation to the other Party or any member of its Group by reason of this Agreement or the Ancillary Agreements.

ARTICLE X
MISCELLANEOUS

10.1 Counterparts; Entire Agreement; Corporate Power; Signatures and Delivery.

(a) This Agreement and each Ancillary Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the Parties hereto or the parties thereto, respectively, and delivered to the other Party hereto or parties thereto, respectively.

(b) This Agreement, the Ancillary Agreements and the Exhibits, Schedules and appendices hereto and thereto contain the entire agreement between the Parties with respect to the subject matter hereof, supersede all previous agreements, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter, and there are no agreements or understandings between the Parties other than those set forth or referred to herein or therein. This Agreement and the Ancillary Agreements together govern the arrangements in connection with the Separation and the Distribution and would not have been entered into independently. It is the intention of the Parties that the Transfer Documents shall be consistent with the terms of this Agreement and the other Ancillary Agreements. In the event of any conflict between the Transfer Documents and this Agreement, (1) the Assets and Liabilities expressly and specifically listed in such Transfer Documents as being for the account of either Parent or its Subsidiaries on the one hand, or SpinCo or its Subsidiaries on the other hand, shall control and (2) in the case of any other inconsistent terms, the provisions of this Agreement shall control. Except with respect to the express and specific allocation of Assets and Liabilities as described therein, the Parties agree (including on behalf of their Subsidiaries) that the Transfer Documents are not intended and shall not be construed in any way to enhance, modify or decrease any of the rights or obligations of Parent, any member of the Parent Group, SpinCo or any member of the SpinCo Group from those contained in this Agreement and the other Ancillary Agreements. This Agreement is not intended to address, and should not be interpreted to address, the matters specifically and expressly covered by the Ancillary Agreements. Except as otherwise expressly provided in this Agreement, in the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of an Ancillary Agreement (other than any Transfer Documents), the provisions of such Ancillary Agreement shall control over the inconsistent provisions of this Agreement as to matters specifically addressed in such Ancillary Agreement. For the avoidance of doubt, the Tax Matters Agreement shall govern all matters (including

any indemnities and payments among the Parties and each of their Subsidiaries and the allocation of any rights and obligations pursuant to agreements entered into with Third Parties) relating to Taxes to the extent specifically addressed in the Tax Matters Agreement, subject to the terms thereof, and the Employee Matters Agreement shall govern all matters (including the allocation of any rights and obligations) relating to employees to the extent specifically addressed in the Employee Matters Agreement. Notwithstanding anything in this Agreement to the contrary, the Parties acknowledge and agree that SpinCo will not be charged more than once for the same service, activity, function or expense that is performed or incurred by Parent or its Affiliates or Third Parties pursuant to this Agreement to the extent that SpinCo or its Affiliates are bearing the charges for such service, activity, function or expense pursuant to another Ancillary Agreement.

(c) Parent represents on behalf of itself and each other member of the Parent Group, and SpinCo represents on behalf of itself and each other member of the SpinCo Group, as follows:

(i) each such Person has the requisite corporate or other power and authority and has taken all corporate or other action necessary in order to execute, deliver and perform this Agreement and each Ancillary Agreement to which it is a party and to consummate the transactions contemplated hereby and thereby; and

(ii) this Agreement and each Ancillary Agreement to which it is a party has been duly executed and delivered by it and constitutes a valid and binding agreement of it enforceable in accordance with the terms thereof.

(d) Each Party acknowledges that it and each other Party is executing certain of the Ancillary Agreements by facsimile, stamp or mechanical signature, and that delivery of an executed counterpart of a signature page to this Agreement or any Ancillary Agreement (whether executed by manual, stamp or mechanical signature) by facsimile or by e-mail in portable document format (.pdf) shall be effective as delivery of such executed counterpart of this Agreement or any Ancillary Agreement. Each Party expressly adopts and confirms each such facsimile, stamp or mechanical signature (regardless of whether delivered in person, by mail, by courier, by facsimile or by e-mail in portable document format (.pdf)) made in its respective name as if it were a manual signature delivered in person, agrees that it shall not assert that any such signature or delivery is not adequate to bind such Party to the same extent as if it were signed manually and delivered in person and agrees that, at the reasonable request of the other Party at any time, it shall as promptly as reasonably practicable cause each such Ancillary Agreement to be manually executed (any such execution to be as of the date of the initial date thereof) and delivered in person, by mail or by courier.

10.2 Governing Law.

(a) This Agreement and, unless expressly provided therein, each Ancillary Agreement (and any claims or disputes arising out of or related hereto or thereto or to the transactions contemplated hereby and thereby or to the inducement of any party to enter herein and therein, whether for breach of contract, tortious conduct or otherwise and whether predicated on common law, statute or otherwise) shall be governed by and construed and interpreted in accordance with the Laws of the State of Delaware irrespective of the choice of laws principles of the State of Delaware, including all matters of validity, construction, effect, enforceability, performance and remedies.

(b) Subject to the provisions of Article VII, each of the Parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Court of Chancery of the State of Delaware, or, if (and only if) such court finds it lacks subject matter jurisdiction, the Federal court of the United States of America sitting in Delaware, and appellate courts thereof, or, if (and only if) such court finds it lacks jurisdiction, another state court in the State of Delaware, in any action or proceeding arising out of or relating to this Agreement for recognition or enforcement of any judgment

or award relating hereto, and each of the Parties hereby irrevocably and unconditionally (i) agrees not to commence any such action or proceeding except in the Court of Chancery of the State of Delaware, or, if (and only if) such court finds it lacks subject matter jurisdiction, the Federal court of the United States of America sitting in Delaware, and appellate courts thereof, or, if (and only if) such court finds it lacks jurisdiction, another state court in the State of Delaware, (ii) agrees that any claim in respect of any such action or proceeding may be heard and determined in the Court of Chancery of the State of Delaware, or, if (and only if) such court finds it lacks subject matter jurisdiction, the Federal court of the United States of America sitting in Delaware, and appellate courts thereof, or, if (and only if) such court finds it lacks jurisdiction, another state court in the State of Delaware, (iii) waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any such action or proceeding in such courts and (iv) waives, to the fullest extent permitted by applicable Law, the defense of an inconvenient forum to the maintenance of such action or proceeding in such courts.

10.3 Assignability. Except as set forth in any Ancillary Agreement, this Agreement and each Ancillary Agreement shall be binding upon and inure to the benefit of the Parties hereto and the parties thereto, respectively, and their respective successors and permitted assigns; provided, however, that neither Party nor any such party thereto may assign its rights or delegate its obligations under this Agreement or any Ancillary Agreement without the express prior written consent of the other Party hereto or other parties thereto, as applicable. Notwithstanding the foregoing, no such consent shall be required for the assignment of a party's rights and obligations under this Agreement and the Ancillary Agreements (except as may be otherwise provided in any such Ancillary Agreement) in whole (*i.e.*, the assignment of a party's rights and obligations under this Agreement and all Ancillary Agreements at the same time) in connection with a Change of Control of a Party so long as the resulting, surviving or transferee Person assumes all the obligations of the relevant party thereto by operation of Law or pursuant to an agreement in form and substance reasonably satisfactory to the other Party.

10.4 Third-Party Beneficiaries. Except for any Parent Indemnitee or SpinCo Indemnitee (in their respective capacities as such) expressly entitled to indemnification rights under this Agreement or any Ancillary Agreement, (a) the provisions of this Agreement and each Ancillary Agreement are solely for the benefit of the Parties hereto and parties thereto, respectively, and are not intended to confer upon any other Person any rights or remedies hereunder, and (b) there are no third-party beneficiaries of this Agreement or any Ancillary Agreement and neither this Agreement nor any Ancillary Agreement shall provide any Third Party with any remedy, claim, Liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement or any Ancillary Agreement.

10.5 Notices. All notices, requests, claims, demands or other communications under this Agreement and, to the extent applicable and unless otherwise provided therein, under each of the Ancillary Agreements, shall be in writing and shall be given or made (and except as provided herein, shall be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service, by certified mail, return receipt requested, or by electronic mail ("e-mail"), so long as confirmation of receipt of such e-mail is requested and received, to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 10.5):

If to Parent, to:

Zimmer Biomet Holdings, Inc.
345 East Main Street
Warsaw, Indiana 46580
Attention: General Counsel
E-mail: legal.americas@zimmerbiomet.com

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

White & Case LLP
1221 Avenue of the Americas
New York, New York 10020-1095
Attention: Morton A. Pierce, Esq.
Michelle B. Rutta, Esq.
Robert Chung, Esq.
E-mail: morton.pierce@whitecase.com
michelle.rutta@whitecase.com
robert.chung@whitecase.com

If to SpinCo (prior to the Effective Time), to:

ZimVie Inc.
10225 Westmoor Dr.,
Westminster, Colorado 80021
Attention: Heather Kidwell, General Counsel
E-mail: heather.kidwell@zimvie.com

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

White & Case LLP
1221 Avenue of the Americas
New York, New York 10020-1095
Attention: Morton A. Pierce, Esq.
Michelle B. Rutta, Esq.
Robert Chung, Esq.
E-mail: morton.pierce@whitecase.com
michelle.rutta@whitecase.com
robert.chung@whitecase.com

If to SpinCo (from and after the Effective Time), to:
ZimVie Inc.
10225 Westmoor Dr.,
Westminster, Colorado 80021
Attention: General Counsel
E-mail: heather.kidwell@zimvie.com
with a copy (which shall not constitute notice), to:
White & Case LLP
1221 Avenue of the Americas
New York, New York 10020-1095
Attention: Morton A. Pierce, Esq.
Michelle B. Rutta, Esq.
Robert Chung, Esq.
E-mail: morton.pierce@whitecase.com
michelle.rutta@whitecase.com
robert.chung@whitecase.com

A Party may, by notice to the other Party, change the address to which such notices are to be given or made.

10.6 Severability. If any provision of this Agreement or any Ancillary Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof or thereof, or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. Upon such determination, the Parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the Parties.

10.7 Force Majeure. No Party shall be deemed in default of this Agreement or, unless otherwise expressly provided therein, any Ancillary Agreement for any delay or failure to fulfill any obligation (other than a payment obligation) hereunder or thereunder so long as and to the extent to which any delay or failure in the fulfillment of such obligation is prevented, frustrated, hindered or delayed as a consequence of circumstances of Force Majeure. In the event of any such excused delay, the time for performance of such obligations (other than a payment obligation) shall be extended for a period equal to the time lost by reason of the delay unless this Agreement has previously been terminated under Article IX. A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of any such event, (a) provide written notice to the other Party of the nature and extent of any such Force Majeure condition; and (b) use commercially reasonable efforts to remove any such causes and resume performance under this Agreement and the Ancillary Agreements, as applicable, as soon as reasonably practicable.

10.8 No Set-Off. Except as expressly set forth in any Ancillary Agreement or as otherwise mutually agreed to in writing by the Parties, neither Party nor any member of such Party's Group shall have any right of set-off or other similar rights with respect to (a) any amounts received pursuant to this Agreement or any Ancillary Agreement; or (b) any other amounts claimed to be owed to the other Party or any member of its Group arising out of this Agreement or any Ancillary Agreement.

10.9 Publicity. Prior to the Effective Time, each of SpinCo and Parent shall consult with each other prior to issuing any press releases or otherwise making public statements with respect to the Separation, the Distribution or any of the other transactions contemplated hereby or under any Ancillary Agreement and prior to making any filings with any Governmental Authority with respect thereto. From and after the Effective Time, Parent and SpinCo shall consult with each other before issuing, and give each other the opportunity to review and comment upon, that portion of any press release or other public statements that relates to the transactions contemplated by this Agreement or the Ancillary Agreements, and shall not issue any such press release or make any such public statement prior to such consultation, except (i) as may be required by applicable Law, court process or by obligations pursuant to any listing agreement with any national securities exchange or national securities quotation system (in which case such Party shall promptly notify the other Party and allow the other Party a reasonable time and opportunity to oppose such process before making such disclosure), (ii) ordinary course communications with investors and analysts, and (iii) press releases or other public statements that are substantially consistent with prior disclosures made in accordance with this Agreement.

10.10 Expenses. Except as otherwise expressly set forth in this Agreement or any Ancillary Agreement, or as otherwise agreed to in writing by the Parties, all fees, costs and expenses incurred at or prior to the Effective Time in connection with the preparation, execution, delivery and implementation of this Agreement, including the Separation and the Distribution, and any Ancillary Agreement, the registration statement, the Plan of Reorganization and the consummation of the transactions contemplated hereby and thereby will be borne by the Party or its applicable Subsidiary incurring such fees, costs or expenses. The Parties agree that certain specified costs and expenses shall be allocated between the Parties as set forth on Schedule 10.10.

10.11 Headings. The article, section and paragraph headings contained in this Agreement and in the Ancillary Agreements are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement or any Ancillary Agreement.

10.12 Survival of Covenants. Except as expressly set forth in this Agreement or any Ancillary Agreement, the covenants, representations and warranties contained in this Agreement and each Ancillary Agreement, and Liability for the breach of any obligations contained herein, shall survive the Separation and the Distribution and shall remain in full force and effect.

10.13 Waivers of Default. Waiver by a Party of any default by the other Party of any provision of this Agreement or any Ancillary Agreement must be in writing and shall not be deemed a waiver by the waiving Party of any subsequent or other default, nor shall it prejudice the rights of the other Party. No failure or delay by a Party in exercising any right, power or privilege under this Agreement or any Ancillary Agreement shall operate as a waiver thereof, nor shall a single or partial exercise thereof prejudice any other or further exercise thereof or the exercise of any other right, power or privilege.

10.14 Specific Performance. Subject to the provisions of Article VII, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement or any Ancillary Agreement, the Party hereto or parties thereto, respectively, who are, or are to be, thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief in respect of their respective rights under this Agreement or such Ancillary Agreement, as applicable, in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative. The Parties agree that the remedies at law for any breach or threatened breach, including monetary damages, are inadequate compensation for any loss and that any defense in any Action for specific performance that a remedy at law would be adequate is waived. Any requirements for the securing or posting of any bond with such remedy are waived by each of the Parties.

10.15 Amendments. No provisions of this Agreement or any Ancillary Agreement shall be deemed waived, amended, supplemented or modified by a Party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the Party against whom it is sought to enforce such waiver, amendment, supplement or modification.

10.16 Interpretation. In this Agreement and in any Ancillary Agreement, (a) words in the singular shall be deemed to include the plural and vice versa and words of one gender shall be deemed to include the other genders as the context requires; (b) the terms “hereof,” “herein,” and “herewith” and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement (or the applicable Ancillary Agreement) as a whole (including all of the Schedules and Exhibits hereto and thereto) and not to any particular provision of this Agreement (or such Ancillary Agreement); (c) Article, Section, Schedule and Exhibit references are to the Articles, Sections, Schedules, Exhibits and Appendices to this Agreement (or the applicable Ancillary Agreement), unless otherwise specified; (d) unless otherwise stated, all references to any agreement (including this Agreement and each Ancillary Agreement) shall be deemed to include the exhibits, schedules and annexes (including all Schedules and Exhibits) to such agreement; (e) the word “including” and words of similar import when used in this Agreement (or the applicable Ancillary Agreement) shall mean “including, without limitation,” unless otherwise specified; (f) the word “or” shall not be exclusive; (g) unless otherwise specified in a particular case, the word “days” refers to calendar days; (h) references to “business day” shall mean any day other than a Saturday, a Sunday or a day on which banking institutions are generally authorized or required by law to close in New York, New York; (i) references herein to this Agreement or any other agreement contemplated herein shall be deemed to refer to this Agreement or such other agreement as of the date on which it is executed and as it may be amended, modified or supplemented thereafter, unless otherwise specified; (j) the word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply “if”; and (k) unless expressly stated to the contrary in this Agreement or in any Ancillary Agreement, all references to “the date hereof,” “the date of this Agreement,” “hereby” and “hereupon” and words of similar import shall all be references to March 1, 2022.

10.17 Limitations of Liability. Notwithstanding anything in this Agreement to the contrary, neither SpinCo or any member of the SpinCo Group, on the one hand, nor Parent or any member of the Parent Group, on the other hand, shall be liable under this Agreement to the other for any indirect, incidental, consequential, special, punitive, exemplary, remote, speculative or similar damages in excess of compensatory damages of the other arising in connection with the transactions contemplated hereby (other than any such Liability with respect to a Third-Party Claim), except as may be otherwise provided in an Ancillary Agreement.

10.18 Performance. Parent shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth in this Agreement or in any Ancillary Agreement to be performed by any member of the Parent Group. SpinCo shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth in this Agreement or in any Ancillary Agreement to be performed by any member of the SpinCo Group. Each Party (including its permitted successors and assigns) further agrees that it shall (a) give timely notice of the terms, conditions and continuing obligations contained in this Agreement and any applicable Ancillary Agreement to all of the other members of its Group and (b) cause all of the other members of its Group not to take any action or fail to take any such action inconsistent with such Party's obligations under this Agreement, any Ancillary Agreement or the transactions contemplated hereby or thereby.

10.19 Mutual Drafting. This Agreement and the Ancillary Agreements shall be deemed to be the joint work product of the Parties and any rule of construction that a document shall be interpreted or construed against a drafter of such document shall not be applicable.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the Parties have caused this Separation and Distribution Agreement to be executed by their duly authorized representatives as of the date first written above.

ZIMMER BIOMET HOLDINGS, INC.

By: /s/ Bryan Hanson
Name: Bryan Hanson
Title: President and Chief Executive Officer

ZIMVIE INC.

By: /s/ Vafa Jamali
Name: Vafa Jamali
Title: President and Chief Executive Officer

Exhibit 3.1

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
ZIMVIE INC.

ZimVie Inc. (the "Corporation"), a corporation organized and existing under the General Corporation Law of the State of Delaware (the "DGCL"), does hereby certify as follows:

1. The name of the Corporation is ZimVie Inc.

2. The corporation was incorporated under the name "ZB SpinCo Holdings, Inc." by the filing of its original Certificate of Incorporation with the Secretary of State of Delaware on July 30, 2021 (the "Original Certificate of Incorporation"). The Corporation filed a Certificate of Amendment of the Original Certificate of Incorporation with the Secretary of State of Delaware on September 10, 2021 (as amended, the "Amended Certificate of Incorporation") to change the name of the Corporation to "ZimVie Inc.", which is the present name of the Corporation.

3. This Amended and Restated Certificate of Incorporation of the Corporation (this "Amended and Restated Certificate of Incorporation"), which restates, integrates and amends the Amended Certificate of Incorporation as heretofore in effect, has been duly adopted by the Board of Directors of the Corporation in accordance with the provisions of Sections 242 and 245 of the DGCL and by the sole stockholder of the Corporation, acting by written consent in lieu of a meeting in accordance with the provisions of Section 228 of the DGCL.

4. This Amended and Restated Certificate of Incorporation shall become effective upon filing with the Secretary of State of Delaware (the "Effective Time"). At the Effective Time, the shares of common stock, par value $0.01 per share ("Common Stock"), of the Corporation, issued and outstanding immediately prior to the Effective Time shall automatically be reclassified and shall thereafter represent 26,050,488 shares of Common Stock.

5. The Amended Certificate of Incorporation of the Corporation is hereby amended and restated to read in its entirety as follows:

ARTICLE I

NAME

SECTION 1.01. The name of the Corporation (which is hereinafter referred to as the "Corporation") is "ZimVie Inc."

ARTICLE II

REGISTERED AGENT

SECTION 2.01. The address, including street, number, city, and county, of the registered office of the Corporation in the State of Delaware is Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808, County of New Castle. The name of its registered agent at such address is Corporation Service Company.

ARTICLE III

PURPOSE

SECTION 3.01. The purpose of the Corporation shall be to engage in any lawful act or activity for which corporations may be organized and incorporated under the DGCL.

ARTICLE IV

CAPITAL STOCK

SECTION 4.01. The Corporation shall be authorized to issue 165,000,000 shares of capital stock, of which 150,000,000 shares shall be shares of Common Stock, and 15,000,000 shares shall be shares of preferred stock, $0.01 par value per share ("Preferred Stock").

SECTION 4.02. Preferred Stock. The Preferred Stock may be issued from time to time in one or more series. The Board of Directors of the Corporation (the "Board of Directors" and, each member thereof, a "Director") is hereby authorized to provide for the issuance of shares of Preferred Stock in series and, by filing a certificate pursuant to the DGCL (a "Preferred Stock Designation"), to establish from time to time the number of shares to be included in each such series, and to fix the designation, powers, privileges, preferences and rights of the shares of each such series and the qualifications, limitations and restrictions thereof. The authority of the Board of Directors with respect to each series shall include, but not be limited to, determination of the following:

(a) the designation of the series, which may be by distinguishing number, letter or title;

(b) the number of shares of the series, which number the Board of Directors may thereafter, except where otherwise provided in the applicable Preferred Stock Designation, increase or decrease, but not below the number of shares thereof then outstanding;

(c) whether dividends, if any, shall be cumulative or noncumulative, and, in the case of shares of any series having cumulative dividend rights, the date or dates or method of determining the date or dates from which dividends on the shares of such series shall be cumulative;

(d) the rate of any dividends, or method of determining such dividends, payable to the holders of the shares of such series, any conditions upon which such dividends shall be paid and the date or dates or the method for determining the date or dates upon which such dividends shall be payable;

(e) the price or prices, or method of determining such price or prices, at which, the form of payment of such price or prices (which may be cash, property or rights, including securities of the same or another corporation or other entity) for which, the period or periods within which and the terms and conditions upon which the shares of such series may be redeemed, in whole or in part, at the option of the Corporation or at the option of the holder or holders thereof or upon the happening of a specified event or events, if any;

(f) the obligation, if any, of the Corporation to purchase or redeem shares of such series pursuant to a sinking fund or otherwise and the price or prices at which, the form of payment of such price or prices (which may be cash, property or rights, including securities of the same or another corporation or other entity) for which, the period or periods within which and the terms and conditions upon which the shares of such series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;

(g) the amounts payable out of the assets of the Corporation on and the preferences, if any, of shares of the series in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation;

(h) provisions, if any, for the conversion or exchange of the shares of such series, at any time or times at the option of the holder or holders thereof or at the option of the Corporation or upon the happening of a specified event or events, into shares of any other class or classes or any other series of the same or any other class or classes of stock, or any other security, of the Corporation, or any other corporation or other entity, and the price or prices or rate or rates of conversion or exchange and any adjustments applicable thereto, the date or dates as of when such shares will be converted or exchanged and all other terms and conditions upon which such conversion or exchange may be made;

(i) restrictions on the issuance of shares of the same series or of any other class or series, if any; and

(j) the voting rights, if any, of the holders of shares of the series.

SECTION 4.03. Common Stock.

(a) The Common Stock shall be subject to the express terms of the Preferred Stock and any series thereof. Each share of Common Stock shall be equal to every other share of Common Stock, except as otherwise provided herein or required by law.

(b) Shares of Common Stock authorized hereby shall not be subject to preemptive rights. The holders of shares of Common Stock now or hereafter outstanding shall have no preemptive right to purchase or have offered to them for purchase any of such authorized but unissued shares, or any shares of Preferred Stock, Common Stock or other equity securities issued or to be issued by the Corporation.

(c) The holders of shares of Common Stock shall be entitled to one vote for each such share upon all proposals presented to the stockholders on which the holders of Common Stock are entitled to vote. Except as otherwise provided by law or by the resolution or resolutions adopted by the Board of Directors designating the rights, powers and preferences of any series of Preferred Stock, the holders of Common Stock shall have the exclusive right to vote for the election of Directors and for all other purposes, and holders of Preferred Stock shall not be entitled to receive notice of any meeting of stockholders at which they are not entitled to vote. The number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the outstanding Common Stock, without a vote of the holders of the Preferred Stock, or of any series thereof, unless a vote of any such holders is required pursuant to any Preferred Stock Designation.

(d) Subject to the rights of any class or series of stock having a preference over the Common Stock as to dividends, the holders of the shares of Common Stock shall be entitled to receive such dividends and other distributions in cash, stock or property of the Corporation as may be declared on the Common Stock by the Board of Directors at any time or from time to time out of any funds legally available therefor.

(e) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, subject to the rights of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, dissolution or winding up, the holders of shares of Common Stock shall be entitled to receive all of the remaining assets of the Corporation available for distribution to its stockholders, ratably in proportion to the number of shares of Common Stock held by them.

(f) The Corporation shall be entitled to treat the person in whose name any share of its stock is registered as the owner thereof for all purposes and shall not be bound to recognize any equitable or other claim to, or interest in, such share on the part of any other person, whether or not the Corporation shall have notice thereof, except as expressly provided by applicable law.

ARTICLE V

STOCKHOLDER ACTION

SECTION 5.01. No holder of Common Stock of the Corporation shall be entitled to exercise any right of cumulative voting.

SECTION 5.02. Any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of such holders and may not be effected by any consent in writing by such holders. Except as otherwise required by law and subject to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, dissolution or winding up, special meetings of stockholders of the Corporation for any purpose or purposes may be called only by the Board of Directors pursuant to a resolution stating the purpose or purposes thereof approved by a majority of the total number of Directors which the Corporation would have if there were no vacancies or unfilled newly-created directorships (the "Whole Board") and any power of stockholders to call a special meeting is specifically denied. No business other than that stated in the notice shall be transacted at any special meeting of stockholders. Notwithstanding anything contained in this Amended and Restated Certificate of Incorporation to the contrary, the affirmative vote of the holders of at least a majority of the voting power of all shares of the Corporation entitled to vote generally in the election of Directors (the "Voting Stock") then outstanding, voting together as a single class, shall be required to alter, amend, adopt any provision inconsistent with or repeal this Article V.

ARTICLE VI

ELECTION OF DIRECTORS

SECTION 6.01. Unless and except to the extent that the Bylaws of the Corporation (the "Bylaws") shall so require, the election of Directors of the Corporation need not be by written ballot.

ARTICLE VII

BOARD OF DIRECTORS

SECTION 7.01. Number. Except as otherwise fixed by or pursuant to the provisions of Article IV hereof relating to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, dissolution or winding up to elect additional Directors under specified circumstances, the number of the Directors shall be fixed from time to time exclusively pursuant to a resolution adopted by a majority of the Whole Board (but, from and after 12:01 AM, New York City time, on March 1, 2022, shall not be less than three).

SECTION 7.02. Terms. Except as otherwise fixed by or pursuant to the provisions of Article IV hereof relating to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, dissolution or winding up to elect additional Directors under specified circumstances, the Board of Directors shall be divided into three classes, as nearly equal in number as possible, designated Class I, Class II and Class III. Class I Directors shall initially serve until the first annual meeting of stockholders following the time at which the initial classification of the Board of Directors becomes effective, expected to be held in 2023, and director nominees elected to succeed such Class I Directors as Class I Directors shall hold office for a three-year term and until the election and qualification of their respective successors in office or until any such Director's earlier death, resignation, removal, retirement or disqualification. Directors designated as Class II Directors shall initially serve until the second annual meeting of stockholders following the time at which the initial classification of the Board of Directors becomes effective, expected to be held in 2024, and director nominees elected to succeed such

Class II Directors as Class II Directors shall hold office for a two-year term and until the election and qualification of their respective successors in office or until any such Director's earlier death, resignation, removal, retirement or disqualification. Directors designated as Class III Directors shall initially serve until the third annual meeting of stockholders following the time at which the initial classification of the Board of Directors becomes effective, expected to be held in 2025, and director nominees elected to succeed such Class III Directors as Class III Directors shall hold office for a one-year term and until the election and qualification of their respective successors in office or until any such Director's earlier death, resignation, removal, retirement or disqualification. Commencing with the fourth annual meeting of stockholders following the time at which the initial classification of the Board of Directors becomes effective, expected to be held in 2026, Directors of each class the term of which shall then or thereafter expire shall be elected to hold office for a one-year term and until the election and qualification of their respective successors in office or until any such Director's earlier death, resignation, removal, retirement or disqualification. Prior to the fourth annual meeting of stockholders following the time at which the initial classification of the Board of Directors becomes effective, in case of any increase or decrease, from time to time, in the number of Directors (other than any increase or decrease in respect of the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, dissolution or winding up to elect additional Directors under specified circumstances), the number of Directors in each class shall be apportioned as nearly equal as possible. The Board of Directors is authorized to assign members of the Board of Directors already in office to Class I, Class II or Class III, with such assignment becoming effective as of the time at which the initial classification of the Board of Directors becomes effective.

SECTION 7.03. Stockholder Nomination of Director Candidates; Stockholder Proposal of Business. Advance notice of stockholder nominations for the election of Directors and of the proposal of business by stockholders shall be given in the manner provided in the Bylaws, as amended and in effect from time to time.

SECTION 7.04. Newly Created Directorships and Vacancies. Except as otherwise provided for or fixed by or pursuant to the provisions of Article IV hereof relating to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, dissolution or winding up to elect Directors under specified circumstances, newly created directorships resulting from any increase in the number of Directors and any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal or other cause shall only be filled by the affirmative vote of a majority of the remaining Directors then in office, in their sole discretion, even though less than a quorum of the Board of Directors, or by a sole remaining Director, in his or her sole discretion, and shall not be filled by the stockholders. Any Director elected in accordance with the preceding sentence shall hold office until the next election of the class, if any, for which such Director shall have been chosen and until his or her successor shall have been duly elected and qualified or until any such Director's earlier death, resignation, removal, retirement or disqualification. Notwithstanding the foregoing, from and after the fourth annual meeting of stockholders following the time at which the initial classification of the Board of Directors becomes effective, any Director so chosen shall hold office until the next election of Directors and until his or her successor shall have been duly elected and qualified or until any such Director's earlier death, resignation, removal, retirement or disqualification. No decrease in the authorized number of Directors shall shorten the term of any incumbent Director.

SECTION 7.05. Removal. Subject to the rights of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, dissolution or winding up to elect Directors under specified circumstances, any Director may be removed from office at any time, but only for cause and only by the affirmative vote of the holders of at least a majority of the voting power of all Voting Stock then outstanding, voting together as a single class; provided, however, that from and after the fourth annual meeting of stockholders following the time at which the initial classification of the Board of Directors

becomes effective, any Director may be removed with or without cause and only by the affirmative vote of the holders of at least a majority of the voting power of all Voting Stock then outstanding, voting together as a single class. Notwithstanding the foregoing, whenever the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation, dissolution or winding up are entitled to elect Directors under specified circumstances, with respect to the removal without cause of a Director or Directors so elected, the vote of the holders of the outstanding shares of such class or series of stock, and not the vote of the outstanding Voting Stock, shall apply.

SECTION 7.06. Other Provisions. Notwithstanding any other provision of this Article VII, and except as otherwise required by law, whenever the holders of one or more series of Preferred Stock shall have the right, voting separately as a class, to elect one or more Directors of the Corporation, the term of office, the filling of vacancies, the removal from office and other features of such directorships shall be governed by the terms of this Amended and Restated Certificate of Incorporation (including any Preferred Stock Designation). During any period when the holders of any series of Preferred Stock have the right to elect additional Directors as provided for or fixed pursuant to the provisions of Article IV hereof, then upon commencement and for the duration of the period during which such right continues: (i) the then otherwise total authorized number of Directors of the Corporation shall automatically be increased by such specified number of Directors, and the holders of such Preferred Stock shall be entitled to elect the additional Directors so provided for or fixed pursuant to said provisions, and (ii) each such additional Director shall serve until such Director's successor shall have been duly elected and qualified, or until such Director's right to hold such office terminates pursuant to said provisions, whichever occurs earlier, subject to his or her earlier death, disqualification, resignation or removal. Except as otherwise provided by the Whole Board in the resolution or resolutions establishing such series, whenever the holders of any series of Preferred Stock having such right to elect additional Directors are divested of such right pursuant to the provisions of such stock, the terms of office of all such additional Directors elected by the holders of such stock, or elected to fill any vacancies resulting from the death, resignation, disqualification or removal of such additional Directors, shall forthwith terminate and the total authorized number of Directors of the Corporation shall be reduced accordingly.

ARTICLE VIII

BYLAWS

SECTION 8.01. The Bylaws may be altered or repealed and new Bylaws may be adopted (a) at any annual or special meeting of stockholders, by the affirmative vote of the holders of a majority of the voting power of the Voting Stock then outstanding, voting together as a single class; provided, however, that in the case of any such stockholder action at a special meeting of stockholders, notice of the proposed alteration, repeal or adoption of the new Bylaw or Bylaws must be contained in the notice of such special meeting, or (b) by the affirmative vote of a majority of the Whole Board.

ARTICLE IX

AMENDMENT OF CERTIFICATE OF INCORPORATION

SECTION 9.01. The Corporation reserves the right at any time from time to time to amend, alter, change or repeal any provision contained in this Amended and Restated Certificate of Incorporation, and any other provisions authorized by the laws of the State of Delaware at the time in force may be added or inserted, in the manner now or hereafter prescribed by law; and, except as set forth in Article X, all rights, preferences and privileges of whatsoever nature conferred upon stockholders, Directors or any other persons whomsoever by and pursuant to this Amended and Restated Certificate of Incorporation in its present form or as hereafter amended are granted subject to the right reserved in this Article.

ARTICLE X

LIMITED LIABILITY; INDEMNIFICATION

SECTION 10.01. Limited Liability of Directors. A Director shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a Director, except, if required by the DGCL, as amended from time to time, for liability (a) for any breach of the Director's duty of loyalty to the Corporation or its stockholders, (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (c) under Section 174 of the DGCL, or (d) for any transaction from which the Director derived an improper personal benefit. Neither the amendment nor repeal of this Section 10.01 shall eliminate or reduce the effect of this Section 10.01 in respect of any matter occurring, or any cause of action, suit or claim that, but for this Section 10.01 would accrue or arise, prior to such amendment or repeal.

SECTION 10.02. Indemnification and Insurance.

(a) Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "Proceeding"), by reason of the fact that such person, or a person of whom such person is the legal representative, is or was a Director or officer of the Corporation or, while a Director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such Proceeding is alleged action in an official capacity as a Director, officer, employee or agent or in any other capacity while serving as a Director, officer, employee or agent, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the DGCL, as the same exists or may hereafter be amended, against all expense, liability and loss (including attorneys' fees, judgments, fines, amounts paid or to be paid in settlement, and excise taxes or penalties arising under the Employee Retirement Income Security Act of 1974, as in effect from time to time) reasonably incurred or suffered by such person in connection therewith if such person acted in good faith and in a manner such person reasonably believed to be in compliance with the standard of conduct set forth in Section 145 (or any successor provision) of the DGCL and such indemnification shall continue as to a person who has ceased to be a Director, officer, employee or agent and shall inure to the benefit of such person's heirs, executors and administrators; provided, however, that, except as provided in paragraph (b) hereof, the Corporation shall indemnify any such person seeking indemnification in connection with a Proceeding (or part thereof) initiated by such person only if such Proceeding (or part thereof) was authorized by the Board of Directors. The Corporation shall pay the expenses incurred in defending any such Proceeding in advance of its final disposition with any advance payments to be paid by the Corporation within 20 calendar days after the receipt by the Corporation of a statement or statements from the claimant requesting such advance or advances from time to time; provided, however, that, if and to the extent the DGCL requires, the payment of such expenses incurred by a Director or officer in such person's capacity as a Director or officer (and not in any other capacity in which service was or is rendered by such person while a Director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a Proceeding, shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such Director or officer, to repay all amounts so advanced if it shall ultimately be determined that such Director or officer is not entitled to be indemnified under this Section 10.02 or otherwise. The Corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification, and rights to have the Corporation pay the expenses incurred in defending any Proceeding in advance of its final disposition, to any employee or agent of the Corporation to the fullest extent of the provisions of this Article with respect to the indemnification and advancement of expenses of Directors and officers of the Corporation.

(b) Right of Claimant to Bring Suit. If a claim under paragraph (a) of this Section 10.02 is not paid in full by the Corporation within 30 calendar days after a written claim has been received by the Corporation, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any Proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Corporation) that the claimant has not met the standard of conduct which makes it permissible under the DGCL for the Corporation to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because the claimant has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

(c) Non-Exclusivity of Rights. The right to indemnification and the payment of expenses incurred in defending a Proceeding in advance of its final disposition conferred in this Section 10.02 shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of this Amended and Restated Certificate of Incorporation, Bylaw, agreement, vote of stockholders or disinterested Directors or otherwise.

No repeal or modification of this Article shall in any way diminish or adversely affect the rights of any Director, officer, employee or agent of the Corporation hereunder in respect of any occurrence or matter arising prior to any such repeal or modification.

(d) Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any person who is or was a Director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

(e) Severability. If any provision or provisions of this Article X shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (i) the validity, legality and enforceability of the remaining provisions of this Article X (including, without limitation each portion of any paragraph of this Article X containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (ii) to the fullest extent possible, the provisions of this Article X (including, without limitation, each such portion of any paragraph of this Article X containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

ARTICLE XI

FORUM SELECTION

SECTION 11.01. Unless the Corporation consents in writing to the selection of an alternative forum (an "Alternative Forum Consent"), a state court located within the State of Delaware shall be the sole and exclusive forum for: (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim for breach of a fiduciary duty owed by any current or former Director, officer, employee or stockholder of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim against the Corporation or any Director, officer or other employee of the Corporation arising pursuant to any provision of the DGCL, this Amended and Restated Certificate of Incorporation or the Bylaws (as either may be amended from time to time) or (iv) any action asserting a claim against the Corporation or any Director or officer or other employee of the Corporation governed by the internal affairs doctrine; provided, however, that, in the event that no state court located in the State of Delaware has jurisdiction over any such action or proceeding, the sole and exclusive forum for such action or proceeding shall be the federal district court for the District of Delaware. Unless the Corporation gives an Alternative Forum Consent, the federal district courts of the United States of America shall, to the fullest extent permitted by law, be the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act of 1933, as amended. This exclusive forum provision does not apply to claims arising under the Securities Exchange Act of 1934, as amended. Any person or entity purchasing or otherwise acquiring any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Section 11.01. Failure to enforce the foregoing provisions would cause the Corporation irreparable harm and the Corporation shall be entitled to equitable relief, including injunctive relief and specific performance, to enforce the forgoing provisions. The existence of any prior Alternative Forum Consent shall not act as a waiver of the Corporation's ongoing consent right as set forth above in this Section 11.01 with respect to any current or future actions or claims.

IN WITNESS WHEREOF, the Corporation has caused this Amended and Restated Certificate of Incorporation to be signed by its duly authorized officer this 28th day of February, 2022.

/s/ Heather J. Kidwell

Name: Heather J. Kidwell
Title: Senior Vice President, Chief Legal and Compliance Officer and Corporate Secretary

AMENDED AND RESTATED BYLAWS

OF

ZIMVIE INC.

(hereinafter called the "Corporation")

Effective: February 28, 2022

ARTICLE I

Offices and Records

Section 1.01. *Registered Office*. The registered office of the Corporation in the State of Delaware is located at 251 Little Falls Drive, City of Wilmington, County of New Castle, Delaware 19808, and the registered agent at such address is Corporation Service Company.

Section 1.02. *Other Offices*. The Corporation may have such other offices, either within or without the State of Delaware, as the board of directors of the Corporation (the "Board of Directors", and each member thereof, a "Director") may designate or as the business of the Corporation may from time to time require.

Section 1.03. *Books and Records*. The books and records of the Corporation may be kept outside the State of Delaware at such place or places as may from time to time be designated by the Board of Directors.

ARTICLE II

Stockholders

Section 2.01. *Annual Meeting*. The annual meeting of the stockholders of the Corporation shall be held on such date and at such time as shall be designated by the Board of Directors and stated in the notice of the meeting.

Section 2.02. *Special Meeting*. Except as otherwise required by law and subject to the rights of the holders of any class or series of stock having a preference over the common stock, par value $0.01 per share, of the Corporation (the "Common Stock") as to dividends or upon liquidation, dissolution or winding up, special meetings of the stockholders of the Corporation shall be called only by the Board of Directors pursuant to a resolution stating the purpose or purposes thereof approved by a majority of the total number of Directors which the Corporation would have if there were no vacancies or unfilled newly-created directorships (the "Whole Board"). Any power of stockholders to call a special meeting is specifically denied. A special meeting shall be held on such date and at such time as shall be designated by the Board of Directors and stated in the notice of the meeting.

Section 2.03. *Place of Meeting*. The Board of Directors may designate the place, if any, of meeting for any annual meeting or for any special meeting of the stockholders. If no designation is so made, the place of meeting shall be the principal office of the Corporation. The Board of Directors may, in its sole discretion, determine that any annual meeting or any special meeting shall not be held at any place, but may instead be held solely by means of remote communication as authorized by the General Corporation Law of the State of Delaware (the "DGCL"). The Board of Directors may postpone, reschedule or cancel any previously scheduled annual meeting or special meeting of stockholders.

Section 2.04. *Notice of Meetings*. The Secretary or Assistant Secretary shall cause written notice of the date, time and place, if any, of each meeting of the stockholders to be given, at least ten (10) calendar days but not more than sixty (60) calendar days prior to the date of the meeting, to each stockholder of record entitled to vote at such meeting as of the record date for determining stockholders entitled to notice of the meeting. Such notice shall be given either personally, by mail or other means of written communication, or by electronic transmission in accordance with Section 232 of the DGCL. If mailed, such notice shall be deemed to be given when deposited in the United States mail, postage prepaid, directed to the stockholder of record at such stockholder's address as it appears on the records of the Corporation. Such further notice shall be given as may be required by law. Notice shall be deemed to have been given to all stockholders of record who share an address if notice is given in accordance with the "house holding" rules under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and Section 233 of the DGCL. Notice of any meeting of stockholders of the Corporation need not be given to any stockholder who shall sign a waiver of such notice in writing or who shall waive such notice by electronic transmission, whether before or after the time of such meeting. Notice of any adjourned meeting of the stockholders of the Corporation need not be given unless the adjournment is for more than thirty (30) days or is otherwise required by law.

Section 2.05. *Quorum; Required Stockholder Vote*. (a) Except as otherwise required by law or by the Amended and Restated Certificate of Incorporation of the Corporation (the "Certificate of Incorporation"), the presence at any stockholders meeting, in person or by proxy, of the holders of a majority of the voting power of all outstanding shares of the Corporation entitled to vote generally in the election of Directors (the "Voting Stock") shall be necessary and sufficient to constitute a quorum for the transaction of business, except that when specified business is to be voted on by a class or series of stock voting as a class, the holders of a majority of the voting power of the outstanding shares of such class or series shall constitute a quorum of such class or series for the transaction of such business. The chairman of the meeting may adjourn the meeting from time to time, whether or not there is such a quorum. The stockholders present at a duly called meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

(b) In all matters other than the election of Directors and the matters addressed in paragraph (c) of this Section 2.05, unless otherwise provided by the Certificate of Incorporation, the rules or regulations of any stock exchange applicable to the Corporation, or applicable law or pursuant to any regulation applicable to the Corporation or its securities, the affirmative vote of the majority of shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the stockholders. The required vote in the election of Directors is set forth in Section 2.08.

(c) Notwithstanding anything to the contrary set forth in these Bylaws, the non-binding advisory votes pursuant to Sections 14A(a)(1) and 14A(a)(2) of the Exchange Act, and the rules and regulations promulgated thereunder, shall require the affirmative vote of a majority of the votes cast thereon; provided that for purposes of any such vote, neither abstentions nor broker non-votes shall count as votes cast.

Section 2.06. *Notice of Stockholder Business and Nominations*.

(a) *Annual Meetings of Stockholders*.

(i) Nominations of persons for election to the Board of Directors of the Corporation and the proposal of other business to be considered by the stockholders may be made at an annual meeting of stockholders only (A) pursuant to the Corporation's notice of meeting (or any supplement thereto), (B) by or at the direction of the Board of Directors or any committee thereof, or (C) by any stockholder of the Corporation who was a stockholder of record of the Corporation at the time the notice provided for in this Section 2.06 is delivered to the Secretary of the Corporation and at the time of the annual meeting, who is entitled to vote at the meeting and who complies with the notice procedures set forth in this Section 2.06.

(ii) For any nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (C) of paragraph (a)(i) of this Section 2.06, the stockholder must have given timely notice thereof in writing to the Secretary and any such proposed business must constitute a proper matter for stockholder action. To be timely, a stockholder's notice shall be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation not later than the close of business on the ninetieth (90th) calendar day nor earlier than the close of business on the one hundred twentieth (120th) calendar day prior to the first anniversary of the preceding year's annual meeting; *provided, however*, that in the event that the date of the annual meeting is more than thirty (30) calendar days before or more than sixty (60) calendar days after such anniversary date, notice by the stockholder to be timely must be so delivered not earlier than the close of business on the one hundred twentieth (120th) calendar day prior to such annual meeting and not later than the close of business on the later of the ninetieth (90th) calendar day prior to such annual meeting or the tenth (10th) calendar day following the calendar day on which public announcement of the date of such meeting is first made by the Corporation. In no event shall the public announcement of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. For purposes of this Section 2.06, the 2022 annual meeting of stockholders shall be deemed to have been held on May 16, 2022. Such stockholder's notice shall set forth: (A) as to each person whom the stockholder proposes to nominate for election or reelection as a Director (1) all information relating to such person that is required to be disclosed in solicitations of proxies for election of Directors in an election contest, or is otherwise required, in each case pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder, and (2) such person's written consent to being named in the proxy statement as a nominee and to serving as a Director if elected; (B) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend the Bylaws of the Corporation, the language of the proposed amendment), the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and/or the beneficial owner, if any, on whose behalf the proposal is made; and (C) as to the stockholder giving the notice and/or the beneficial owner, if any, on whose behalf the nomination or proposal is made (1) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (2) the class or series and number of shares of capital stock of the Corporation which are owned beneficially and of record by such stockholder and/or such beneficial owner, (3) a description of any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any others acting in concert with any of the foregoing, including in the case of a nomination, the nominee, (4) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into as of the date of the stockholder's notice by, or on behalf of, such stockholder and/or such beneficial owners, whether or not such instrument or right shall be subject to settlement in an underlying class or series of stock of the Corporation, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner, with respect to shares of stock of the Corporation, or relates to the acquisition or disposition of any shares of stock of the Corporation, (5) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting, intends to appear in person or by proxy at the meeting to propose such business or nomination and agrees to continue to own such shares of stock of the Corporation through the date of the meeting, (6) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (a) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding

capital stock required to approve or adopt the proposal or elect the nominee and/or (b) otherwise to solicit proxies or votes from stockholders in support of such proposal or nomination and (7) any other information relating to such stockholder and beneficial owner, if any, required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of Directors in an election contest pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder. The foregoing notice requirements of this Section 2.06 shall be deemed satisfied by a stockholder with respect to business other than a nomination if the stockholder has notified the Corporation of his, her or its intention to present a proposal at an annual meeting in compliance with applicable rules and regulations promulgated under the Exchange Act and such stockholder's proposal has been included in a proxy statement that has been prepared by the Corporation to solicit proxies for such annual meeting. The Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a Director.

(iii) Notwithstanding anything in the second sentence of paragraph (a)(ii) of this Section 2.06 to the contrary, in the event that the number of Directors to be elected to the Board of Directors at an annual meeting is to be increased effective after the time period for which nominations would otherwise be due under paragraph (a)(ii) of this Section 2.06 and there is no public announcement by the Corporation naming the nominees for the additional directorships at least one hundred (100) calendar days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section 2.06 shall also be considered timely, but only with respect to nominees for the additional directorships, if it shall be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation not later than the close of business on the tenth (10th) calendar day following the day on which such public announcement is first made by the Corporation.

(b) *Special Meetings of Stockholders*. Only such business shall be conducted at a special meeting of stockholders of the Corporation as shall have been brought before the meeting pursuant to the Corporation's notice of meeting under Section 2.04. Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders of the Corporation at which Directors are to be elected pursuant to the Corporation's notice of meeting (A) by or at the direction of the Board of Directors or any committee thereof, or (B) if the Board of Directors has determined that Directors shall be elected at such meeting, by any stockholder of the Corporation who is a stockholder of record at the time the notice provided for in this Section 2.06 is delivered to the Secretary of the Corporation and at the time of the special meeting, who is entitled to vote at the meeting and upon such election and who complies with the notice procedures set forth in this Section 2.06. In the event the Corporation calls a special meeting of stockholders of the Corporation for the purpose of electing one or more Directors to the Board of Directors, any such stockholder may, pursuant to clause (B) of the immediately preceding sentence, nominate a person or persons (as the case may be), for election to such position(s) as specified in the Corporation's notice of meeting, if the stockholder's notice required by clauses (A) and (C) of Section 2.06(a)(ii) shall be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation not earlier than the close of business on the one hundred twentieth (120th) calendar day prior to such special meeting and not later than the close of business on the later of the ninetieth (90th) calendar day prior to such special meeting or the tenth (10th) calendar day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall the public announcement of an adjournment or postponement of a special meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(c) *General*.

(i) Only such persons who are nominated in accordance with the relevant procedures set forth in Section 2.06 shall be eligible to be elected at an annual or special meeting of stockholders of the Corporation to serve as Directors and only such business shall be conducted at a meeting of stockholders of the Corporation as shall have been brought before the meeting in accordance with the relevant procedures set forth in Section 2.06. Except as otherwise provided by law, the chairman of the meeting shall have the power and duty (A) to determine whether the relevant procedures set forth in Section 2.06 have been complied with and (B) if the relevant procedures set forth in Section 2.06 have not been complied with, to declare that the applicable nomination shall be disregarded or that the applicable proposed business shall not be transacted. Notwithstanding the provisions of Section 2.06, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the Corporation to present a nomination or proposed business or the stockholder otherwise has not complied with the relevant provisions set forth in Section 2.06, such nomination shall be disregarded and such proposed business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of Section 2.06, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders of the Corporation and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at such meeting of stockholders.

(ii) For purposes of Section 2.06, "public announcement" shall include disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission (the "SEC") pursuant to Sections 13, 14 or 15(d) of the Exchange Act and the rules and regulations promulgated thereunder.

(iii) Notwithstanding the provisions of Section 2.06, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations promulgated thereunder with respect to the matters set forth in such Sections; *provided however*, that any references in these Bylaws to the Exchange Act or the rules and regulations promulgated thereunder are not intended to and shall not limit any requirements applicable to nominations or proposals as to any other business to be considered pursuant to Section 2.06 (including paragraphs (a)(i)(C) and (b) of Section 2.06), and compliance with paragraphs (a)(i)(C) and (b) of Section 2.06 shall be the exclusive means for a stockholder to make nominations or submit other business (other than, as provided in the penultimate sentence of clause (a)(ii) of Section 2.06, matters brought properly under and in compliance with Rule 14a-8 of the Exchange Act, as it may be amended from time to time). Nothing in Section 2.06 shall be deemed to affect any rights (i) of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 of the Exchange Act or (ii) of the holders of any series of preferred stock of the Corporation ("Preferred Stock") to elect Directors pursuant to any applicable provisions of the Certificate of Incorporation, including any Preferred Stock Designation (as defined in the Certificate of Incorporation).

Section 2.07. *Proxies.* At all meetings of stockholders, a stockholder may vote by proxy in accordance with the DGCL or by such person's duly authorized attorney in fact.

Section 2.08. *Procedure for Election of Directors; Required Vote*.

(a) *Election of Directors*. Election of Directors at all meetings of the stockholders at which Directors are to be elected shall be by ballot. Subject to the rights of the holders of any series of Preferred Stock to elect Directors under an applicable Preferred Stock Designation, and except as provided in this Section 2.08(a), each Director shall be elected by the vote of the majority of the votes cast with respect to that Director's election at any meeting for the election of Directors at which a quorum is present; *provided, however*, that if the number of nominees exceeds the number of Directors to be elected, the Directors shall be elected by the vote of a plurality of the shares represented in person or by proxy at any such meeting and entitled to vote on the election of Directors. For purposes of this Section 2.08(a), a majority of votes cast

shall mean that the number of shares voted "for" a Director's election exceeds the number of votes cast "against" that Director's election. If a nominee for Director is not elected and the nominee is an incumbent Director, the Director shall promptly tender his or her resignation to the Board of Directors, subject to acceptance by the Board of Directors. The Corporate Governance Committee will make a recommendation to the Board of Directors as to whether to accept or reject the tendered resignation, or whether other action should be taken. The Board of Directors will act on the tendered resignation, taking into account the Corporate Governance Committee's recommendation, and publicly disclose (by a press release, a filing with the SEC or other broadly disseminated means of communication) its decision regarding the tendered resignation and the rationale behind the decision within 90 days from the date of the certification of the election results. The Corporate Governance Committee in making its recommendation and the Board of Directors in making its decision may each consider any factors or other information that they consider appropriate and relevant. The Director who tenders his or her resignation will not participate in the recommendation of the Corporate Governance Committee or the decision of the Board of Directors with respect to his or her resignation. If such incumbent Director's resignation is not accepted by the Board of Directors, such Director shall continue to serve until the next annual meeting and until his or her successor is duly elected, or his or her earlier resignation or removal. If a Director's resignation is accepted by the Board of Directors pursuant to this Section 2.08(a), or if a nominee for Director is not elected and the nominee is not an incumbent Director, then the Board of Directors may fill the resulting vacancy pursuant to the provisions of Section 7.04 of the Certificate of Incorporation or may decrease the size of the Board of Directors pursuant to the provisions of Section 7.01 of the Certificate of Incorporation.

(b) *Other Matters*. Except as otherwise provided by law, the Certificate of Incorporation, a Preferred Stock Designation, applicable stock exchange rules or other rules and regulations applicable to the Corporation or these Bylaws, in all matters other than the election of Directors, the affirmative vote of a majority of the voting power of the shares present in person or represented by proxy at the meeting and entitled to vote on the matter shall be the act of the stockholders.

Section 2.09. *Inspectors of Elections; Opening and Closing the Polls*.

(a) The Board of Directors by resolution shall appoint, or shall authorize an officer of the Corporation to appoint, one or more inspectors, which inspector or inspectors may include individuals who serve the Corporation in other capacities, including, without limitation, as officers, employees, agents or representatives, to act at the meetings of stockholders and make a written report thereof. One or more persons may be designated as alternate inspector(s) to replace any inspector who fails to act. If no inspector or alternate has been appointed to act or is able to act at a meeting of stockholders, the chairman of the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before discharging such person's duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of such person's ability. The inspector(s) shall have the duties prescribed by law.

(b) The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the person presiding over the meeting. The Board of Directors may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board of Directors, the person presiding over any meeting of stockholders shall have the right and authority to convene and to adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such presiding officer, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the presiding officer of the meeting, may include, without limitation, the following: (i) an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such

other persons as the chairman of the meeting shall determine; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. The presiding officer at any meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall, if the facts warrant, determine and declare to the meeting that a matter or business was not properly brought before the meeting and if such presiding officer should so determine, such person shall so declare to the meeting that any such matter or business not properly brought before the meeting shall not be transacted or considered. Unless and to the extent determined by the Board of Directors or the person presiding over the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

ARTICLE III

Board of Directors

Section 3.01. *General Powers*. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. In addition to the powers and authorities by these Bylaws expressly conferred upon them, the Board of Directors may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these Bylaws required to be exercised or done by the stockholders.

Section 3.02. *Regular Meetings*. A regular meeting of the Board of Directors shall be held without other notice than this Bylaw in conjunction with the annual meeting of stockholders. The Board of Directors may, by resolution, provide the time and place for the holding of additional regular meetings without other notice than such resolution.

Section 3.03. *Special Meetings*. Special meetings of the Board of Directors shall be called at the request of the President and Chief Executive Officer or by three or more Directors then in office. The person or persons authorized to call special meetings of the Board of Directors may fix the place and time of the meetings.

Section 3.04. *Notice*. Notice of any special meeting of Directors shall be given to each Director orally by telephone, in writing by hand delivery, first-class mail, overnight mail, courier service, telegram or electronic transmission, or by any other lawful means. Any such notice shall be sent or transmitted to such post office address, electronic mail address, facsimile number or other number or location as each Director has provided to the Corporation. If mailed by first-class mail, such notice shall be deemed adequately delivered when deposited in the United States mail so addressed, with postage thereon prepaid, at least 5 calendar days before such meeting. If sent by telegram, overnight mail or courier service, such notice shall be deemed adequately delivered when the telegram is delivered to the telegraph company or the notice is delivered to the overnight mail or courier service company at least 24 hours before such meeting. If sent by electronic transmission, such notice shall be deemed adequately delivered when the notice is transmitted at least 12 hours before such meeting. If given by telephone, by hand delivery or by other lawful means, the notice shall be given at least 12 hours prior to the time set for the meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice of such meeting. A meeting may be held at any time without notice if all the Directors are present (except when Directors attend for the express purpose of objecting, at the beginning of the meeting, because it is not lawfully called or conveyed) or if those not present waive notice of the meeting either before or after such meeting.

Section 3.05. *Action by Consent of Board of Directors*. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if all members of the Board of Directors or committee, as the case may be, consent thereto in accordance with applicable law.

Section 3.06. *Conference Telephone Meetings*. Members of the Board of Directors or any committee thereof may participate in a meeting of the Board of Directors or such committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such meeting.

Section 3.07. *Quorum*. Subject to Article VII of the Certificate of Incorporation, a whole number of Directors equal to at least a majority of the Whole Board shall constitute a quorum for the transaction of business, but if at any meeting of the Board of Directors there shall be less than a quorum present, a majority of the Directors present may adjourn the meeting from time to time without further notice. The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 3.08. *Committees of the Board of Directors.*

(a) The Board of Directors may from time to time designate committees, which shall consist of one or more Directors. The Board of Directors may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Any such committee may, to the extent permitted by law, exercise such powers and shall have such responsibilities as shall be specified in the designating resolution. In the absence or disqualification of any member of such committee or committees, the member or members thereof present at any meeting and not disqualified from voting, whether or not constituting a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Each committee shall keep written minutes of its proceedings and shall report such proceedings to the Board of Directors when required.

(b) A majority of any committee may determine its action and fix the time and place of its meetings, unless the Board of Directors shall otherwise provide. Notice of such meetings shall be given to each member of the committee in the manner provided for in Section 3.04. The Board of Directors shall have power at any time to fill vacancies in, to change the membership of, or to dissolve any such committee. Nothing herein shall be deemed to prevent the Board of Directors from appointing one or more committees consisting in whole or in part of persons who are not Directors; *provided*, *however*, that no such committee shall have or may exercise any authority of the Board of Directors.

Section 3.09. *Records*. The Board of Directors shall cause to be kept a record containing the minutes of the proceedings of the meetings of the Board of Directors and of the stockholders, appropriate stock books and registers and such books of records and accounts as may be necessary for the proper conduct of the business of the Corporation.

Section 3.10. *Chairman of the Board*. The Chairman of the Board, who may be an officer of the Corporation or may be a non-executive Chairman of the Board as determined by the Board of Directors, shall preside at all meetings of stockholders and of the Board of Directors at which he or she is present. The Chairman of the Board shall have such other powers and perform such other duties as may be assigned to him or her from time to time by these Bylaws or the Board of Directors. The Board of Directors also may elect a Vice-Chairman to act in the place of the Chairman of the Board upon his or her absence or inability to act.

Section 3.11. *Emergency Provisions*. In the event of a disaster of sufficient severity to prevent the business and affairs of the Corporation from being managed and its corporate powers from being exercised by the Board of Directors in accordance with these Bylaws, whether by reason of multiple deaths or incapacity of Directors and officers, destruction of property, failure of communications or other catastrophe, then, notwithstanding any other provision of these Bylaws, the following provisions shall apply:

(a) An emergency meeting or meetings of the Board of Directors or the surviving members thereof shall be called by the Chairman of the Board of Directors or the Chief Executive Officer, if available, and otherwise by one or more Directors; such meetings to be held at such times and places and upon such notice, if any, as the person or persons calling the meeting shall deem proper. The Board of Directors may take any action at such meetings which it deems necessary and appropriate to meet the emergency.

(b) The presence of the smallest number of Directors permitted by law to constitute a quorum, but not less than two, shall be sufficient for the transaction of business at emergency meetings of the Board of Directors, except that if there be less than two surviving Directors, the surviving Director, although less than a quorum, may fill vacancies in the Board of Directors. Vacancies in the Board of Directors shall be filled as soon as reasonably practicable following the emergency in the manner specified in Article VII of the Certificate of Incorporation.

(c) Without limiting the generality of the foregoing, the Board of Directors is authorized in connection with an emergency to make all necessary determinations of fact regarding the nature, extent and severity of the emergency and the availability of Directors to participate in meetings, to designate and replace officers, agents and employees of the Corporation and otherwise provide for continuity of management.

(d) The emergency powers provided in this Section 3.11 shall be in addition to any powers provided by law.

ARTICLE IV

Officers

Section 4.01. *Elected Officers*. The elected officers of the Corporation shall be a President and Chief Executive Officer, a Secretary, a Treasurer, and such other officers (including, without limitation, Executive Vice Presidents, Senior Vice Presidents and Vice Presidents) as the Board of Directors from time to time may deem proper. All officers elected by the Board of Directors shall each have such powers and duties as generally pertain to their respective offices, subject to the specific provisions of this Article IV. Such officers shall also have such powers and duties as from time to time may be conferred by the Board of Directors or by any committee thereof. The Board of Directors or any committee thereof may from time to time elect, or the President and Chief Executive Officer may appoint, such other officers (including one or more Vice Presidents, Controllers, Assistant Secretaries and Assistant Treasurers), as may be necessary or desirable for the conduct of the business of the Corporation. Such other officers and agents shall have such duties and shall hold their offices for such terms as shall be provided in these Bylaws or as may be prescribed by the Board of Directors or such committee or by the President and Chief Executive Officer, as the case may be.

Section 4.02. *Election and Term of Office*. The elected officers of the Corporation shall be elected annually by the Board of Directors at the regular meeting of the Board of Directors held in conjunction with the annual meeting of the stockholders. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as convenient. Each officer shall hold office until such person’s successor shall have been duly elected and shall have qualified or until such person’s death or until he shall resign or be removed pursuant to Section 4.07.

Section 4.03. *President, Chief Executive Officer*. The President shall be the Chief Executive Officer of the Corporation, shall act in a general executive capacity, shall, subject to the oversight of the Board of Directors, be responsible for the general management of the policies and affairs of the Corporation and the administration and operation of the Corporation's business, and shall perform all duties incidental to such person's office which may be required by law and all such other duties as are properly required of him or her by the Board of Directors. The President and Chief Executive Officer shall make reports to the Board of Directors and the stockholders, and shall see that all orders and resolutions of the Board of Directors and of any committee thereof are carried into effect. The President and Chief Executive Officer, if he or she is also a Director, shall, in the absence of or because of the inability to act of the Chairman of the Board and the Vice-Chairman, if any, act as chairman of all meetings of stockholders and of the Board of Directors.

Section 4.04. *Vice Presidents*. Each Executive Vice President, Senior Vice President and Vice President shall have such powers and shall perform such duties as shall be assigned to such person by the Board of Directors or by the President and Chief Executive Officer.

Section 4.05. *Treasurer*.

(a) The Treasurer shall exercise general supervision over the receipt, custody and disbursement of corporate funds. The Treasurer shall cause the funds of the Corporation to be deposited in such banks as may be authorized by the Board of Directors, or in such banks as may be designated as depositories in the manner provided by resolution of the Board of Directors. The Treasurer shall have such further powers and duties and shall be subject to such directions as may be granted or imposed from time to time by the Board of Directors or the President and Chief Executive Officer.

(b) The Board of Directors or the President and Chief Executive Officer may designate one or more Assistant Treasurers who shall have such of the authority and perform such of the duties of the Treasurer as may be assigned to them by the Board of Directors or the President and Chief Executive Officer. During the Treasurer's absence or inability, the Treasurer's authority and duties shall be possessed by such Assistant Treasurer(s) as the Board of Directors or the President and Chief Executive Officer may designate.

Section 4.06. *Secretary*.

(a) The Secretary shall keep or cause to be kept in one or more books provided for that purpose, the minutes of all meetings of the Board of Directors, the committees of the Board of Directors and the stockholders; shall see that all notices are duly given in accordance with the provisions of these Bylaws and as required by law; shall be custodian of the records and the seal of the Corporation and affix and attest the seal to all instruments and documents to be executed on behalf of the Corporation under its seal and shall see that the books, reports, statements, certificates and other documents and records required by law to be kept and filed are properly kept and filed; and in general, shall perform all the duties incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by the Board of Directors or the President and Chief Executive Officer.

(b) The Board of Directors or the President and Chief Executive Officer may designate one or more Assistant Secretaries who shall have such of the authority and perform such of the duties of the Secretary as may be provided in these Bylaws or assigned to them by the Board of Directors or the President and Chief Executive Officer. During the Secretary's absence or inability, the Secretary's authority and duties shall be possessed by such Assistant Secretary or Assistant Secretaries as the Board of Directors or the President and Chief Executive Officer may designate.

Section 4.07. *Removal*. Any officer or agent of the Corporation may be removed by the affirmative vote of a majority of the Board of Directors whenever, in their judgment, the best interests of the Corporation would be served thereby. Any officer or agent appointed by the President and Chief Executive Officer may be removed by him or her whenever, in such person's judgment, the best interests of the Corporation would be served thereby. No elected officer shall have any contractual rights against the Corporation for compensation by virtue of such election beyond the date of the election of such person's successor, such person's death, such person's resignation or such person's removal, whichever event shall first occur, except as otherwise provided in an employment contract or under an employee benefit plan.

Section 4.08. *Vacancies*. A newly created elected office and a vacancy in any elected office because of death, resignation, or removal may be filled by the Board of Directors for the unexpired portion of the term at any meeting of the Board of Directors. Any vacancy in an office appointed by the President and Chief Executive Officer because of death, resignation, or removal may be filled by the President and Chief Executive Officer.

ARTICLE V

Stock Certificates and Transfers

Section 5.01. *Stock Certificates and Transfers*. The interest of each stockholder of the Corporation shall be evidenced by certificates for shares of stock in such form as the Corporation may from time to time prescribe, provided that the Board of Directors of the Corporation may provide by resolution or resolutions that, subject to the rights of stockholders under applicable law, some or all of any or all classes or series of the Corporation's common or any preferred shares may be uncertificated shares. Notwithstanding the adoption of any such resolution providing for uncertificated shares, every holder of capital stock of the Corporation theretofore represented by certificates and, upon request, every holder of uncertificated shares, shall be entitled to have a certificate signed, countersigned and registered in such manner as the Board of Directors may by resolution prescribe or as may otherwise be permitted by applicable law. Any signature required to be on a certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue. The shares of the stock of the Corporation shall be transferred on the books of the Corporation by the holder thereof in person or by such person's attorney, upon surrender for cancellation of certificates for at least the same number of shares, with an assignment and power of transfer endorsed thereon or attached thereto, duly executed (or, with respect to uncertificated shares, by delivery of duly executed instructions or in any other manner permitted by applicable law), with such proof of the authenticity of the signature as the Corporation or its agents may reasonably require. Except as otherwise provided by law or these Bylaws, the rights and obligations of the holders of uncertificated shares and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

Section 5.02. *Lost, Stolen or Destroyed Certificates*. No certificate for shares of stock or uncertificated shares in the Corporation shall be issued in place of any stock certificate or uncertificated shares alleged to have been lost, destroyed or stolen, except on production of such evidence of such loss, destruction or theft and on delivery to the Corporation of a bond of indemnity in such amount, upon such terms and secured by such surety, as the Board of Directors or any financial officer may in its or such person's discretion require.

ARTICLE VI

Miscellaneous Provisions

Section 6.01. *Fiscal Year*. The fiscal year of the Corporation shall begin on the first day of January and end on the last day of December of each year.

Section 6.02. *Dividends*. The Board of Directors may from time to time declare, and the Corporation may pay, dividends on its outstanding shares in the manner and upon the terms and conditions provided by law and the Certificate of Incorporation.

Section 6.03. *Seal*. The corporate seal shall have inscribed thereon the words "Corporate Seal," the year of incorporation and the word "Delaware."

Section 6.04. *Waiver of Notice*. Whenever any notice is required to be given to any stockholder or Director under the provisions of the DGCL or these Bylaws, a waiver thereof given in accordance with applicable law shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any annual or special meeting of the stockholders or the Board of Directors or committee thereof need be specified in any waiver of notice of such meeting.

Section 6.05. *Audits*. The accounts, books and records of the Corporation shall be audited upon the conclusion of each fiscal year by an independent certified public accountant selected by the Board of Directors, and it shall be the duty of the Board of Directors to cause such audit to be done annually.

Section 6.06. *Resignations*. Any Director or any officer, whether elected or appointed, may resign at any time by giving written notice of such resignation to the President and Chief Executive Officer or the Secretary, and such resignation shall be deemed to be effective as of the close of business on the date said notice is received by the President and Chief Executive Officer or the Secretary, or at such later time as is specified therein. No formal action shall be required of the Board of Directors or the stockholders to make any such resignation effective.

ARTICLE VII

Contracts, Proxies, Etc.

Section 7.01. *Contracts*. Except as otherwise required by law, the Certificate of Incorporation, a Preferred Stock Designation, or these Bylaws, any contracts or other instruments may be executed and delivered in the name and on the behalf of the Corporation by such officer or officers of the Corporation as the Board of Directors may from time to time direct. Such authority may be general or confined to specific instances as the Board of Directors may determine. The President and Chief Executive Officer, any Senior Vice President, Executive Vice President or Vice President may execute bonds, contracts, deeds, leases and other instruments to be made or executed or for or on behalf of the Corporation. Subject to any restrictions imposed by the Board of Directors or the President and Chief Executive Officer, any Senior Vice President, Executive Vice President or Vice President of the Corporation may delegate contractual powers to others under such person's jurisdiction, it being understood, however, that any such delegation of power shall not relieve such officer of responsibility with respect to the exercise of such delegated power.

Section 7.02. *Proxies*. Unless otherwise provided by resolution adopted by the Board of Directors, the President and Chief Executive Officer, any Senior Vice President, Executive Vice President or Vice President may from time to time appoint an attorney or attorneys or agent or agents of the Corporation, in the name and on behalf of the Corporation, to cast the votes which the Corporation may be entitled to cast as the holders of stock or other securities in any other entity, any of whose stock or other securities may be held by the Corporation, at meetings of the holders of the stock or other securities of such other entity, or to consent in accordance with applicable law, in the name of the Corporation as such holder, to any action by such other entity, and may instruct the person or persons so appointed as to the manner of casting such votes or giving such consent, and may execute or cause to be executed in the name and on behalf of the Corporation and under its corporate seal or otherwise, all such proxies, consents or other instruments as such person may deem necessary or proper in the premises.

ARTICLE VIII

Amendments

Section 8.01. *Amendments*. The Bylaws may be altered or repealed and new Bylaws may be adopted (a) at any annual or special meeting of stockholders by the affirmative vote of the holders of a majority of the voting power of the Voting Stock then outstanding, voting as a single class, *provided*, *however*, that, in the case of any such stockholder action at a special meeting of stockholders, notice of the proposed alteration, repeal or adoption of the new Bylaw or Bylaws must be contained in the notice of such special meeting; or (b) by the affirmative vote of a majority of the Whole Board.

Exhibit 10.1

TAX MATTERS AGREEMENT
DATED AS OF MARCH 1, 2022
BY AND BETWEEN
ZIMMER BIOMET HOLDINGS, INC.
AND
ZIMVIE INC.

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TAX MATTERS AGREEMENT

This TAX MATTERS AGREEMENT (this "**Agreement**") is entered into as of March 1, 2022, by and between Zimmer Biomet Holdings, Inc., a Delaware corporation ("**Parent**") and ZimVie Inc., a Delaware corporation and a wholly owned subsidiary of Parent ("**SpinCo**") (Parent and SpinCo sometimes collectively referred to herein as the "**Companies**" and, as the context requires, individually referred to herein as a "**Company**").

RECITALS

WHEREAS, the board of directors of Parent (the "**Parent Board**") has determined that it is in the best interests of Parent and its stockholders to create a new publicly traded company that shall operate the SpinCo Business;

WHEREAS, in furtherance of the foregoing, the Parent Board has determined that it is appropriate and desirable to separate the SpinCo Business from the Parent Business (the "**Separation**") and, following the Separation, to make a distribution, on a pro rata basis, to holders of Parent Shares on the Record Date of at least eighty percent (80%) of the outstanding shares of stock in SpinCo (the "**Distribution**");

WHEREAS, SpinCo has been incorporated solely for these purposes and has not engaged in activities, except in connection with the Separation and the Distribution;

WHEREAS, for U.S. federal income tax purposes, the Contribution and the Distribution, taken together, are intended to qualify as a transaction that is generally tax-free for U.S. federal income tax purposes under Sections 355 and 368(a)(1)(D) of the Code;

WHEREAS, in connection with the Separation, certain members of the Parent Group and certain members of the SpinCo Group have engaged in the Internal Restructuring, including certain Internal Distributions that are intended to qualify as generally tax-free for U.S. federal income tax purposes under Section 355 of the Code and certain Internal Distributions and related transactions that, taken together, are intended to qualify as generally tax-free for U.S. federal income tax purposes under Sections 355 and 368(a)(1)(D) of the Code;

WHEREAS, in order to effectuate the Separation and the Distribution, Parent and SpinCo have entered into that certain Separation and Distribution Agreement, dated as of the date hereof (together with the Schedules, Exhibits and Appendices thereto, the "**Separation and Distribution Agreement**") and have also entered into, and have caused certain of their respective Affiliates to enter into, the Ancillary Agreements;

WHEREAS, as of the date hereof, Parent is the common parent of an affiliated group (as that term is defined in Section 1504 of the Code), including SpinCo, which affiliated group has elected to file consolidated U.S. federal income tax returns;

WHEREAS, pursuant to the Separation and Distribution Agreement and the Ancillary Agreements, Parent and SpinCo, and certain of their respective Affiliates, have agreed to separate the SpinCo Business from the Parent Business by means of, among other actions, (i) the Internal Restructuring, (ii) the Contribution and (iii) the Distribution;

WHEREAS, as a result of the Distribution, SpinCo and its Subsidiaries will cease to be members of the affiliated group (as that term is defined in Section 1504 of the Code) of which Parent is the common parent (the "**Deconsolidation**");

WHEREAS, in connection with the Contribution and the Distribution, Parent has determined to undertake the Monetization Transactions to dispose of Section 361 Consideration received in the Contribution and not distributed in the Distribution;

WHEREAS, the Companies desire to provide for and agree upon the allocation between the Companies of liabilities for Taxes arising prior to, as a result of, and subsequent to the Distribution, and to provide for and agree upon other matters relating to Taxes; and

WHEREAS, the Companies acknowledge that this Agreement, the Separation and Distribution Agreement and the Ancillary Agreements represent the integrated agreement of Parent and SpinCo relating to the Separation and the Distribution, are being entered into together, and would not have been entered into independently.

NOW THEREFORE, in consideration of the mutual agreements contained herein, the Companies hereby agree as follows:

Section 1. Definition of Terms. For purposes of this Agreement (including the recitals hereof), the following terms have the following meanings, and capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Separation and Distribution Agreement:

"**Accounting Cutoff Date**" means, with respect to SpinCo and any other member of the SpinCo Group the Tax Items of which are included in the Parent Federal Consolidated Income Tax Return, any date as of the end of which there is a closing of the financial accounting records for each such entity.

"**Accounting Firm**" shall have the meaning set forth in Section 13.02.

"**Adjustment Request**" means any formal or informal claim or request filed with any Tax Authority, or with any administrative agency or court, for the adjustment, refund, or credit of Taxes, including (a) any amended Tax Return claiming adjustment to the Taxes as reported on the Tax Return or, if applicable, as previously adjusted, (b) any claim for equitable recoupment or other offset, and (c) any claim for refund or credit of Taxes previously paid.

"**Agreement**" means this Tax Matters Agreement.

"**Ancillary Agreements**" shall have the meaning set forth for such term in the Separation and Distribution Agreement; provided that, such term shall include any other agreements pursuant to which the Internal Restructuring is undertaken but shall exclude this Agreement and the Separation and Distribution Agreement.

"**Board Certificate**" shall have the meaning set forth in Section 7.02(d).

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which banking institutions are generally authorized or required by Law to close in the United States or New York, New York.

"**Code**" means the U.S. Internal Revenue Code of 1986, as amended (and with respect to each referenced Section of the Code, including any successor statute or provision).

"**Companies**" and "**Company**" shall have the meaning provided in the first sentence of this Agreement.

"**Contribution**" means the transfer by Parent directly to SpinCo, pursuant to the Separation and Distribution Agreement, of equity interests in ZimVie Holdings US 2 LLC, a Delaware limited liability company, in actual or constructive exchange for (i) the issuance by SpinCo to Parent of shares of stock in SpinCo, and (ii) the SpinCo Cash Distribution (the items described in clauses (i)-(ii), "**Section 361 Consideration**").

"**Controlling Party**" means the Company entitled to control a given Tax Contest under Section 9.02.

"**Deconsolidation**" shall have the meaning provided in the Recitals.

"**Deconsolidation Date**" means the last date on which SpinCo qualifies as a member of the affiliated group (as defined in Section 1504 of the Code) of which Parent is the common parent.

"**DGCL**" means the Delaware General Corporation Law.

"**Distribution**" shall have the meaning set forth in the Recitals.

"**Due Date**" means with respect to a Tax Return, the date (taking into account all valid extensions) on which such Tax Return is required to be filed under applicable Law.

"**e-mail**" shall have the meaning set forth in Section 16.01.

"**Federal Income Tax**" means any Tax imposed by Subtitle A of the Code, and any interest, penalties, additions to tax, or additional amounts in respect of the foregoing.

"**Federal Other Tax**" means any Tax imposed by the federal government of the United States of America (other than any Federal Income Taxes), and any interest, penalties, additions to tax, or additional amounts in respect of the foregoing.

"**Fifty-Percent or Greater Interest**" shall have the meaning ascribed to the term "50-percent or greater interest" for purposes of Sections 355(d) and (e) of the Code.

"**Filing Date**" shall have the meaning set forth in Section 7.05(d).

"**Final Determination**" means the final resolution of liability for any Tax, which resolution may be for a specific issue or adjustment or for a Tax Period, (a) by IRS Form 870 or 870-AD (or any successor forms thereto), on the date of acceptance by or on behalf of the taxpayer, or by a comparable form under the Laws of a State, local, or foreign taxing jurisdiction, except that an IRS Form 870 or 870-AD or comparable form shall not constitute a Final Determination to the extent that it reserves (whether by its terms or by operation of law) the right of the taxpayer to file a claim for refund or the right of the Tax Authority to assert a further deficiency in respect of such issue or adjustment or for such Tax Period (as the case may be); (b) by a decision, judgment, decree, or other order by a court of competent jurisdiction, which has become final and unappealable; (c) by a closing agreement or accepted offer in compromise under Sections 7121 or 7122 of the Code, or a comparable agreement under the Laws of a State, local, or foreign taxing jurisdiction; (d) by any allowance of a refund or credit in respect of an overpayment of Income Tax or Other Tax, but only after the expiration of all periods during which such refund or credit may be recovered (including by way of offset) by the jurisdiction imposing such Income Tax or Other Tax; (e) by a final settlement resulting from a treaty-based competent authority determination; or (f) by any other final disposition, including by reason of the expiration of the applicable statute of limitations or by mutual agreement of the Companies.

"**Foreign Income Tax**" means any Tax imposed by any foreign country or any possession of the United States, or by any political subdivision of any foreign country or United States possession, which is an income tax as defined in Treasury Regulations Section 1.901-2, and any interest, penalties, additions to tax, or additional amounts in respect of the foregoing.

"**Foreign Other Tax**" means any Tax imposed by any foreign country or any possession of the United States, or by any political subdivision of any foreign country or United States possession, other than any Foreign Income Taxes, and any interest, penalties, additions to tax, or additional amounts in respect of the foregoing.

"**Foreign Tax**" means any Foreign Income Taxes or Foreign Other Taxes.

"**Group**" means the Parent Group or the SpinCo Group, or both, as the context requires.

"**Income Tax**" means any Federal Income Tax, State Income Tax or Foreign Income Tax.

"**Indemnitee**" shall have the meaning set forth in Section 12.03.

"**Indemnitor**" shall have the meaning set forth in Section 12.03.

"**Intended Tax Treatment**" shall have the meaning set forth in Section 4.04(b).

"**Internal Distribution**" shall mean any distribution of stock undertaken as part of the Internal Restructuring and intended to qualify as generally tax-free for U.S. federal income tax purposes under Section 355 of the Code (including, for the avoidance of doubt, distributions of stock that, when taken together with certain related transactions, are intended to qualify as generally tax-free for U.S. federal income tax purposes under Sections 355 and 368(a)(1)(D) of the Code).

"**Internal Restructuring**" shall mean the transactions described in the Step-Plan, other than the Contribution and the Distribution and the transactions undertaken (or to be undertaken) subsequent to the Distribution, including the Monetization Transactions.

"**IRS**" means the United States Internal Revenue Service.

"**Joint Return**" shall mean any Tax Return of a member of the Parent Group or the SpinCo Group that is not a Separate Return.

"**Non-Controlling Party**" means the Company not entitled to control a given Tax Contest under Section 9.02.

"**Notified Action**" shall have the meaning set forth in Section 7.04(a).

"**Monetization Transactions**" means the transactions, other than the Distribution, through which Section 361 Consideration received by Parent pursuant to the Contribution are actually disposed in accordance with the Tax Opinions/Rulings.

"**Other Restructuring Transaction**" shall have the meaning provided in the definition of "Tax-Free Status."

"**Other Tax**" means any Federal Other Tax, State Other Tax, or Foreign Other Tax.

"**Other Tax Joint Return**" shall have the meaning set forth in Section 2.05(a)(iii).

"**Parent**" shall have the meaning provided in the first sentence of this Agreement, and references herein to Parent shall include any entity treated as a successor to Parent.

"**Parent Affiliated Group**" shall have the meaning provided in the definition of "Parent Federal Consolidated Income Tax Return."

"**Parent Board**" shall have the meaning set forth in the Recitals.

"**Parent Federal Consolidated Income Tax Return**" means any United States federal income Tax Return for the affiliated group (as that term is defined in Section 1504 of the Code and the regulations thereunder) of which Parent is the common parent (the "**Parent Affiliated Group**").

"**Parent Foreign Combined Income Tax Return**" means a consolidated, combined or unitary or other similar non-U.S. Tax Return in respect of Foreign Income Taxes or any non-U.S. Tax Return with respect to any profit and/or loss sharing group, group payment or similar group or fiscal unity that actually includes, by election or otherwise, one or more members of the Parent Group together with one or more members of the SpinCo Group.

"**Parent Group**" means Parent and its Affiliates (including, for the avoidance of doubt, (a) any Affiliates acquired or created by Parent or any of its Affiliates after the Distribution, (b) any entity to which Parent or any of its Affiliates is a successor for U.S. federal income tax purposes (or other applicable Tax purposes) and (c) any entity that was an Affiliate of Parent immediately prior to the termination of such Affiliate's legal existence or the disposition of such Affiliate), excluding any entity that is a member of the SpinCo Group, as determined immediately after the Distribution and from time-to-time thereafter.

"**Parent Group Transaction Returns**" shall have the meaning set forth in Section 4.04(b).

"**Parent Separate Return**" means any Separate Return of Parent or any other member of the Parent Group.

"**Parent State Combined Income Tax Return**" means a consolidated, combined or unitary or other similar Tax Return in respect of State Income Taxes that actually includes, by election or otherwise, one or more members of the Parent Group together with one or more members of the SpinCo Group.

"**Past Practices**" shall have the meaning set forth in Section 4.04(a).

"**Payment Date**" means (i) with respect to any Parent Federal Consolidated Income Tax Return, the due date for any required installment of estimated taxes determined under Section 6655 of the Code, the due date (determined without regard to extensions) for filing the return determined under Section 6072 of the Code, and the date the return is filed, and (ii) with respect to any other Tax Return, the corresponding dates determined under the applicable Tax Law.

"**Payor**" shall have the meaning set forth in Section 5.03(a).

"**Person**" means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or a governmental entity or any department, agency or political subdivision thereof, without regard to whether any entity is treated as disregarded for U.S. federal income tax purposes.

"**Post-Deconsolidation Period**" means any Tax Period beginning after the Deconsolidation Date, and, in the case of any Straddle Period, the portion of such Straddle Period beginning the day after the Deconsolidation Date.

"**Pre-Deconsolidation Period**" means any Tax Period ending on or before the Deconsolidation Date, and, in the case of any Straddle Period, the portion of such Straddle Period ending on the Deconsolidation Date.

"**Prime Rate**" means the rate provided in Section 5.2 of the Separation and Distribution Agreement, as interpreted by Parent in good faith.

"**Privilege**" means any privilege that may be asserted under applicable Law, including, any privilege arising under or relating to the attorney-client relationship (including the attorney-client and work product privileges), the accountant-client privilege and any privilege relating to internal evaluation processes.

"**Proposed Acquisition Transaction**" means a transaction or series of transactions (or any "agreement," "understanding" or "arrangement," within the meaning of Section 355(e) of the Code and Treasury Regulations Section 1.355-7, or any other regulations promulgated thereunder, to enter into a transaction or series of transactions), whether such transaction is supported by SpinCo management or shareholders (or any Section 355 Affiliate management or shareholders), is a hostile acquisition, or otherwise, as a result of which SpinCo or any Section 355 Affiliate would merge or consolidate with any other Person or as a result of which any Person or any group of Persons would (directly or indirectly) acquire, or have the right to acquire, (I) from SpinCo and/or one or more holders of outstanding shares of SpinCo Capital Stock, a number of shares of SpinCo Capital Stock that would, when combined with any other changes in ownership of SpinCo Capital Stock pertinent for purposes of Section 355(e) of the Code, comprise 40% or more of (a) the value of all outstanding shares of stock of SpinCo as of the date of such transaction, or in the case of a series of transactions, the date of the last transaction of such series, or (b) the total combined voting power of all outstanding shares of voting stock of SpinCo as of the date of such transaction, or in the case of a series of transactions, the date of the last transaction of such series or (II) from any Section 355 Affiliate and/or one or more holders of outstanding shares of Section 355 Affiliate Capital Stock, a number of shares of Section 355 Affiliate Capital Stock that would, when combined with any other changes in ownership of Section 355 Affiliate Capital Stock pertinent for purposes of Section 355(e) of the Code, comprise 40% or more of (a) the value of all outstanding shares of stock of such Section 355 Affiliate as of the date of such transaction, or in the case of a series of transactions, the date of the last transaction of such series, or (b) the total combined voting power of all outstanding shares of voting stock of such Section 355 Affiliate as of the date of such transaction, or in the case of a series of transactions, the date of the last transaction of such series. Notwithstanding the foregoing, a Proposed Acquisition Transaction shall not include (A) the adoption by SpinCo of a shareholder rights plan or (B) issuances by SpinCo that satisfy Safe Harbor VIII (relating to acquisitions in connection with a person's performance of services) or Safe Harbor IX (relating to acquisitions by a retirement plan of an employer) of Treasury Regulations Section 1.355-7(d). For purposes of determining whether a transaction constitutes an indirect acquisition, any recapitalization resulting in a shift of voting power or any redemption of shares of stock shall be treated as an indirect acquisition of shares of stock by the non-exchanging shareholders. This definition and the application thereof is intended to monitor compliance with Section 355(e) of the Code and shall be interpreted accordingly. Any clarification of, or change in, the statute or regulations promulgated under Section 355(e) of the Code shall be incorporated in this definition and its interpretation.

"**Representation Letters**" means the representation letters and any other materials (including, without limitation, a Ruling Request and any related supplemental submissions to the IRS or other applicable Tax Authority) delivered or deliverable by, or on behalf of, Parent, SpinCo and others in connection with the rendering by Tax Advisors and/or the issuance by the IRS or other applicable Tax Authority of the Tax Opinions/Rulings.

"**Required Party**" shall have the meaning set forth in Section 5.03(a).

"**Responsible Company**" means, with respect to any Tax Return, the Company having responsibility for preparing and filing such Tax Return under this Agreement.

"**Retention Date**" shall have the meaning set forth in Section 8.01(c).

"**Ruling**" means a private letter ruling (including a supplemental private letter ruling) issued by the IRS to Parent pertaining to or in connection with the Transactions; provided that, such term shall also include a ruling (including a supplemental ruling) issued by any other Tax Authority to any member of the Parent Group or to any member of the SpinCo Group pertaining to or in connection with the Internal Restructuring (including any Swiss federal or cantonal ruling).

"**Ruling Request**" means any letter filed by Parent with the IRS requesting a ruling regarding certain Tax consequences of the Transactions (including all attachments, exhibits, and other materials submitted with such ruling request letter) and any amendment or supplement to such ruling request letter; provided that, such term shall also include any letter filed by any member of the Parent Group or by any member of the SpinCo Group with any other Tax Authority requesting a ruling regarding certain Tax consequences of the Internal Restructuring (including all attachments, exhibits, and other materials submitted with such ruling request letter) and any amendment or supplement to such ruling request letter (including any letter requesting a Swiss federal or cantonal ruling).

"**Section 2.03(c) Return**" means any Separate Return of one Company (or its Affiliates) in respect of which the other Company could reasonably be expected to be responsible, pursuant to Section 2.03(c), for some or all of any State Other Taxes due with respect to or required to be reported on such Tax Return.

"**Section 336(e) Election**" has the meaning set forth in Section 7.06.

"**Section 355 Affiliate**" means any member of the SpinCo Group that was a "controlled corporation" (within the meaning of Section 355 of the Code) in an Internal Distribution.

"**Section 355 Affiliate Capital Stock**" means, with respect to any Section 355 Affiliate, all classes or series of capital stock of such Section 355 Affiliate, including (i) the shares of common stock of such Section 355 Affiliate, (ii) all options, warrants and other rights to acquire such stock and (iii) all instruments properly treated as stock in such Section 355 Affiliate for U.S. federal income tax purposes.

"**Section 361 Consideration**" shall have the meaning provided in the definition of "Contribution."

"**Section 7.02(d) Acquisition Transaction**" means any transaction or series of transactions that is not a Proposed Acquisition Transaction but would be a Proposed Acquisition Transaction if the percentage reflected in the definition of Proposed Acquisition Transaction were 25% instead of 40%.

"**Separate Return**" means (a) in the case of any Tax Return of any member of the SpinCo Group (including any consolidated, combined or unitary return), any such Tax Return that does not include any member of the Parent Group and (b) in the case of any Tax Return of any member of the Parent Group (including any consolidated, combined or unitary return), any such Tax Return that does not include any member of the SpinCo Group.

"**Separation**" shall have the meaning set forth in the Recitals.

"**Separation and Distribution Agreement**" shall have the meaning set forth in the Recitals.

"**SpinCo**" shall have the meaning provided in the first sentence of this Agreement, and references herein to SpinCo shall include any entity treated as a successor to SpinCo.

"**SpinCo Affiliated Group**" means any affiliated group (as that term is defined in Section 1504 of the Code) of which SpinCo is the common parent.

"**SpinCo Capital Stock**" means all classes or series of capital stock of SpinCo, including (i) the shares of common stock of SpinCo, (ii) all options, warrants and other rights to acquire such stock and (iii) all instruments properly treated as stock in SpinCo for U.S. federal income tax purposes.

"**SpinCo Group**" means (a) SpinCo and its Affiliates (including, for the avoidance of doubt, (a) any Affiliates acquired or created by SpinCo or any of its Affiliates after the Distribution, (b) any entity to which SpinCo or any of its Affiliates is a successor for U.S. federal income tax purposes (or other applicable Tax purposes) and (c) any entity that was an Affiliate of SpinCo immediately prior to the termination of such Affiliate's legal existence or the disposition of such Affiliate), as determined immediately after the Distribution and from time-to-time thereafter.

"**SpinCo Group Internal Restructuring**" means (i) any internal restructuring (including by making or revoking any election under Treasury Regulations Section 301.7701-3) involving any member of the SpinCo Group or (ii) any direct or indirect contribution, sale or other transfer by any member of the SpinCo Group to any other member of the SpinCo Group of any of the assets contributed or transferred, directly or indirectly, to SpinCo as part of the Contribution.

"**SpinCo Separate Return**" means any Separate Return of SpinCo or any other member of the SpinCo Group.

"**State Income Tax**" means any Tax imposed by any State of the United States (or by any political subdivision of any such State) or the District of Columbia, in each case, which is imposed on or measured by net income, any state and local franchise or similar Taxes, and any interest, penalties, additions to tax, or additional amounts in respect of the foregoing.

"**State Other Tax**" means any Tax imposed by any State of the United States (or by any political subdivision of any such State) or the District of Columbia, in each case, other than any State Income Tax, and any interest, penalties, additions to tax, or additional amounts in respect of the foregoing.

"**Step-Plan**" means the Zimmer Biomet Holdings – Project Pinwheel Tax and Legal Step Plan, dated February 28, 2022, attached hereto, as amended from time-to-time.

"**Straddle Period**" means any Tax Period that begins on or before and ends after the Deconsolidation Date.

"**Tax**" or "**Taxes**" means any income, gross income, capital gains, gross receipts, profits, capital stock, franchise, withholding, payroll, social security, workers compensation, unemployment, disability, property, *ad valorem*, stamp, excise, escheat, severance, occupation, service, sales, use, license, lease, transfer, import, export, value added, alternative minimum, estimated or other tax (including any fee, assessment, or other charge in the nature of or in lieu of any tax) imposed by any governmental entity or political subdivision thereof, and any interest, penalties, additions to tax, or additional amounts in respect of the foregoing.

"**Tax Advisor**" means a United States tax counsel or accountant of recognized national standing.

"**Tax Attribute**" shall mean a net operating loss, net capital loss, unused investment credit, unused foreign tax credit, excess charitable contribution, general business credit or any other Tax Item that could reduce a Tax.

"**Tax Authority**" means, with respect to any Tax, the governmental entity or political subdivision thereof that imposes such Tax, and the agency (if any) charged with the collection of such Tax for such entity or subdivision.

"**Tax Benefit**" means any refund, credit, or other reduction in otherwise required Tax payments.

"**Tax Contest**" means an audit, review, examination, or any other administrative or judicial proceeding with the purpose or effect of redetermining Taxes (including any administrative or judicial review of any claim for refund).

"**Tax-Free Status**" means (i) with respect to the Contribution and Distribution, the qualification of the Contribution and Distribution, taken together, (a) as a reorganization described in Sections 355(a) and 368(a)(1)(D) of the Code, (b) as a transaction in which the stock distributed thereby is "qualified property" for purposes of Sections 355(d), 355(e) and 361(c) of the Code and (c) as a transaction in which the holders of Parent Shares recognize no income or gain for U.S. federal income tax purposes pursuant to Section 355 of the Code and in which Parent recognizes no income or gain for U.S. federal income tax purposes pursuant to Section 361 of the Code, (ii) with respect to the Monetization Transactions, (a) the qualification of any stock transferred thereby as being transferred to creditors of Parent "in connection with the reorganization" described in clause (i) for purposes of Section 361(c) of the Code, (b) the qualification of any stock transferred thereby as "qualified property" for purposes of Sections 355(d), 355(e) and 361(c) of the Code and (c) the qualification of any cash transferred thereby as being transferred to creditors of Parent "in connection with the reorganization" described in clause (i) for purposes of Section 361(b)(3) of the Code, (iii) with respect to any transaction constituting part of the Internal Restructuring that is intended to qualify under Sections 355(a) and 368(a)(1)(D) of the Code, the qualification of such transaction (a) as a reorganization described in Sections 355(a) and 368(a)(1)(D) of the Code, (b) as a transaction in which the stock distributed thereby is "qualified property" for purposes of Sections 355(d), 355(e) and 361(c) of the Code and (c) as a transaction in which the holder of shares in the "distributing corporation" (as such term is defined in Section 355(a) of the Code) recognizes no income or gain for U.S. federal income tax purposes pursuant to Section 355 of the Code and in which such "distributing corporation" recognizes no income or gain for U.S. federal income tax purposes pursuant to Section 361 of the Code, (iv) with respect to any other transaction constituting part of the Internal Restructuring that is intended to qualify under Section 355 of the Code, the qualification of such transaction (a) as a transaction described in Section 355(a) of the Code, (b) as a transaction in which the stock distributed thereby is "qualified property" for purposes of Sections 355(c), 355(d), and 355(e) of the Code and (c) as a transaction in which the holder of shares in the "distributing corporation" (as such term is defined in Section 355(a) of the Code) recognizes no income or gain for U.S. federal income tax purposes pursuant to Section 355 of the Code and in which such "distributing corporation" recognizes no income or gain for U.S. federal income tax purposes pursuant to Section 355 of the Code, and (v) with respect to any transaction constituting part of the Internal Restructuring that is not described in the foregoing clauses (iii) and (iv) but that is intended to qualify as generally Tax-free or generally Tax-deferred or otherwise as Tax advantaged (an "**Other Restructuring Transaction**"), the qualification of such Other Restructuring Transaction for applicable Tax purposes in accordance with the Intended Tax Treatment and/or the Parent Group Transaction Returns.

"**Tax Item**" means, with respect to any Income Tax, any item of income, gain, loss, deduction, credit, recapture of credit or any other item which increases or decreases Taxes paid or payable.

"**Tax Law**" means the Law of any governmental entity or political subdivision thereof relating to any Tax.

"**Tax Opinions/Rulings**" means (i) the opinions of White & Case LLP and of Deloitte Tax LLP deliverable to Parent pertaining to or in connection with, and regarding, the U.S. federal income tax treatment of, the Internal Restructuring, the Monetization Transactions, the Contribution and/or the Distribution and (ii) any Rulings.

"**Tax Period**" means, with respect to any Tax, the period for which the Tax is reported as provided under the Code or other applicable Tax Law.

"**Tax-Related Losses**" means (i) all federal, state, local and foreign Taxes (including interest and penalties thereon) imposed (or that would be imposed) pursuant to any settlement, Final Determination, judgment or otherwise, (ii) all accounting, legal and other professional fees, and court costs incurred in connection therewith, and (iii) all costs, expenses and damages associated with stockholder litigation or controversies and any amount paid by Parent (or any Affiliate of Parent) or SpinCo (or any Affiliate of SpinCo) in respect of the liability of shareholders, whether paid to shareholders or to the IRS or any other Tax Authority, in the case of each of clauses (i) through (iii), resulting from the failure of the Contribution or the Distribution, any Monetization Transaction, any Internal Distribution, or any Other Restructuring Transaction to have Tax-Free Status.

"**Tax Return**" means any report of Taxes due, any claim for refund of Taxes paid, any information return with respect to Taxes, or any other similar report, statement, questionnaire, declaration, or document filed or required to be filed under the Code or other Tax Law, including any attachments, exhibits, or other materials submitted with any of the foregoing, and including any amendments or supplements to any of the foregoing.

"**Transactions**" means the Internal Restructuring, the Monetization Transactions, the Contribution and the Distribution.

"**Treasury Regulations**" means the regulations promulgated from time to time under the Code as in effect for the relevant Tax Period.

"**Unqualified Tax Opinion**" means an unqualified "will" opinion of a Tax Advisor, which Tax Advisor is acceptable to Parent, on which Parent may rely, to the effect that a transaction will not affect the Tax-Free Status of the Contribution and the Distribution and the Monetization Transactions (taken together), any Internal Distribution, or any Other Restructuring Transaction; *provided* that, without prejudice to the generality of the foregoing, (i) any tax opinion obtained in connection with a proposed acquisition of SpinCo Capital Stock entered into on or before the two-year anniversary of the Distribution Date shall not qualify as an Unqualified Tax Opinion unless such tax opinion also concludes that such proposed acquisition (a) will not be treated as "part of a plan (or series of related transactions)," within the meaning of Section 355(e) of the Code and the Treasury Regulations promulgated thereunder, that includes the Distribution and (b) will not be treated as "part of a plan (or series of related transactions)," within the meaning of Section 355(e) of the Code and the Treasury Regulations promulgated thereunder, that includes any Internal Distribution and (ii) any tax opinion obtained in connection with a proposed acquisition of Section 355 Affiliate Capital Stock entered into on or before the two-year anniversary of the Distribution Date shall not qualify as an Unqualified Tax Opinion unless such tax opinion also concludes that such proposed acquisition will not be treated as "part of a plan (or series of related transactions)," within the meaning of Section 355(e) of the Code and the Treasury Regulations promulgated thereunder, that includes the applicable Internal Distribution. Any such opinion must assume that the Contribution and Distribution and the Monetization Transactions (taken together), any Internal Distribution, and any Other Restructuring Transaction would have qualified for Tax-Free Status if the transaction in question did not occur.

Section 2. Allocation of Tax Liabilities.

Section 2.01 General Rule.

(a) *Parent Liability*. Parent shall be liable for, and shall indemnify and hold harmless the SpinCo Group from and against any liability for, Taxes which are allocated to Parent under this Section 2.

(b) *SpinCo Liability*. SpinCo shall be liable for, and shall indemnify and hold harmless the Parent Group from and against any liability for, Taxes which are allocated to SpinCo under this Section 2.

*Section 2.02 Allocation of United States Federal Income Taxes and Federal Other Tax*es. Except as otherwise provided in Section 2.05, Federal Income Taxes and Federal Other Taxes shall be allocated as follows:

(a) *Allocation of Taxes Relating to Parent Federal Consolidated Income Tax Returns*. With respect to any Parent Federal Consolidated Income Tax Return, Parent shall be responsible for any and all Federal Income Taxes due or required to be reported on any such Tax Return (including any increase in such Taxes as a result of a Final Determination).

(b) *Allocation of Taxes Relating to Federal Separate Income Tax Returns.* (i) Parent shall be responsible for any and all Federal Income Taxes due with respect to or required to be reported on any Parent Separate Return (including any increase in such Taxes as a result of a Final Determination); and (ii) SpinCo shall be responsible for any and all Federal Income Taxes due with respect to or required to be reported on any SpinCo Separate Return (including any increase in such Taxes as a result of a Final Determination).

(c) *Allocation of Federal Other Taxes.* (i) Parent shall be responsible for any and all Federal Other Taxes due with respect to or required to be reported on any Parent Separate Return (including any increase in such Taxes as a result of a Final Determination) or otherwise imposed on any member of the Parent Group; and (ii) SpinCo shall be responsible for any and all Federal Other Taxes due with respect to or required to be reported on any SpinCo Separate Return (including any increase in such Taxes as a result of a Final Determination) or otherwise imposed on any member of the SpinCo Group.

Section 2.03 Allocation of State Income and State Other Taxes. Except as otherwise provided in Section 2.05, State Income Taxes and State Other Taxes shall be allocated as follows:

(a) *Allocation of Taxes Relating to Parent State Combined Income Tax Returns*. Parent shall be responsible for any and all State Income Taxes due with respect to or required to be reported on any Parent State Combined Income Tax Return (including any increase in such Taxes as a result of a Final Determination).

(b) *Allocation of State Income Taxes Relating to Separate Returns.* (i) Parent shall be responsible for any and all State Income Taxes due with respect to or required to be reported on any Parent Separate Return (including any increase in such Taxes as a result of a Final Determination); and (ii) SpinCo shall be responsible for any and all State Income Taxes due with respect to or required to be reported on any SpinCo Separate Return (including any increase in such Taxes as a result of a Final Determination).

(c) *Allocation of State Other Taxes.* (i) Parent shall be responsible for any and all State Other Taxes attributable to, or arising with respect to, assets or activities of the Parent Business (as reasonably determined by Parent) due with respect to or required to be reported on any SpinCo Separate Return, including any increase in such Taxes (as reasonably determined by Parent) as a result of a Final Determination; (ii) other than State Other Taxes for which Parent is responsible in accordance with clause (i) above, SpinCo shall be responsible for any and all State Other Taxes due with respect to or required to be reported on any SpinCo Separate Return; (iii) SpinCo shall be responsible for any and all State Other Taxes attributable to, or arising with respect to, assets or activities of the SpinCo Business (as reasonably determined by Parent) due with respect to or required to be reported on any Parent Separate Return, including any increase in such Taxes (as reasonably determined by Parent) as a result of a Final Determination; and (iv) other than State Other Taxes for which SpinCo is responsible in accordance with clause (iii) above, Parent shall be responsible for any and all State Other Taxes due with respect to or required to be reported on any Parent Separate Return.

Section 2.04 Allocation of Foreign Taxes. Except as otherwise provided in Section 2.05, Foreign Income Taxes and Foreign Other Taxes shall be allocated as follows:

(a) *Allocation of Taxes Relating to Parent Foreign Combined Income Tax Returns*. Parent shall be responsible for any and all Foreign Income Taxes due with respect to or required to be reported on any Parent Foreign Combined Income Tax Return (including any increase in such Taxes as a result of a Final Determination).

(b) *Allocation of Foreign Income Taxes Relating to Separate Returns.* (i) Parent shall be responsible for any and all Foreign Income Taxes due with respect to or required to be reported on any Parent Separate Return (including any increase in such Foreign Income Taxes as a result of a Final Determination); and (ii) SpinCo shall be responsible for any and all Foreign Income Taxes due with respect to or required to be reported on any SpinCo Separate Return (including any increase in such Foreign Income Taxes as a result of a Final Determination).

(c) *Allocation of Foreign Other Taxes.* (i) Parent shall be responsible for any and all Foreign Other Taxes due with respect to or required to be reported on any Parent Separate Return (including any increase in such Taxes as a result of a Final Determination) or otherwise imposed on any member of the Parent Group; and (ii) SpinCo shall be responsible for any and all Foreign Other Taxes due with respect to or required to be reported on any SpinCo Separate Return (including any increase in such Taxes as a result of a Final Determination) or otherwise imposed on any member of the SpinCo Group.

Section 2.05 Certain Transaction and Other Taxes.

(a) *SpinCo Liability*. Notwithstanding Sections 2.02, 2.03, or 2.04, SpinCo shall be liable for, and shall indemnify and hold harmless the Parent Group from and against any liability for:

(i) Any stamp, sales and use, gross receipts, value-added or other transfer Taxes imposed by any Tax Authority on any member of the SpinCo Group (if such member is primarily liable for such Tax under applicable Tax Law) on the transfers occurring pursuant to the Transactions;

(ii) Any Taxes resulting from a breach by SpinCo of any representation or covenant in this Agreement, the Separation and Distribution Agreement, any Ancillary Agreement, any Representation Letter or any Tax Opinion/Ruling, but only to the extent not indemnifiable under Section 7.05;

(iii) Any Taxes due with respect to or required to be reported on any Joint Return not described in Sections 2.02, 2.03, or 2.04 (an "**Other Tax Joint Return**") to the extent attributable to, or arising with respect to, assets or activities of the SpinCo Business (as reasonably determined by Parent), including any increase in such Taxes (as reasonably determined by Parent) as a result of a Final Determination; and

(iv) Any action taken outside the ordinary course of business after the Distribution, except to the extent such action was directed by the Parent Group or required by this Agreement, the Separation and Distribution Agreement, or any Ancillary Agreement.

(b) *Parent Liability*. Notwithstanding Sections 2.02, 2.03, or 2.04, Parent shall be liable for, and shall indemnify and hold harmless the SpinCo Group from and against any liability for:

(i) Any stamp, sales and use, gross receipts, value-added or other transfer Taxes imposed by any Tax Authority on any member of the Parent Group (if such member is primarily liable for such Tax under applicable Tax Law) on the transfers occurring pursuant to the Transactions;

(ii) Any Tax resulting from a breach by Parent of any representation or covenant in this Agreement, the Separation and Distribution Agreement, any Ancillary Agreement, any Representation Letter or any Tax Opinion/Ruling, but only to the extent not indemnifiable under Section 7.05; and

(iii) Any Taxes due with respect to or required to be reported on any Other Tax Joint Return to the extent not allocated to SpinCo under Section 2.05(a)(iii).

Section 3. Proration of Taxes for Straddle Periods.

(a) *General Method of Proration*. In the case of any Straddle Period, Tax Items shall be apportioned between Pre-Deconsolidation Periods and Post-Deconsolidation Periods in accordance with the principles of Treasury Regulations Section 1.1502-76(b) as reasonably interpreted and applied by Parent. With respect to the Parent Federal Consolidated Income Tax Return for the taxable year that includes the Distribution, no election shall be made under Treasury Regulations Section 1.1502-76(b)(2)(ii)(D) (relating to ratable allocation of a year's items). If the Deconsolidation Date is not an Accounting Cutoff Date, the provisions of Treasury Regulations Section 1.1502-76(b)(2)(iii) will be applied to ratably allocate the items (other than extraordinary items) for the month which includes the Deconsolidation Date, unless otherwise determined by Parent.

(b) *Transactions Treated as Extraordinary Item*. In determining the apportionment of Tax Items between Pre-Deconsolidation Periods and Post-Deconsolidation Periods, any Tax Items relating to the Transactions shall be treated as extraordinary items described in Treasury Regulations Section 1.1502-76(b)(2)(ii)(C) and shall (to the extent occurring on or prior to the Deconsolidation Date) be allocated to Pre-Deconsolidation Periods, and any Taxes related to such items shall be treated under Treasury Regulations Section 1.1502-76(b)(2)(iv) as relating to such extraordinary item and shall (to the extent occurring on or prior to the Deconsolidation Date) be allocated to Pre-Deconsolidation Periods.

(c) *Parent State Combined Income Tax Returns and Parent Foreign Combined Income Tax Returns*. Principles similar to those described in Sections 3(a) and 3(b) shall be applied to Taxes reportable on any Parent State Combined Income Tax Returns or Parent Foreign Combined Income Tax Returns so that, to the maximum extent permitted by applicable Tax Law, such Tax Returns do not include Tax Items of any member of the SpinCo Group for any Post-Deconsolidation Period (or portion thereof) other than Tax Items that would be so included under the principles of Sections 3(a) and 3(b).

Section 4. Preparation and Filing of Tax Returns.

Section 4.01 General. Except as otherwise provided in this Section 4, Tax Returns shall be prepared and filed on or before their Due Date by the Person obligated to file such Tax Returns under the Code or applicable Tax Law. The Companies shall provide, and shall cause their Affiliates to provide, assistance and cooperation to one another in accordance with Section 8 with respect to the preparation and filing of Tax Returns, including by providing information required to be provided pursuant to Section 8.

Section 4.02 Parent's Responsibility. Parent has the exclusive obligation and right to prepare and file, or to cause to be prepared and filed:

(a) Parent Federal Consolidated Income Tax Returns for any Tax Periods ending on, before or after the Deconsolidation Date;

(b) Parent State Combined Income Tax Returns for any Tax Periods ending on, before or after the Deconsolidation Date;

(c) Parent Foreign Combined Income Tax Returns for any Tax Periods ending on, before or after the Deconsolidation Date;

(d) Other Joint Returns which Parent reasonably determines are required to be filed (or which Parent chooses to be filed) by the Companies or any of their Affiliates for any Tax Periods ending on, before or after the Deconsolidation Date, including Other Tax Joint Returns and Joint Returns in respect of any transfer Taxes; and

(e) Parent Separate Returns and SpinCo Separate Returns which Parent reasonably determines are required to be filed by the Companies or any of their Affiliates for Tax Periods ending on, before or after the Deconsolidation Date (limited, in the case of SpinCo Separate Returns, to such Tax Returns for which the Due Date is on or before the Deconsolidation Date).

Section 4.03 SpinCo's Responsibility. SpinCo shall prepare and file, or shall cause to be prepared and filed, all Tax Returns required by the Code or other applicable Tax Law to be filed by or with respect to members of the SpinCo Group other than those Tax Returns which Parent is required or entitled to prepare and file under Section 4.02.

Section 4.04 Tax Accounting Practices.

(a) *General Rule*. Except as otherwise provided in Section 4.04(b), with respect to any Tax Return that SpinCo has the obligation and right to prepare and file, or cause to be prepared and filed, under Section 4.03, (i) for any Pre-Deconsolidation Period or any Straddle Period (or any taxable period beginning after the Deconsolidation Date to the extent items reported on such Tax Return could reasonably be expected to affect items reported on any Tax Return that Parent has the obligation or right to prepare and file for any Pre-Deconsolidation Period or any Straddle Period) or (ii) that is Section 2.03(c) Return, such Tax Return shall be prepared in accordance with past practices, accounting methods, elections or conventions ("**Past Practices**") used with respect to the Tax Returns in question (unless there is no reasonable basis for the use of such Past Practices or unless there is no adverse effect to Parent), and to the extent any items are not covered by Past Practices (or in the event that there is no reasonable basis for the use of such Past Practices or there is no adverse effect to Parent), in accordance with reasonable Tax accounting practices selected by SpinCo and reasonably acceptable to Parent. Except as otherwise provided in Section 4.04(b), Parent shall prepare any Section 2.03(c) Return and any Other Tax Joint Return which it has the obligation and right to prepare and file, or cause to be prepared and filed, under Section 4.02, in accordance with reasonable Tax accounting practices selected by Parent.

(b) *Reporting of Transactions*. The Tax treatment of the Transactions reported on any Tax Return shall be consistent with the treatment thereof in the Ruling Requests, the Tax Opinions/Rulings, and the Step-Plan (such treatment, the "**Intended Tax Treatment**"), unless there is no reasonable basis for such Tax treatment. The Tax treatment of the Transactions reported on any Tax Return for which SpinCo is the Responsible Company shall be consistent with that on any Tax Return filed or to be filed by Parent or any member of the Parent Group or caused or to be caused to be filed by Parent, in each case with respect to periods prior to the Distribution Date or with respect to Straddle Periods ("**Parent Group Transaction Returns**"), unless there is no reasonable basis for such Tax treatment. To the extent the Tax treatment relating to any aspect of the Transactions is not covered by the Intended Tax Treatment or the Parent Group Transaction Returns, the Companies shall report such Tax treatment on any and all Tax Returns in a manner that is consistent with Parent's intention or determination with respect thereto.

Section 4.05 Consolidated or Combined Tax Returns. SpinCo will elect and join, and will cause its respective Affiliates to elect and join, in filing any Parent Federal Consolidated Income Tax Returns, Parent State Combined Income Tax Returns, Parent Foreign Combined Income Tax Returns and any other Joint Returns that Parent determines are required to be filed or that Parent chooses to file pursuant to Section 4.02 for any Pre-Deconsolidated Period or Straddle Period. With respect to any SpinCo Separate Returns relating to any Tax Period (or portion thereof) ending on or prior to the Distribution Date, SpinCo will elect and join, and will cause its respective Affiliates to elect and join, in filing consolidated, unitary, combined, or other similar joint Tax Returns, to the extent each entity is eligible to join in such Tax Returns, if Parent reasonably determines that the filing of such Tax Returns is consistent with past reporting practices, or, in the absence of applicable past practices, will result in the minimization of the net present value of the aggregate Tax to the entities eligible to join in such Tax Returns.

Section 4.06 Right to Review Tax Returns.

(a) *General*. The Responsible Company with respect to any Tax Return shall make such Tax Return (or the relevant portions thereof) and related workpapers available for review by the other Company, if requested, to the extent (i) such Tax Return relates to Taxes for which the requesting Company is or could reasonably be expected to be liable, (ii) the requesting Company would reasonably be expected to be liable in whole or in part for any additional Taxes owing as a result of material adjustments to the amount of Taxes reported on such Tax Return, (iii) such Tax Return relates to Taxes for which the requesting Company would reasonably be expected to have a claim for material Tax Benefits under this Agreement, (iv) reasonably necessary for the requesting Company to confirm compliance with the terms of this Agreement or (v) such Tax Return is required by the requesting Company to comply with its reporting obligations to the Securities and Exchange Commission. The Responsible Company shall use reasonable efforts to make such Tax Return available for review as required under this Section 4.06(a) at least 30 days in advance of the relevant Due Date and, failing that, sufficiently in advance of the Due Date of such Tax Return to provide the requesting Company with a meaningful opportunity to analyze and comment on such Tax Return and shall use reasonable efforts to have such Tax Return modified before filing, taking into account the Person responsible for payment of the Tax (if any) reported on such Tax Return and whether the amount of Tax liability with respect to such Tax Return is material. The Companies shall attempt in good faith to resolve any disagreement arising out of the review of such Tax Return and, failing that, such disagreement shall be resolved in accordance with the disagreement resolution provisions of Section 13 as promptly as practicable.

(b) *Execution of Tax Returns Prepared by Other Company*. In the case of any Tax Return which is required to be prepared and filed by one Company under this Agreement and which is required by Law to be signed by the other Company or its Affiliates (or by an authorized representative thereof), the Company or the Company having an Affiliate which is legally required to sign such Tax Return shall not be required to sign or caused to be signed such Tax Return under this Agreement if there is no reasonable basis for the Tax treatment of any item reported on the Tax Return.

(c) *Section 2.03(c) Returns and Other Tax Joint Returns*. No Company shall amend, or cause to be amended, any Section 2.03(c) Return or Other Tax Joint Return or file, or cause to be filed, any Adjustment Request with respect to any such Tax Return, in each case, unless the other Company shall have first consented in writing to such amendment or Adjustment Request, such content not to be unreasonably withheld, conditioned, or delayed.

Section 4.07 Apportionment of Earnings and Profits and Tax Attributes. Parent shall be entitled in good faith to instruct SpinCo in writing of the portion, if any, of any earnings and profits, previously taxed earnings and profits, Tax Attribute, basis, overall foreign loss or any consolidated, combined, unitary or comingled attribute which Parent determines shall be allocated to, apportioned to or adjusted by the SpinCo Group under applicable Law in connection with the Transactions. SpinCo and all other members of the SpinCo Group shall prepare all Tax Returns in accordance with (and shall not take any Tax position that is inconsistent with) such written instructions. As soon as practicable after receipt of a written request from SpinCo, Parent shall provide copies of any studies, reports, and workpapers supporting the earnings and profits, previously taxed earnings and profits, Tax Attribute, basis, overall foreign loss and any consolidated, combined, unitary or comingled attribute allocable to SpinCo or any other members of the SpinCo Group. In the event of a subsequent adjustment to the earnings and profits, previously taxed earnings and profits, Tax Attribute, basis, overall foreign loss or any consolidated, combined, unitary or comingled attribute determined by Parent pursuant to this Section 4.07, Parent or SpinCo, as the case may be, shall promptly notify the other Company in writing of such adjustment. For the avoidance of doubt, Parent shall not be liable to SpinCo or any other member of the SpinCo Group for any failure of any determination under this Section 4.07 to be accurate under applicable Law.

Section 5. Tax Payments.

Section 5.01 Payment of Taxes With Respect to Joint Returns. In the case of any Joint Return reflecting Taxes for which both Parent and SpinCo are responsible under Section 2.05:

(a) *Computation and Payment of Tax Due*. At least three Business Days prior to any Payment Date for any such Tax Return, Parent shall compute the amount of Tax required to be paid to the applicable Tax Authority (taking into account the requirements of Section 4.04 relating to consistent accounting practices, as applicable) with respect to such Tax Return on such Payment Date. Parent shall pay such amount to such Tax Authority on or before such Payment Date (and provide notice and proof of payment to SpinCo).

(b) *Computation and Payment of Liability With Respect To Tax Due*. Within 30 days following the earlier of (i) the Due Date for filing any such Tax Return or (ii) the date on which such Tax Return is filed, SpinCo shall pay to Parent the amount allocable to the SpinCo Group under the provisions of Section 2.05 with respect to such Tax Return, plus interest computed at the Prime Rate on the amount so allocable to the SpinCo Group based on the number of days from the date such Tax was paid by Parent to the date of the payment under this Section 5.01(b).

(c) *Adjustments Resulting in Underpayments*. In the case of any adjustment pursuant to a Final Determination with respect to any such Tax Return, Parent shall pay to the applicable Tax Authority when due any additional Tax due with respect to such Tax Return required to be paid as a result of such adjustment pursuant to a Final Determination. Parent shall compute the amount attributable to the SpinCo Group in accordance with Section 2.05 and SpinCo shall pay to Parent any amount due to Parent under Section 2.05 within 30 days following the date of receipt of a written notice and demand from Parent for payment of the amount due, accompanied by evidence of payment and a statement detailing the Taxes paid and describing in reasonable detail the particulars relating thereto. Any payments required under this Section 5.01(c) shall include interest computed at the Prime Rate based on the number of days from the date the additional Tax was paid by Parent to the date of the payment under this Section 5.01(c).

Section 5.02 Payment of Taxes With Respect to Section 2.03(c) Returns. In the case of any Section 2.03(c) Return:

(a) *Computation and Payment of Tax Due*. At least three Business Days prior to any Payment Date for any Section 2.03(c) Return, the Responsible Company shall compute the amount of Tax required to be paid to the applicable Tax Authority (taking into account the requirements of Section 4.04 relating to consistent accounting practices, as applicable) with respect to such Tax Return on such Payment Date. The Responsible Company shall pay such amount to such Tax Authority on or before such Payment Date (and provide notice and proof of payment to the other Company).

(b) *Computation and Payment of Liability With Respect To Tax Due*. Within 30 days following the earlier of (i) the Due Date for filing any such Section 2.03(c) Return or (ii) the date on which such Section 2.03(c) Return is filed, if Parent is the Responsible Company, then SpinCo shall pay to Parent the amount for which SpinCo is responsible under the provisions of Section 2.03(c) with respect to such Tax Return, and if SpinCo is the Responsible Company, then Parent shall pay to SpinCo the amount for which Parent is responsible under the provisions of Section 2.03(c) with respect to such Tax Return, in each case, plus interest computed at the Prime Rate on the amount so allocable to SpinCo or Parent, as applicable, based on the number of days from the date such Tax was paid by Parent or SpinCo, as applicable, to the date of the payment under this Section 5.02(b).

(c) *Adjustments Resulting in Underpayments*. In the case of any adjustment pursuant to a Final Determination with respect to any such Section 2.03(c) Return, the Responsible Company shall pay to the applicable Tax Authority when due any additional Tax due with respect to such Tax Return required to be paid as a result of such adjustment pursuant to a Final Determination. If the Responsible Company is Parent, Parent shall compute the amount attributable to the assets or activities of the SpinCo Business in accordance with Section 2.03(c) and SpinCo shall pay to Parent such amount within 30 days of the date of receipt of a written notice and demand from Parent for payment of the amount due, accompanied by evidence of payment and a statement detailing the Taxes paid and describing in reasonable detail the particulars relating thereto. If the Responsible Company is SpinCo, (x) SpinCo shall, within 15 days of payment of such additional Tax to the applicable Tax Authority, provide Parent with written notice thereof, accompanied by evidence of payment and a statement detailing the Taxes paid and describing in reasonable detail the particulars relating thereto and (y) Parent shall, within 45 days of receipt of such statement, compute the amount attributable to the assets or activities of the Parent Business in accordance with Section 2.03(c) and pay to SpinCo such amount. Any payments required under this Section 5.02(c) shall include interest computed at the Prime Rate based on the number of days from the date the additional Tax was paid by the Responsible Company to the date of the payment under this Section 5.02(c).

Section 5.03 Indemnification Payments.

(a) Subject to Sections 5.01, 5.02, 7.05(d) and 7.05(e), if any Company or any of its Affiliates (such Company, the "**Payor**") is required under applicable Tax Law to pay to a Tax Authority a Tax that another Company (the "**Required Party**") is liable for under this Agreement, the Required Party shall reimburse the Payor within 30 days of delivery by the Payor to the Required Party of an invoice for the amount due, accompanied by evidence of payment and a statement detailing the Taxes paid and describing in reasonable detail the particulars relating thereto. The reimbursement shall include interest on the Tax payment computed at the Prime Rate based on the number of days from the date of the payment to the Tax Authority to the date of reimbursement under this Section 5.03.

(b) All indemnification payments under this Agreement shall be made by Parent directly to SpinCo and by SpinCo directly to Parent, as applicable; *provided*, *however*, that if the Companies mutually agree with respect to any such indemnification payment, any member of the Parent Group, on the one hand, may make such indemnification payment to any member of the SpinCo Group, on the other hand, and vice versa.

Section 6. Tax Benefits.

Section 6.01 Tax Benefits.

(a) Except as set forth below, Parent shall be entitled to any refund (and any interest thereon received from the applicable Tax Authority) of Income Taxes and Other Taxes for which Parent is liable hereunder, SpinCo shall be entitled to any refund (and any interest thereon received from the applicable Tax Authority) of Income Taxes and Other Taxes for which SpinCo is liable hereunder and a Company (the first Company) receiving or having Affiliates receiving a refund to which another Company (the second Company) is entitled hereunder shall pay over such refund to the second Company within 30 days after such refund is received (together with interest computed at the Prime Rate based on the number of days from the date the refund was received to the date the refund was paid over). The second Company, upon the written request of the first Company, shall promptly repay the first Company the amount paid over pursuant to the preceding sentence (together with any penalties, interest or other charges imposed by the relevant Tax Authority) in the event that the first Company or any Affiliate is required to repay such refund to such Tax Authority.

(b) If a member of the SpinCo Group actually realizes in cash any Tax Benefit as a result of an adjustment pursuant to a Final Determination to any Taxes for which a member of the Parent Group is liable hereunder (or to the tax basis or any Tax Attribute of a member of the Parent Group) (a "**Parent Final Determination Adjustment**") and such Tax Benefit would not have arisen but for such adjustment (determined on a "with and without" basis), or if a member of the Parent Group actually realizes in cash

any Tax Benefit as a result of an adjustment pursuant to a Final Determination to any Taxes for which a member of the SpinCo Group is liable hereunder (or to the tax basis or any Tax Attribute of a member of the SpinCo Group) and such Tax Benefit would not have arisen but for such adjustment (determined on a "with and without" basis), SpinCo or Parent, as the case may be, shall make a payment to either Parent or SpinCo, as appropriate, within 30 days following such actual realization of the Tax Benefit, in an amount equal to such Tax Benefit actually realized in cash (including any Tax Benefit actually realized in cash as a result of the payment), plus interest on such amount computed at the Prime Rate based on the number of days from the date of such actual realization of the Tax Benefit to the date of payment of such amount under this Section 6.01(b). In the case of a Parent Final Determination Adjustment, then, upon the written request of and at the expense of Parent, SpinCo shall (and, if applicable, shall cause the relevant member of the SpinCo Group to) amend any Tax Return thereof to the extent such amendment would result in a corresponding or correlative Tax Benefit (which shall include, without limitation, any step-up in tax basis).

(c) No later than 30 days after a Tax Benefit described in Section 6.01(b) is actually realized in cash by a member of the Parent Group or a member of the SpinCo Group, Parent (if a member of the Parent Group actually realizes such Tax Benefit) or SpinCo (if a member of the SpinCo Group actually realizes such Tax Benefit) shall provide the other Company with a written calculation of the amount payable to such other Company by Parent or SpinCo, as the case may be, pursuant to this Section 6. In the event that Parent or SpinCo, as the case may be, disagrees with any such calculation described in this Section 6.01(c), Parent or SpinCo, as the case may be, shall so notify the other Company in writing within 30 days of receiving the written calculation set forth above in this Section 6.01(c). Parent and SpinCo shall endeavor in good faith to resolve such disagreement, and, failing that, the amount payable under this Section 6 shall be determined in accordance with the disagreement resolution provisions of Section 13 as promptly as practicable.

Section 6.02 Parent and SpinCo Income Tax Deductions in Respect of Certain Equity Awards and Incentive Compensation. To the extent permitted by applicable Law, solely the member of the Group for which the relevant individual is employed at the time of the vesting, exercise, disqualifying disposition, payment or other relevant taxable event, as appropriate, in respect of the equity awards and other incentive compensation described in the Employee Matters Agreement (or, if such individual is not then employed by a member of any Group, the Group member at which such individual was most recently employed) shall be entitled to claim any Income Tax deduction in respect of such equity awards and other incentive compensation on its respective Tax Return associated with such event.

Section 7. Tax-Free Status.

Section 7.01 Tax Opinions/Rulings and Representation Letters.

(a) Each of SpinCo and Parent hereby represents and agrees that (A) it has carefully reviewed or will carefully review the Representation Letters prior to the date submitted and (B) subject to any qualifications therein, all information, representations and covenants contained in such Representation Letters that concern or relate to such Company or any member of its Group are and will be true, correct and complete.

(b) If any Representation Letters have not yet been submitted, SpinCo and Parent shall use their commercially reasonable efforts and shall cooperate in good faith to finalize (or cause to be finalized) the same as soon as possible and to cause the same to be submitted to the Tax Advisors, the IRS or such other governmental authorities as Parent shall deem necessary or desirable. SpinCo and Parent shall take such other commercially reasonable actions as may be necessary or desirable to obtain any Tax Opinions/Rulings that have not yet been obtained.

(c) SpinCo hereby represents and warrants that it has no plan or intention to take any action or to fail to take any action (or to cause or permit any member of its Group to take or fail to take any action), in each case, from and after the date hereof, that could reasonably be expected to cause any representation or statement made in this Agreement, the Separation and Distribution Agreement, the Representation Letters, or any of the Ancillary Agreements to be untrue.

(d) SpinCo hereby represents and warrants that, during each two-year period ending on the date of any Internal Distribution or the Distribution Date, there was no "agreement," "understanding," "arrangement," "substantial negotiations" or "discussions" (as such terms are defined in Treasury Regulations Section 1.355-7(h)) by any one or more officers or directors of any member of the SpinCo Group or by any other person or persons with the implicit or explicit permission of one or more of such officers or directors regarding an acquisition, directly or indirectly, of all or a significant portion of the SpinCo Capital Stock (or any predecessor) or any Section 355 Affiliate Capital Stock; *provided*, *however*, that no representation is made regarding any "agreement," "understanding," "arrangement," "substantial negotiations" or "discussions" (as such terms are defined in Treasury Regulations Section 1.355-7(h)) by any one or more officers or directors of Parent.

Section 7.02 Restrictions on SpinCo.

(a) SpinCo agrees that it will not take or fail to take, or cause or permit any Affiliate of SpinCo to take or fail to take, any action where such action or failure to act would be inconsistent with or cause to be untrue any material, information, statement, covenant or representation in this Agreement, the Separation and Distribution Agreement, any of the Ancillary Agreements, any Representation Letters or any Tax Opinions/Rulings. SpinCo agrees that it will not take or fail to take, or permit any Affiliate of SpinCo to take or fail to take, any action which prevents or could reasonably be expected to prevent the Tax-Free Status (including the issuance of any SpinCo Capital Stock or Section 355 Affiliate Capital Stock that would prevent the Distribution or any Internal Distribution from qualifying as a tax-free distribution under Section 355 of the Code), it being agreed and understood that SpinCo shall not agree, and shall prevent any Affiliate of SpinCo from agreeing, in any Tax Contest to any position that is inconsistent with the Tax treatment of the Transactions as provided in the Intended Tax Treatment or the Parent Group Transaction Returns, unless there is no reasonable basis for such Tax treatment.

(b) SpinCo agrees that, from the date hereof until the first day after the two-year anniversary of the Distribution Date, it will (i) maintain its status as a company engaged in the active conduct of the SpinCo Business for purposes of Section 355(b)(2) of the Code, (ii) cause each Section 355 Affiliate to maintain such Section 355 Affiliate's status as a company engaged in the active conduct of the trade or businesses designated as the trade or business for such Section 355 Affiliate in the relevant Tax Opinion/Ruling for purposes of Section 355(b)(2) of the Code, (iii) not engage in any transaction that would result in SpinCo or any Section 355 Affiliate ceasing to be a company so engaged for purposes of Section 355(b)(2) of the Code and (iv) cause each Section 355 Affiliate not to engage in any transaction that would result in such Section 355 Affiliate ceasing to be a company so engaged for purposes of Section 355(b)(2) of the Code, in the case of each of clauses (i) through (iv), taking into account Section 355(b)(3) of the Code.

(c) SpinCo agrees that, from the date hereof until the first day after the two-year anniversary of the Distribution Date, it will not (and it will cause each Section 355 Affiliate not to, where applicable) (i) enter into any Proposed Acquisition Transaction or, to the extent SpinCo has the right to prohibit (or cause to be prohibited) any Proposed Acquisition Transaction, permit (or cause to be permitted) any Proposed Acquisition Transaction to occur (whether by (I) redeeming rights under a shareholder rights plan, (II) finding a tender offer to be a "permitted offer" under any such plan or otherwise causing any such plan to be inapplicable or neutralized with respect to any Proposed Acquisition Transaction, or (III) approving any Proposed Acquisition Transaction, whether for purposes of Section 203 of the DGCL or any similar corporate statute, any "fair price" or other provision of SpinCo or any Section 355 Affiliate's charter or bylaws or otherwise), (ii) merge or consolidate with any other Person or liquidate or partially liquidate,

(iii) in a single transaction or series of transactions, sell or transfer (other than sales or transfers of inventory in the ordinary course of business) all or substantially all of the assets that were transferred, directly or indirectly, to SpinCo pursuant to the Contribution (or, with respect to any such Section 355 Affiliate, to such Section 355 Affiliate pursuant to any Ancillary Agreements), or sell or transfer 30% or more of the gross assets of the SpinCo Business (or, with respect to any such Section 355 Affiliate, the gross assets of any trade or business designated as the trade or business for such Section 355 Affiliate in the relevant Tax Opinion/Ruling) or 30% or more of the consolidated gross assets of SpinCo and its Affiliates or of any Section 355 Affiliate and its Subsidiaries (such percentages to be measured based on fair market value as of the date of the Distribution or the relevant Internal Distribution, as applicable), (iv) redeem or otherwise repurchase (directly or through an Affiliate) any SpinCo Capital Stock or any Section 355 Affiliate Capital Stock, or rights to acquire stock, (v) amend its certificate of incorporation (or other organizational documents), or take any other action, whether through a stockholder vote or otherwise, affecting the voting rights of SpinCo Capital Stock or Section 355 Affiliate Capital Stock (including, without limitation, through the conversion of one class of stock into another class of stock) or (vi) take any other action or actions (including any action or transaction that would be reasonably likely to be inconsistent with any representation or covenant made in the Representation Letters or the Tax Opinions/Rulings) which in the aggregate (and taking into account any other transactions described in this subparagraph (d)) would be reasonably likely to have the effect of causing or permitting one or more Persons (whether or not acting in concert) to acquire directly or indirectly stock representing a Fifty-Percent or Greater Interest in SpinCo or any Section 355 Affiliate or otherwise jeopardize the Tax-Free Status, unless, in each case, prior to taking any such action set forth in the foregoing clauses (i) through (vi), (A) SpinCo shall have requested that Parent obtain a Ruling in accordance with Section 7.04 to the effect that such transaction will not affect the Tax-Free Status and Parent shall have received such a Ruling in form and substance satisfactory to Parent in its sole and absolute discretion, which discretion shall be exercised in good faith solely to preserve the Tax-Free Status (and in determining whether a Ruling is satisfactory, Parent may consider, among other factors, the appropriateness of any underlying assumptions and management's representations made in connection with such Ruling), or (B) SpinCo shall provide Parent with, or assist Parent in obtaining, an Unqualified Tax Opinion in form and substance satisfactory to Parent in its sole and absolute discretion, which discretion shall be exercised in good faith solely to preserve the Tax-Free Status (and in determining whether an opinion is satisfactory, Parent may consider, among other factors, the appropriateness of any underlying assumptions and management's representations if used as a basis for the opinion, and Parent may determine that no opinion would be acceptable to Parent) or (C) Parent shall have waived the requirement to obtain such Ruling or Unqualified Tax Opinion.

(d) *Certain Issuances of SpinCo Capital Stock or Section 355 Affiliate Capital Stock*. If SpinCo or any Section 355 Affiliate proposes to enter into any Section 7.02(d) Acquisition Transaction or if SpinCo, to the extent SpinCo has the right to prohibit (or cause to be prohibited) any Section 7.02(d) Acquisition Transaction, proposes to permit (or to cause to be permitted) any Section 7.02(d) Acquisition Transaction to occur, in each case, during the period from the date hereof until the first day after the two-year anniversary of the Distribution Date, SpinCo shall provide Parent, no later than ten days following the signing of any written agreement with respect to the Section 7.02(d) Acquisition Transaction, with a written description of such transaction (including the type and amount of any SpinCo Capital Stock or Section 355 Affiliate Capital Stock, as the case may be, to be issued in such transaction) and a certificate of the board of directors of SpinCo to the effect that the Section 7.02(d) Acquisition Transaction is not a Proposed Acquisition Transaction or any other transaction to which the requirements of Section 7.02(c) apply (a "**Board Certificate**").

(e) *SpinCo Group Internal Restructuring*. SpinCo shall provide written notice to Parent describing any SpinCo Group Internal Restructuring proposed to be undertaken during any Tax Period ending on or prior to the two-year anniversary of the Distribution Date and shall consult with Parent regarding any such proposed actions reasonably in advance of taking any such proposed actions and shall consider in good faith any comments from Parent relating thereto.

Section 7.03 Restrictions on Parent. Parent agrees that it will not take or fail to take, or cause or permit any member of the Parent Group to take or fail to take, any action where such action or failure to act would be inconsistent with or cause to be untrue any material, information, statement, covenant or representation in this Agreement, the Separation and Distribution Agreement, any of the Ancillary Agreements, any Representation Letters or any Tax Opinions/Rulings. Parent agrees that it will not take or fail to take, or cause or permit any member of the Parent Group to take or fail to take, any action which prevents or could reasonably be expected to prevent the Tax-Free Status; *provided, however*, that this Section 7.03 shall not be construed as obligating Parent to consummate the Distribution without the satisfaction or waiver of all conditions set forth in Section 3.3 of the Separation and Distribution Agreement nor shall it be construed as preventing Parent from terminating the Separation and Distribution Agreement pursuant to Section 9.1 thereof.

Section 7.04 Procedures Regarding Opinions and Rulings.

(a) If SpinCo notifies Parent that it desires to take one of the actions described in clauses (i) through (vi) of Section 7.02(c) (a "**Notified Action**"), Parent and SpinCo shall reasonably cooperate to attempt to obtain the Ruling or Unqualified Tax Opinion referred to in Section 7.02(c), unless Parent shall have waived the requirement to obtain such Ruling or Unqualified Tax Opinion.

(b) *Rulings or Unqualified Tax Opinions at SpinCo's Request*. Parent agrees that at the reasonable request of SpinCo pursuant to Section 7.02(c), Parent shall cooperate with SpinCo and use its reasonable efforts to seek to obtain, as expeditiously as possible, a Ruling or an Unqualified Tax Opinion for the purpose of permitting SpinCo to take the Notified Action. Further, in no event shall Parent be required to file a request for any such Ruling under this Section 7.04(b) unless SpinCo represents that (A) it has read such request, and (B) all information and representations, if any, relating to any member of the SpinCo Group, contained in such request (or in any documents relating thereto) are (subject to any qualifications therein) true, correct and complete. SpinCo shall reimburse Parent for all reasonable costs and expenses incurred by the Parent Group in preparing and filing any such request and in obtaining a Ruling or in obtaining or in assisting in obtaining an Unqualified Tax Opinion requested by SpinCo within ten Business Days after receiving an invoice from Parent therefor.

(c) *Rulings or Unqualified Tax Opinions at Parent's Request*. Parent shall have the right to obtain a Ruling or an Unqualified Tax Opinion at any time in its sole and absolute discretion. If Parent determines to obtain a Ruling or an Unqualified Tax Opinion, SpinCo shall (and shall cause each Affiliate of SpinCo to) cooperate with Parent and take any and all actions reasonably requested by Parent in connection with obtaining the Ruling or Unqualified Tax Opinion (including, without limitation, by making any representation or covenant or providing any materials or information requested by the IRS or Tax Advisor; *provided* that SpinCo shall not be required to make (or cause any Affiliate of SpinCo to make) any representation or covenant that is inconsistent with historical facts or as to future matters or events over which it has no control). Parent and SpinCo shall each bear its own costs and expenses in obtaining a Ruling or an Unqualified Tax Opinion requested by Parent.

(d) SpinCo hereby agrees that Parent shall have sole and exclusive control over the process of obtaining any Ruling, and that only Parent shall apply for a Ruling. In connection with obtaining a Ruling pursuant to Section 7.04(b), (A) Parent shall keep SpinCo informed in a timely manner of all material actions taken or proposed to be taken by Parent in connection therewith; (B) Parent shall (1) reasonably in advance of the submission of any documents relating to the request for such Ruling, provide SpinCo with a draft copy thereof, (2) reasonably consider SpinCo's comments on such draft copy, and (3) provide SpinCo with a final copy; and (C) Parent shall provide SpinCo with notice reasonably in advance of, and

SpinCo shall have the right to attend, any formally scheduled meetings with the IRS or other applicable Tax Authority (subject to the approval of the IRS or other applicable Tax Authority) that relate to such Ruling. Neither SpinCo nor any Affiliate of SpinCo shall seek any guidance from the IRS or any other Tax Authority (whether written, verbal or otherwise) at any time concerning the Transactions (or the effect of any other transaction thereon).

Section 7.05 Liability for Tax-Related Losses.

(a) Notwithstanding anything in this Agreement, the Separation and Distribution Agreement, or any Ancillary Agreement to the contrary, subject to Section 7.05(c), SpinCo shall be responsible for, and shall indemnify and hold harmless Parent and its Affiliates and each of their respective officers, directors and employees from and against, one hundred percent (100%) of any Tax-Related Losses that are attributable to or result from any one or more of the following: (A) the acquisition (other than pursuant to the Transactions), by any means whatsoever or by any Person, of all or a portion of (i) SpinCo Capital Stock, (ii) any Section 355 Affiliate Capital Stock, and/or (iii) Spinco's assets, any Section 355 Affiliate's assets, or any of their Subsidiaries' assets, (B) any "agreement," "understanding," "arrangement," "substantial negotiations" or "discussions" (as such terms are defined in Treasury Regulations Section 1.355-7(h)) by (i) any one or more officers or directors of any member of the SpinCo Group or by any other person or persons with the implicit or explicit permission of one or more of such officers or directors regarding transactions or events that cause any Internal Distribution, the Distribution, or any Monetization Transaction to be treated as part of a plan pursuant to which one or more Persons acquire, directly or indirectly, stock of SpinCo, stock of any Section 355 Affiliate, or stock of any Affiliate of SpinCo or any Section 355 Affiliate, in each case, representing a Fifty-Percent or Greater Interest therein or (ii) any one or more officers or directors of any Section 355 Affiliate or by any other person or persons with the implicit or explicit permission of one or more of such officers or directors regarding transactions or events that cause any Internal Distribution to be treated as part of a plan pursuant to which one or more Persons acquire, directly or indirectly, stock of such Section 355 Affiliate or stock of any Affiliate of such Section 355 Affiliate, in each case, representing a Fifty-Percent or Greater Interest therein, (C) any action or failure to act by SpinCo after the Distribution (including, without limitation, any amendment to SpinCo's or any Section 355 Affiliate's certificate of incorporation (or other organizational documents), whether through a stockholder vote or otherwise) affecting the voting rights of SpinCo stock (including, without limitation, through the conversion of one class of SpinCo Capital Stock into another class of SpinCo Capital Stock) or Section 355 Affiliate stock (including, without limitation, through the conversion of one class of Section 355 Affiliate Capital Stock into another class of Section 355 Affiliate Capital Stock), (D) any act or failure to act by SpinCo, any Section 355 Affiliate or any other member of the SpinCo Group described in Section 7.02 (regardless of whether such act or failure to act is covered by a Ruling, Unqualified Tax Opinion or waiver, as applicable, described in Section 7.02(c) or by a Board Certificate described in Section 7.02(d) or any consultations with or comments from Parent in accordance with Section 7.02(e)), including, for the avoidance of doubt, any act or failure to act by SpinCo or any other member of the SpinCo Group that results in any Other Restructuring Transaction or any Monetization Transaction failing to qualify, in whole or in part, for Tax-Free Status, or (E) any breach by SpinCo of its agreement and representations set forth in Section 7.01.

(b) Notwithstanding anything in this Agreement, the Separation and Distribution Agreement, or any Ancillary Agreement to the contrary, subject to Section 7.05(c), Parent shall be responsible for, and shall indemnify and hold harmless SpinCo and its Affiliates and each of their respective officers, directors and employees from and against, one hundred percent (100%) of any Tax-Related Losses that are attributable to, or result from any one or more of the following: (A) the acquisition (other than pursuant to the Transactions) of all or a portion of Parent's stock and/or its or its Subsidiaries' assets by any means whatsoever by any Person, (B) any "agreement," "understanding," "arrangement," "substantial negotiations" or "discussions" (as such terms are defined in Treasury Regulations Section 1.355-7(h)) by any one or more officers or directors of any member of the Parent Group or by any other person or persons

with the implicit or explicit permission of one or more of such officers or directors regarding transactions or events that cause the Distribution, any Internal Distribution, or any Monetization Transaction to be treated as part of a plan pursuant to which one or more Persons acquire, directly or indirectly, stock of Parent or the stock of any Affiliate of Parent (including any such Affiliate that is a "distributing corporation" (as defined in Section 355(a) of the Code) in any Internal Distribution) representing a Fifty-Percent or Greater Interest therein, (C) any act or failure to act by Parent or any other member of the Parent Group described in Section 7.03 or (D) any breach by Parent of its agreement and representations set forth in Section 7.01.

(c) Notwithstanding anything in Section 7.05(a) or (b) or any other provision of this Agreement, the Separation and Distribution Agreement, or any Ancillary Agreement to the contrary:

(i) SpinCo shall be responsible for, and shall indemnify and hold harmless Parent and its Affiliates and each of their respective officers, directors and employees from and against, one hundred percent (100%) of (I) any Tax-Related Losses resulting from the application of Section 355(e) or Section 355(f) of the Code (other than as a result of an acquisition of a Fifty-Percent or Greater Interest in Parent or any member of the Parent Group) and (II) any other Tax-Related Losses resulting (for the absence of doubt, in whole or in part) from an acquisition after the Distribution of any stock or assets of SpinCo, any Section 355 Affiliate, or any other Affiliate of SpinCo by any means whatsoever by any Person or any action or failure to act by SpinCo affecting the voting rights of SpinCo stock, the stock of any Section 355 Affiliate or the stock of any other Affiliate of SpinCo; and

(ii) For purposes of calculating the amount and timing of any Tax-Related Losses for which SpinCo is responsible under this Section 7.05, Tax-Related Losses shall be calculated by assuming that Parent, the Parent Affiliated Group and each other member of the Parent Group (I) pay Tax at the highest marginal corporate Tax rates in effect in each relevant taxable year and (II) have no Tax Attributes in any relevant taxable year. For purposes of calculating the amount and timing of any Tax-Related Losses for which Parent is responsible under this Section 7.05, Tax-Related Losses shall be calculated by assuming that SpinCo, the SpinCo Affiliated Group and each other member of the Spinco Group (I) pay Tax at the highest marginal corporate Tax rates in effect in each relevant taxable year and (II) have no Tax Attributes in any relevant taxable year.

(d) The indemnifying Company shall pay the other Company the amount of any Tax-Related Losses for which the indemnifying Company is responsible under this Section 7.05: (A) in the case of Tax-Related Losses described in clause (i) of the definition of Tax-Related Losses, no later than ten Business Days prior to the Due Date of the Tax Return that other Company files, or causes to be filed, for the year of any relevant Internal Distribution, relevant Monetization Transaction, or the Contribution or the Distribution, as applicable (the "**Filing Date**") (*provided* that, if such Tax-Related Losses arise pursuant to a Final Determination described in clause (a), (b) or (c) of the definition of "Final Determination," then the indemnifying Company shall pay the other Company no later than two Business Days after the date of such Final Determination, with interest calculated at the Prime Rate plus two percent, compounded semiannually, from the date that is ten Business Days prior to the Filing Date through the date of such Final Determination (but not in duplication of interest charged by the applicable Tax Authority)) and (B) in the case of Tax-Related Losses described in clause (ii) or (iii) of the definition of Tax-Related Losses, no later than the later of (x) the date that is two Business Days after the date the other Company pays such Tax-Related Losses and (y) the date that is five Business Days after the indemnifying Company receives notification from the other Company of the amount of such Tax-Related Losses due.

(e) Parent shall calculate in good faith and notify SpinCo of the amount of any Tax-Related Losses for which SpinCo is responsible under this Section 7.05. Such calculation shall be binding on

SpinCo absent manifest error. At SpinCo's reasonable request, Parent shall make available to SpinCo the portion of any Tax Return or other documentation and related workpapers that are relevant to the determination of the Tax-Related Losses attributable to SpinCo pursuant to this Section 7.05. Parent and SpinCo shall cooperate in good faith to determine the Tax-Related Losses for which Parent is responsible under this Section 7.05; provided that, at the request of either Company, such determination shall be subject to the provisions of Section 13.

Section 7.06 Section 336(e) Election. If Parent determines, in its sole discretion, that a protective election under Section 336(e) of the Code (a "**Section 336(e) Election**") shall be made with respect to the Distribution (or any Internal Distribution), SpinCo shall (and shall cause any Section 355 Affiliate or any other relevant member of the SpinCo Group to) join with Parent (or any other relevant member of the Parent Group) in the making of such election and shall take any action reasonably requested by Parent or that is otherwise necessary to give effect to such election (including making any other related election). If a Section 336(e) Election is made with respect to the Distribution (or any Internal Distribution or any Other Restructuring Transaction), then (a) in the event the Contribution or the Distribution (or any such Internal Distribution or any such Other Restructuring Transaction) fails to have Tax-Free Status and Parent is not entitled to indemnification for the Tax-Related Losses arising from such failure, SpinCo shall pay over to Parent any Tax Benefit arising from the step-up in Tax basis resulting from the Section 336(e) Election within 30 days of SpinCo (or any such Section 355 Affiliate or any other member of the SpinCo Group) actually realizing such Tax Benefit in cash and (b) this Agreement shall be amended in such a manner as is determined by Parent in good faith to take into account such Section 336(e) Election.

Section 8. Assistance and Cooperation.

Section 8.01 Assistance and Cooperation.

(a) The Companies shall cooperate (and cause their respective Affiliates to cooperate) with each other and with each other's agents, including accounting firms and legal counsel, in connection with Tax matters relating to the Companies and their Affiliates including (i) preparation and filing of Tax Returns, (ii) determining the liability for and amount of any Taxes due (including estimated Taxes) or the right to and amount of any refund of Taxes, (iii) examinations of Tax Returns, and (iv) any administrative or judicial proceeding in respect of Taxes assessed or proposed to be assessed. Each of the Companies shall also make available to the other, as reasonably requested and available, personnel (including officers, directors, employees and agents of the Companies or their respective Affiliates) responsible for preparing, maintaining, and interpreting information and documents relevant to Taxes, and personnel reasonably required as witnesses or for purposes of providing information or documents in connection with any administrative or judicial proceedings relating to Taxes.

(b) Any information or documents provided under this Section 8 shall be kept confidential by the Company receiving such information or documents, except as may otherwise be necessary in connection with the filing of Tax Returns or in connection with any Tax Contest. Notwithstanding Section 8.01(c) or any other provision of this Agreement or any other agreement, (i) neither Parent nor any Affiliate of Parent shall be required to provide SpinCo or any Affiliate of SpinCo or any other Person access to or copies of any information or procedures (including the proceedings of any Tax Contest) other than, subject to clause (ii), information or procedures that relate solely to the Transactions, SpinCo, the business or assets of SpinCo or any Affiliate of SpinCo and (ii) in no event shall Parent or any Affiliate of Parent be required to provide SpinCo, any Affiliate of SpinCo or any other Person access to or copies of any information if such action could reasonably be expected to result in the waiver of any Privilege. In addition, in the event that Parent determines that the provision of any information to SpinCo or any Affiliate of SpinCo could be commercially detrimental, violate any Law or agreement or waive any Privilege, the Companies shall use reasonable best efforts to permit compliance with its obligations under this Section 8 in a manner that avoids any such harm or consequence.

(c) Each Company shall preserve and keep all Tax records (including e-mails and other digitally stored materials and related workpapers and other documentation) in its possession as of the date hereof or relating to Taxes of the Groups for Pre-Consolidation Periods or Taxes or Tax matters that are the subject of this Agreement, in each case, for so long as the contents thereof may become material in the administration of any matter under the Code or other applicable Tax Law, but in any event until the later of (i) ninety days after the expiration of any applicable statutes of limitations (taking into account any extensions), or (ii) seven years after the Distribution Date (such later date, the "**Retention Date**"). After the Retention Date, each Company may dispose of such Tax records upon ninety days' prior written notice to the other Company. If, prior to the Retention Date, a Company reasonably determines that any Tax records which it would otherwise be required to preserve and keep under this Section 8.01(c) are no longer material in the administration of any matter under the Code or other applicable Tax Law and the other Company agrees in writing, then such first Company may dispose of such Tax records upon ninety days' prior notice to the other Company. Any notice of an intent to dispose given pursuant to this Section 8.01(c) shall include a list of the Tax records to be disposed of, describing in reasonable detail each file, book or other record accumulation being disposed. The notified Company shall have the opportunity, at its cost, to copy or remove, within such ninety day period, all or any part of such Tax records, and the other Company shall then dispose of such remaining Tax records.

Section 8.02 Income Tax Return Information. SpinCo and Parent acknowledge that time is of the essence in relation to any request for information, assistance or cooperation made by Parent or SpinCo pursuant to Section 8.01 or this Section 8.02. SpinCo and Parent acknowledge that failure to conform to the deadlines set forth herein or reasonable deadlines otherwise set by Parent or SpinCo could cause irreparable harm.

(a) At SpinCo's sole expense, SpinCo shall provide such information as is reasonably requested in writing by Parent in connection with the preparation of Tax Returns in accordance with the reasonable deadlines, and in such reasonable form, set forth in such written request.

(b) At Parent's sole expense, Parent shall provide such information as is reasonably requested in writing by SpinCo in connection with the preparation of Tax Returns in accordance with the reasonable deadlines, and in such reasonable form, set forth in such written request.

Section 8.03 Reliance by Parent. If any member of the SpinCo Group supplies information to a member of the Parent Group in connection with Taxes and an officer of a member of the Parent Group signs a statement or other document under penalties of perjury in reliance upon the accuracy of such information, then upon the written request of such member of the Parent Group identifying the information being so relied upon, the chief financial officer of SpinCo (or any officer of SpinCo as designated by the chief financial officer of SpinCo) shall certify in writing that to his or her knowledge (based upon consultation with appropriate employees) the information so supplied is accurate and complete. SpinCo agrees to indemnify and hold harmless each member of the Parent Group and its directors, officers and employees from and against any fine, penalty, or other cost or expense of any kind attributable to a member of the SpinCo Group having supplied, pursuant to this Section 8, a member of the Parent Group with inaccurate or incomplete information in connection with Taxes.

Section 8.04 Reliance by SpinCo. If any member of the Parent Group supplies information to a member of the SpinCo Group in connection with Taxes and an officer of a member of the SpinCo Group signs a statement or other document under penalties of perjury in reliance upon the accuracy of such information, then upon the written request of such member of the SpinCo Group identifying the information being so relied upon, the chief financial officer of Parent (or any officer of Parent as designated by the chief financial officer of Parent) shall certify in writing that to his or her knowledge (based upon consultation with appropriate employees) the information so supplied is accurate and complete. Parent agrees to indemnify and hold harmless each member of the SpinCo Group and its directors, officers and employees from and against any fine, penalty, or other cost or expense of any kind attributable to a member of the Parent Group having supplied, pursuant to this Section 8, a member of the SpinCo Group with inaccurate or incomplete information in connection with Taxes.

Section 9. Tax Contests.

Section 9.01 Notice.

(a) Each of the Companies shall provide prompt notice to the other Company of any written communication from a Tax Authority regarding any pending or threatened Tax Contest or assessment related to Taxes of which it becomes aware that is related to Taxes for which it could reasonably expect to be indemnified by the other Company hereunder. Such notice shall contain attached copies of the pertinent portion of any written communication from a Tax Authority and contain factual information (to the extent known) describing any asserted Tax liability in reasonable detail. If an indemnified Company has knowledge of an asserted Tax liability with respect to a matter for which it is to be indemnified hereunder and such Company fails to give the indemnifying Company prompt notice of such asserted Tax liability, then such failure shall not relieve the indemnifying Company of any obligation which it may have to the indemnified Company under this Agreement except to the extent that the indemnifying Company is actually prejudiced by such failure.

(b) With respect to any written communication from a Tax Authority regarding any pending or threatened Tax Contest, the Controlling Party with respect to such Tax Contest shall have exclusive authority for responding (or causing its relevant Subsidiaries to respond) to any such written communication, subject to Section 9.02(f).

(c) With respect to any written communication from a Tax Authority regarding any assessment related to Taxes other than any pending or threatened Tax Contest, the Company which would be the Controlling Party if such assessment became a Tax Contest shall have exclusive authority for responding (or causing its relevant Subsidiaries to respond) to any such written communication; provided that, in determining whether Parent or SpinCo would be the Controlling Party, Parent shall be permitted to exercise on a *mutatis mutandis* basis the options in Section 9.02; provided further that, any such options shall not be binding under Section 9.02 if and when, in the good faith determination of Parent, such assessment becomes a Tax Contest. The Company having authority for responding to any written communication under this Section 9.01(c) shall timely provide the other Company with copies of any written correspondence or filings submitted to any Tax Authority if such correspondence or filings are relevant to any Tax Return required to be filed by such other Company or any Tax liability that such other Company could be required to bear under this Agreement; provided that, any failure to comply with this sentence, shall not relieve such other Company of any liability or obligation which it may have to the responding Company under this Agreement, except to the extent that such other Company was actually harmed by such failure, and in no event shall such failure relieve such other Company from any other liability or obligation which it may have to the responding Company under this Agreement.

Section 9.02 Control of Tax Contests.

(a) *Separate Company Taxes; Section 2.03(c) Returns*. In the case of any Tax Contest with respect to any Separate Return (other than a Section 2.03(c) Return), the Company having liability for the Tax shall have exclusive control over the Tax Contest, including exclusive authority with respect to any settlement of such Tax liability, subject to Section 9.02(f). In the case of any Tax Contest with respect to any SpinCo Separate Return that is a Section 2.03(c) Return, (i) if Parent so notifies SpinCo in writing within 30 days after receiving notice from SpinCo about such Tax Contest, Parent shall have exclusive control over the Tax Contest, including exclusive authority with respect to any settlement of any related Tax liability, subject to Section 9.02(f), and (ii) if Parent does not so notify SpinCo, SpinCo shall have exclusive control over the Tax Contest, including exclusive authority with respect to any settlement of any

related Tax liability, subject to Section 9.02(f). In the case of any Tax Contest with respect to any Parent Separate Return that is a Section 2.03(c) Return, Parent shall have exclusive control over the Tax Contest (including exclusive authority with respect to any settlement of any related Tax liability, subject to Section 9.02(f)), unless Parent provides SpinCo with written notice that SpinCo shall be the Controlling Party with respect to such Tax Contest (in which case, SpinCo shall also have exclusive authority with respect to any settlement of any related Tax liability, subject to Section 9.02(f)). Any reasonable costs and expenses incurred by Parent or SpinCo relating to any Tax Contest with respect to a Section 2.03(c) Return shall be borne by (i) SpinCo, to the extent such costs and expenses are attributable (as reasonably determined by Parent) to Taxes for which SpinCo is or would be responsible or (ii) Parent, to the extent such costs and expenses are attributable (as reasonably determined by Parent) to Taxes for which Parent is or would be responsible.

(b) *Parent Federal Consolidated Income Tax Return*. In the case of any Tax Contest with respect to any Parent Federal Consolidated Income Tax Return, Parent shall have exclusive control over the Tax Contest, including exclusive authority with respect to any settlement of any related Tax liability, subject to Section 9.02(f).

(c) *Parent State Combined Income Tax Return*. In the case of any Tax Contest with respect to any Parent State Combined Income Tax Return, Parent shall have exclusive control over the Tax Contest, including exclusive authority with respect to any settlement of any related Tax liability, subject to Section 9.02(f).

(d) *Parent Foreign Combined Income Tax Return*. In the case of any Tax Contest with respect to any Parent Foreign Combined Income Tax Return, Parent shall have exclusive control over the Tax Contest, including exclusive authority with respect to any settlement of any related Tax liability, subject to Section 9.02(f).

(e) *Joint Returns*. In the case of any Tax Contest with respect to any Joint Return (other than any Parent Federal Consolidated Income Tax Return, any Parent State Combined Income Tax Return or any Parent Foreign Combined Income Tax Return), Parent shall have exclusive control over the Tax Contest (including exclusive authority with respect to any settlement of any related Tax liability, subject to Section 9.02(f)), unless Parent provides SpinCo with written notice that SpinCo shall be the Controlling Party with respect to such Tax Contest (in which case, SpinCo shall also have exclusive authority with respect to any settlement of any related Tax liability, subject to Section 9.02(f)).

(f) *Settlement Rights*. The Controlling Party shall have the sole right to contest, litigate, compromise and settle any Tax Contest without obtaining the prior consent of the Non-Controlling Party. Unless waived by the Companies in writing, in connection with any potential adjustment in a Tax Contest as a result of which adjustment the Non-Controlling Party may reasonably be expected to become liable to make any indemnification payment (or any payment under Section 6) to the Controlling Party under this Agreement: (i) the Controlling Party shall keep the Non-Controlling Party informed in a timely manner of all actions taken or proposed to be taken by the Controlling Party with respect to such potential adjustment in such Tax Contest; (ii) the Controlling Party shall provide the Non-Controlling Party copies of any written materials relating to such potential adjustment in such Tax Contest received from any Tax Authority; (iii) the Controlling Party shall timely provide the Non-Controlling Party with copies of any correspondence with or filings submitted to any Tax Authority or judicial authority in connection with such potential adjustment in such Tax Contest; and (iv) the Controlling Party shall consult with the Non-Controlling Party and offer the Non-Controlling Party a reasonable opportunity to comment before submitting to any Tax Authority or judicial authority any written materials prepared or furnished in connection with such potential adjustment in such Tax Contest. The failure of the Controlling Party to take any action specified in the preceding sentence with respect to the Non-Controlling Party shall not relieve the Non-Controlling Party of any liability or obligation which it may have to the Controlling Party under this Agreement in respect of such adjustment, except to the extent that the Non-Controlling Party was actually harmed by such failure, and in no event shall such failure relieve the Non-Controlling Party from any other liability or obligation which it may have to the Controlling Party under this Agreement.

(g) *Power of Attorney*. Each member of the SpinCo Group shall execute and deliver to Parent (or such member of the Parent Group as Parent shall designate) any power of attorney or other similar document reasonably requested by Parent (or such designee) in connection with any Tax Contest (as to which Parent is the Controlling Party) described in this Section 9. Each member of the Parent Group shall execute and deliver to SpinCo (or such member of the SpinCo Group as SpinCo shall designate) any power of attorney or other similar document reasonably requested by SpinCo (or such designee) in connection with any Tax Contest (as to which SpinCo is the Controlling Party) described in this Section 9.

Section 10. Effective Date; Termination of Prior Intercompany Tax Allocation Agreements. This Agreement shall be effective as of the date hereof. As of the date hereof or on such other date (on or prior to the Distribution Date) as Parent may determine, (i) all prior intercompany Tax allocation agreements or arrangements solely between or among Parent and/or any of its Subsidiaries, on the one hand, and SpinCo and/or any of its Subsidiaries, on the other hand, shall be terminated, and (ii) amounts due under such agreements as of the termination date shall be settled. Upon such termination and settlement, no further payments by or to Parent or its Subsidiaries, on the one hand, or by or to SpinCo or its Subsidiaries, on the other hand, with respect to such agreements shall be made, and all other rights and obligations resulting from such agreements between the Companies and their Subsidiaries shall cease at such time. Any payments pursuant to such agreements shall be disregarded for purposes of computing amounts due under this Agreement.

Section 11. Survival of Obligations. The representations, warranties, covenants and agreements set forth in this Agreement shall be unconditional and absolute and shall remain in effect without limitation as to time.

Section 12. Treatment of Payments; Tax Gross Up.

Section 12.01 Treatment of Tax Indemnity and Tax Benefit Payments. In the absence of any change in Tax treatment under the Code or other applicable Tax Law and except as otherwise agreed between the Companies or as otherwise required by applicable Tax Law, for all Income Tax purposes, the Companies agree to treat, and to cause their respective Affiliates to treat:

(a) any indemnity payments made by a Company under this Agreement, the Separation and Distribution Agreement, or any Ancillary Agreement as distributions or capital contributions, as appropriate, occurring immediately before the Distribution (but only to the extent the payment does not relate to a Tax allocated to the payor in accordance with Section 1552 of the Code or the regulations thereunder or Treasury Regulations Section 1.1502-33(d) (or under corresponding principles of other applicable Tax Laws)) or as payments of an assumed or retained liability,

(b) any payment of interest or State Income Taxes by or to a Tax Authority, as taxable or deductible, as the case may be, to the Company entitled under this Agreement to retain such payment or required under this Agreement to make such payment; and

(c) any Tax Benefit payments made by a Company under Sections 6 or 7.06, as distributions or capital contributions, as appropriate, occurring immediately before the Distribution (but only to the extent the payment does not relate to a Tax allocated to the payor in accordance with Section 1552 of the Code or the regulations thereunder or Treasury Regulations Section 1.1502-33(d) (or under corresponding principles of other applicable Tax Laws)) or as payments of an assumed or retained liability.

Section 12.02 Tax Gross Up. If there is an adjustment to the Tax liability of a Company (including, for the avoidance of doubt, under Section 361(b) of the Code) as a result of its receipt of a payment pursuant to this Agreement, the Separation and Distribution Agreement, or any Ancillary Agreement, such payment shall be appropriately increased so that the amount of such payment, reduced by the amount of all Income Taxes payable with respect to the receipt thereof (but taking into account all correlative Tax Benefits resulting from the payment of such Income Taxes), shall equal the amount of the payment which the Company receiving such payment would otherwise be entitled to receive. For purposes of this Section 12.02, the amount of any Income Taxes payable with respect to the receipt of a payment pursuant to this Agreement, the Separation and Distribution Agreement, or any Ancillary Agreement shall be calculated by assuming that the recipient or the Group of which it is a member, as applicable, (I) pays Tax at the highest marginal corporate Tax rates in effect in each relevant taxable year and (II) has no Tax Attributes in any relevant taxable year.

Section 12.03 Interest Under This Agreement. Anything herein to the contrary notwithstanding, to the extent one Company ("**Indemnitor**") makes a payment of interest to another Company ("**Indemnitee**") under this Agreement, the interest payment shall be treated as interest expense to the Indemnitor (deductible to the extent provided by Law) and as interest income by the Indemnitee (includible in income to the extent provided by Law). The amount of the payment shall not be adjusted to take into account any associated Tax Benefit to the Indemnitor or increase in Tax to the Indemnitee.

Section 13. Disagreements.

Section 13.01 Interaction with Article VII of the Separation and Distribution Agreement. In the event of any dispute between any member of the Parent Group and any member of the SpinCo Group as to any matter covered by this Agreement, the Companies shall agree as to whether such dispute shall be governed by the procedures set forth in Section 13.02 of this Agreement or in Article VII of the Separation and Distribution Agreement. If the Companies cannot agree within thirty (30) days from the time such dispute arises as to which procedure will govern such dispute, such disagreement shall be resolved pursuant to Article VII of the Separation and Distribution Agreement.

Section 13.02 Dispute Resolution. With respect to any dispute governed by this Section 13.02, the Companies shall appoint a nationally recognized "Big Four" independent public accounting firm (other than the then current auditing firm of Parent or SpinCo) (the "**Accounting Firm**") to resolve such dispute. The Companies shall cooperate in good faith in jointly selecting the Accounting Firm. In this regard, the Accounting Firm shall make determinations with respect to the disputed items based solely on representations made by Parent and SpinCo and their respective Representatives, and not by independent review, shall function only as an expert and not as an arbitrator and shall be required to make a determination in favor of one Company only. The Companies shall require the Accounting Firm to resolve all disputes no later than fifteen (15) days after the submission of such dispute to the Accounting Firm, but in no event later than the relevant Payment Date, and agree that all decisions by the Accounting Firm with respect thereto shall be final and conclusive and binding on the Companies. The Accounting Firm shall resolve all disputes in a manner consistent with this Agreement. To the extent not inconsistent with this Agreement, the Accounting Firm shall resolve all disputes in a manner consistent with the Past Practices of Parent and the other members of the Parent Group, except as otherwise required by applicable Law. The Companies shall require the Accounting Firm to render all determinations in writing and to set forth, in reasonable detail, the basis for such determination. The fees and expenses of the Accounting Firm shall be paid by the non-prevailing Company. Notwithstanding the foregoing provisions of this Section 13, a Company may seek preliminary provisional or injunctive judicial relief with respect to any dispute under this Agreement without first complying with the procedures set forth in this Section 13 (or Article VII of the Separation and Distribution Agreement or the analogous provisions of any Ancillary Agreement) if such action is reasonably necessary to avoid irreparable damage.

Section 14. Late Payments. Any amount owed by one Company to another Company under this Agreement which is not paid when due shall bear interest at the Prime Rate plus two percentage points, compounded semiannually, from the due date of the payment to the date paid. To the extent interest required to be paid under this Section 14 duplicates interest required to be paid under any other provision of this Agreement, interest shall be computed at the higher of the interest rate provided under this Section 14 and the interest rate provided under such other provision.

Section 15. Expenses. Except as otherwise provided in this Agreement, each Company and its Affiliates shall bear their own expenses incurred in connection with the preparation of Tax Returns, Tax Contests, and other matters related to Taxes under the provisions of this Agreement.

Section 16. General Provisions.

Section 16.01 Addresses and Notices. Each Company giving any notice required or permitted under this Agreement will give the notice in writing and use one of the following methods of delivery to the Company to be notified, at the address set forth below or another address of which the sending Company has been notified in accordance with this Section 16.01: (a) personal delivery; (b) commercial overnight courier with a reasonable method of confirming delivery; (c) pre-paid, United States of America certified or registered mail, return receipt requested; or (d) by electronic mail ("**e-mail**") so long as confirmation of receipt of such e-mail is requested and received. Notice to a Company is effective for purposes of this Agreement only if given as provided in this Section 16.01 and shall be deemed given on the date that the intended addressee actually receives the notice.

If to Parent, to:

Zimmer Biomet Holdings, Inc.
345 East Main Street
Warsaw, Indiana 46580
Attention: Vice President, Global Tax
General Counsel
E-mail: michael.wall@zimmerbiomet.com
legal.americas@zimmerbiomet.com

with copies (which shall not constitute notice), to:

White & Case LLP
1221 Avenue of the Americas
New York, New York 10020-1095
Attention: David H. Dreier, Esq.
Morton A. Pierce, Esq.
Michelle B. Rutta, Esq.
Robert Chung, Esq.
E-mail: ddreier@whitecase.com
morton.pierce@whitecase.com
michelle.rutta@whitecase.com
robert.chung@whitecase.com

White & Case LLP
609 Main Street, Suite 2900
Houston, Texas 77002
Attention: Chad S. McCormick, Esq.
E-mail: chad.mccormick@whitecase.com

If to SpinCo, to:
ZimVie Inc.
10225 Westmoor Dr.,
Westminster, CO 80021
Attention: Heather Kidwell, General Counsel
E-mail: heather.kidwell@zimvie.com

with copies (which shall not constitute notice), to:

White & Case LLP
1221 Avenue of the Americas
New York, New York 10020-1095
Attention: David H. Dreier, Esq.
Morton A. Pierce, Esq.
Michelle B. Rutta, Esq.
Robert Chung, Esq.
E-mail: ddreier@whitecase.com
morton.pierce@whitecase.com
michelle.rutta@whitecase.com
robert.chung@whitecase.com
White & Case LLP
609 Main Street, Suite 2900
Houston, Texas 77002
Attention: Chad S. McCormick, Esq.
E-mail: chad.mccormick@whitecase.com

A Company may change the address for receiving notices under this Agreement by providing written notice of the change of address to the other Company.

Section 16.02 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Companies and their successors and assigns. None of the Companies may assign its rights or delegate its obligations under this Agreement without the express prior written consent of the other Company.

Section 16.03 Waiver. The Companies may waive a provision of this Agreement only by a writing signed by the Company intended to be bound by the waiver. A Company is not prevented from enforcing any right, remedy or condition in the Company's favor because of any failure or delay in exercising any right or remedy or in requiring satisfaction of any condition, except to the extent that the Company specifically waives the same in writing. A written waiver given for one matter or occasion is effective only in that instance and only for the purpose stated. A waiver once given is not to be construed as a waiver for any other matter or occasion. Any enumeration of a Company's rights and remedies in this Agreement is not intended to be exclusive, and a Company's rights and remedies are intended to be cumulative to the extent permitted by law and include any rights and remedies authorized in law or in equity.

Section 16.04 Severability. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement remain in full force, if the essential terms and conditions of this Agreement for each Company remain valid, binding and enforceable.

Section 16.05 Authority. Each of the Companies represents to the other that (a) it has the corporate or other requisite power and authority to execute, deliver and perform this Agreement, (b) the execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate or other action, (c) it has duly and validly executed and delivered this Agreement, and (d) this Agreement is a legal, valid and binding obligation, enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and general equity principles.

Section 16.06 Further Action. The Companies shall execute and deliver all documents, provide all information, and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement, including the execution and delivery to the other Company and its Affiliates and representatives of such powers of attorney or other authorizing documentation as is reasonably necessary or appropriate in connection with Tax Contests (or portions thereof) under the control of such other Company in accordance with Section 9.

Section 16.07 Integration. This Agreement, together with any exhibits and schedules appended hereto, constitutes the final agreement between the Companies, and is the complete and exclusive statement of the Companies' agreement on the matters contained herein. All prior and contemporaneous negotiations and agreements between the Companies with respect to the matters contained herein are superseded by this Agreement, as applicable. In the event of any conflict or inconsistency between this Agreement and the Separation and Distribution Agreement, any Ancillary Agreement, or any other agreements relating to the Transactions, with respect to matters addressed herein, the provisions of this Agreement shall control.

Section 16.08 Construction. The language in all parts of this Agreement shall in all cases be construed according to its fair meaning and shall not be strictly construed for or against any Company. The captions, titles and headings included in this Agreement are for convenience only, and do not affect this Agreement's construction or interpretation. Unless otherwise indicated, all "Section" references in this Agreement are to sections of this Agreement. This Agreement shall be deemed to be the joint work product of the Companies and any rule of construction that a document shall be interpreted or construed against a drafter of such document shall not be applicable.

Section 16.09 No Double Recovery. No provision of this Agreement shall be construed to provide an indemnity or other recovery for any costs, damages, or other amounts for which the damaged Company has been fully compensated under any other provision of this Agreement or under any other agreement or action at law or equity. Unless expressly required in this Agreement, a Company shall not be required to exhaust all remedies available under other agreements or at law or equity before recovering under the remedies provided in this Agreement.

Section 16.10 Counterparts. The Companies may execute this Agreement in multiple counterparts, each of which constitutes an original as against the Company that signed it, and all of which together constitute one agreement. This Agreement is effective upon delivery of one executed counterpart from each Company to the other Company. The signatures of the Companies need not appear on the same counterpart. The delivery of signed counterparts by facsimile or e-mail transmission that includes a copy of the sending Company's signature is as effective as signing and delivering the counterpart in person.

Section 16.11 Governing Law. The internal laws of the State of Delaware (without reference to its principles of conflicts of law) govern the construction, interpretation and other matters arising out of or in connection with this Agreement and any exhibits and schedules hereto and thereto (whether arising in contract, tort, equity or otherwise).

Section 16.12 Jurisdiction. If any dispute arises out of or in connection with this Agreement, except as expressly contemplated by another provision of this Agreement, the Companies irrevocably (and the Companies will cause each other member of their respective Group to irrevocably) (a) consent and submit to the exclusive jurisdiction of federal and state courts located in Delaware, (b) waive any objection to that choice of forum based on venue or to the effect that the forum is not convenient, and (c) WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO TRIAL OR ADJUDICATION BY JURY.

Section 16.13 Amendment. The Companies may amend this Agreement only by a written agreement signed by each Company to be bound by the amendment and that identifies itself as an amendment to this Agreement.

Section 16.14 Successors. This Agreement shall be binding on and inure to the benefit of any successor by merger, acquisition of assets, or otherwise, to any of the Companies (including but not limited to any successor of Parent or SpinCo succeeding to the Tax attributes thereof under Section 381 of the Code), to the same extent as if such successor had been an original party to this Agreement.

Section 16.15 Injunctions. The Companies acknowledge that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with its specific terms or were otherwise breached. The Companies shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically the terms and provisions hereof in any court having jurisdiction, such remedy being in addition to any other remedy to which they may be entitled at law or in equity.

[*Remainder of page intentionally left blank; signature page follows*]

IN WITNESS WHEREOF, each Company has caused this Agreement to be executed on its behalf by a duly authorized officer on the date first set forth above.

"**Parent**"
Zimmer Biomet Holdings, Inc.

By: /s/ Chad F. Phipps
Name: Chad F. Phipps
Title: Senior Vice President, General Counsel and Secretary

"**SpinCo**"
ZimVie Inc.

By: /s/ Vafa Jamali
Name: Vafa Jamali
Title: President and Chief Executive Officer

[*Signature Page to Tax Matters Agreement*]

EMPLOYEE MATTERS AGREEMENT

BY AND BETWEEN

ZIMMER BIOMET HOLDINGS, INC.

AND

ZIMMER BIOMET SPINE, INC.

DATED AS OF MARCH 1, 2022

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This **EMPLOYEE MATTERS AGREEMENT** (the "Agreement") is by and between Zimmer Biomet Holdings, Inc. ("Parent") and Zimmer Biomet Spine, Inc. ("SpinCo") (each a "Party" and together, the "Parties"), and shall be effective upon the date executed by the Parties.

RECITALS:

WHEREAS, the board of directors of the Parent has determined that it is advisable and in the best interests of the Parent and the Parent's shareholders to create a new publicly traded company which shall operate the Spin-Off Businesses (as such term is defined herein);

WHEREAS, in furtherance of the foregoing, Parent and ZimVie Inc., a Delaware corporation that will be the ultimate parent company of SpinCo, are concurrently entering into a Separation and Distribution Agreement (the "Separation Agreement") which will govern certain matters relating to the Contribution and Distribution and other transactions contemplated by the Separation Agreement; and

WHEREAS, pursuant to the Separation Agreement, the Parent and SpinCo have agreed to enter into this Agreement for the purpose of allocating assets, liabilities and responsibilities with respect to certain employee matters, human resources, employee compensation and benefit plans between them and among them and to address certain other employment-related matters.

NOW, THEREFORE, in consideration of the premises and of the respective agreements and covenants contained in this Agreement, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledges, the Parties, intending to be legally bound hereby, agree as follows:

AGREEMENT

ARTICLE I

DEFINITIONS

Section 1.01 Defined Terms. For purposes of this Agreement, the following terms shall have the following meanings; provided that capitalized terms used but not otherwise defined in this Section 1.01 shall have the respective meanings ascribed to such terms in the Separation Agreement.

"Action" means any demand, charge, claim, action, suit, counter suit, arbitration, mediation, hearing, inquiry, proceeding, audit, review, complaint, litigation or investigation, or proceeding of any nature whether administrative, civil, criminal, regulatory or otherwise, by or before any federal, state, local, foreign or international Governmental Authority or any arbitration or mediation tribunal.

"Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with such other Person as of the date on which, or at any time during the period for which, the determination of affiliation is being made. For purposes of this definition, the term "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by Contract or otherwise.

"Agreement" has the meaning set forth in the preamble.

"Benefit Arrangement" means each Benefit Plan and Benefit Policy.

"Benefit Plan" means, with respect to an entity, each compensation or employee benefit plan, program, policy, agreement or other arrangement, whether or not "employee benefit plans" (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA), including any benefit plan, program, policy, agreement or arrangement providing cash- or equity-based compensation or incentives, health, medical, dental, vision, disability, accident or life insurance benefits or vacation, severance, retention, change in control, termination, deferred compensation, individual employment or consulting, retirement, pension or savings benefits, supplemental income, retiree benefit, relocation or other fringe benefit (whether or not taxable), or employee loans, that are sponsored or maintained by such entity (or to which such entity contributes or is required to contribute or in which it participates), and excluding workers' compensation plans, policies, programs and arrangements.

"Benefit Policy" means, with respect to an entity, each plan, program, arrangement, agreement or commitment that is a vacation pay or other paid or unpaid leave policy or practice sponsored or maintained by such entity (or to which such entity contributes or is required to contribute) or in which it participates.

"Change in Control Severance Agreements" mean the Change in Control Severance Agreements between Parent and individual employees.

"COBRA" means the continuation coverage requirements for "group health plans" under Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, and as codified in Code Section 4980B and Sections 601 through 608 of ERISA, together with all regulations and proposed regulations promulgated thereunder.

"Code" means the United States Internal Revenue Code of 1986 (or any successor statute), as amended from time to time.

"Contract" means any legally binding written or oral agreement, contract, subcontract, lease, understanding, instrument, note, option, warranty, sales order, purchase order, license, sublicense, insurance policy, benefit plan or commitment or undertaking of any nature, excluding any Permit.

"Contribution" has the meaning given to such term in the Separation Agreement.

"Distribution" has the meaning given to such term in the Separation Agreement.

"Distribution Date" has the meaning set forth in the Separation Agreement.

"Employee Agreement" means any employment contract, whether written or unwritten, between a member of the Parent Group or SpinCo Group and a current or former employee, including any standard form employee agreement customarily signed by certain employees of the Parent Group and any other form of employment agreement, employment letter or notice with respect to the terms of employment between a member of the Parent Group or SpinCo Group and a current or former employee signed or otherwise effective under applicable local Law. The term "Employee Agreement" also includes any cash retention agreement and, for the avoidance of doubt, any "SpinCo Contract" (as defined in the Separation Agreement) that satisfies the definition in this paragraph.

"Employment Tax" means withholding, payroll, social security, workers compensation, unemployment, disability and any similar tax imposed by the IRS, or any other tax authority, and any interest, penalties, additions to tax or additional amounts with respect to the foregoing imposed on any taxpayer or consolidated, combined or unitary group of taxpayers.

"Equity Exchange Ratio" means (i) the value of a share of Parent common stock, which shall be the volume-weighted average price of shares traded on the New York Stock Exchange for the period beginning at 9:30 AM, New York City time (or such as is the official open of trading on the NYSE), and ending at 4:00 PM, New York City time (or such as is the official close of trading on the NYSE) for the trading day preceding the Distribution Date; divided by (ii) the value of a share of SpinCo common stock, which shall be the volume-weighted average price of shares traded on the New York Stock Exchange for the first three days of trading following the Distribution.

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

"Governmental Authority" means any federal, state, local, foreign or international court, government, department, commission, board, bureau, agency, official or other regulatory, administrative or governmental authority or self-regulatory organization.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended.

"Information" means information in written, oral, electronic or other tangible or intangible forms, stored in any medium, including studies, reports, records, books, Contracts, instruments, surveys, discoveries, ideas, concepts, know-how, techniques, designs, specifications, drawings, blueprints, diagrams, models, prototypes, samples, flow charts, data, computer data, disks, diskettes, tapes, computer programs or other software, marketing plans, customer names, communications by or to attorneys (including attorney-client privileged communications), memos and other materials prepared by attorneys or under their direction (including attorney work product), and other technical, financial, employee or business information or data but in any case excluding back-up tapes.

"International" means located outside the United States.

"International Benefit Arrangements" has the meaning set forth in Section 4.02.

"International Employees" means employees located outside of the United States.

"Law" means any statute, law (including common law), ordinance, regulation, rule, code or other legally enforceable requirement of, or Order issued by, a Governmental Authority.

"Leave of Absence" means any leave under the Parent Group leave of absence policy or other similar policy or any other approved leave of absence whether paid or unpaid, that is protected by Law or provided for under a Parent Group policy, program or agreement including USERRA Leave, leave under the Family and Medical Leave Act or corresponding state law or any Parent short-term disability policy, but exclusive of long-term disability.

"Liabilities" means all debts, liabilities (including liabilities for Taxes), guarantees, assurances, commitments and obligations, whether fixed, contingent or absolute, asserted or unasserted, matured or not matured, liquidated or unliquidated, accrued or not accrued, known or unknown, due or to become due, whenever or however arising (including whether arising out of any Contract or tort based on negligence, strict liability or relating to Taxes payable by a Person in connection with compensatory payments to employees or independent contractors) and whether or not the same would be required by generally accepted principles and accounting policies to be reflected in financial statements or disclosed in the notes thereto.

"Order" means any: (i) order, judgment, injunction, edict, decree, ruling, pronouncement, determination, decision, opinion, verdict, sentence, subpoena, writ or award issued, made, entered, rendered or otherwise put into effect by or under the authority of any court, administrative agency or other Governmental Authority or any arbitrator or arbitration panel or (ii) Contract with any Governmental Authority entered into in connection with any Action.

"Parent Annual Bonus Plans" means the Zimmer Biomet Holdings, Inc. Non-Executive Employee Annual Performance Incentive Plan and the Zimmer Biomet Holdings, Inc. Executive Performance Incentive Plan.

"Parent Benefit Arrangement" means any Benefit Arrangement sponsored, maintained or contributed to by any member of the Parent Group.

"Parent Employee" means any employee of the Parent Group who is not a SpinCo Employee.

"Parent Equity Plans" means the Zimmer Biomet Holdings, Inc. 2009 Stock Incentive Plan and the Stock Plan for Non-Employee Directors, as each may be amended and restated from time to time.

"Parent Group" means Parent and each of its Subsidiaries but excluding any member of the SpinCo Group.

"Parent ESPP" means the Parent Group Employee Stock Purchase Plan.

"Parent Master Trust" means the Zimmer Biomet Holdings, Inc. Savings and Investment 401(k) Program Master Trust, as may be amended and restated from time to time.

"Parent NQDCPs" means the Zimmer Biomet Deferred Compensation Plan, the Biomet, Inc. Deferred Compensation Plan (Pre-409A Grandfathered Plan), the Biomet, Inc. Deferred Compensation Plan (Post-409A Plan), and the Zimmer Holdings, Inc. Independent Sales Representatives Deferred Annual Final Compensation and Equity Incentive Plan, as each may be amended and restated from time to time.

"Parent Option" means each outstanding option to purchase shares of the common stock of the Parent, whether vested or unvested, granted under any Parent Equity Plan.

"Parent Performance-Based Restricted Stock Unit" means each outstanding performance-based restricted stock unit of any member of the Parent Group, whether vested or unvested, granted under any Parent Equity Plan.

"Parent Time Restricted Stock Unit" means each outstanding restricted stock unit of any member of the Parent Group, whether vested or unvested, granted under the Parent Equity Plan, that is not a Parent Performance-Based Restricted Stock Unit.

"Parent Retirement Plan" means the Zimmer Biomet Holdings, Inc. Retirement Income Plan, as may be amended and restated from time to time.

"Parent Savings Plans" means the Zimmer Biomet Holdings, Inc. Savings and Investment 401(k) Program and the Zimmer Biomet Puerto Rico Savings and Investment 401(k) Program, as each may be amended and restated from time to time, and any other Benefit Plan maintained by any member of the Parent Group in which US SpinCo Employees participate immediately before the Pre-Spin Transition Date and that is intended to satisfy the requirements of Sections 401(a) and 401(k) of the Code.

"Parent Severance Plans" means the Zimmer Biomet Holdings, Inc. Severance Plan, the Zimmer Biomet Holdings, Inc. Executive Severance Plan and the Change in Control Severance Agreements, as each may be amended and restated from time to time.

"Parent Welfare Plans" means the Zimmer Biomet Holdings, Inc. Health and Welfare Plan (including the component plans thereof) and any other employee welfare benefit plan maintained by the Parent or any member of the Parent Group and in which SpinCo Employees participate as of the day prior to the Pre-Spin Transition Date.

"Party" or "Parties" has the meaning set forth in the preamble.

"Person" means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or a Governmental Authority.

"Pre-Spin Transition Date" means January 1, 2022.

"Separation Agreement" has the meaning set forth in the recitals.

"SpinCo" has the meaning set forth in the preamble.

"SpinCo Annual Bonus Plans" means the annual bonus plans established or to be established for the benefit of SpinCo Employees that mirror the Parent Annual Bonus Plans.

"SpinCo Benefit Arrangement" means any Benefit Arrangement sponsored, maintained or contributed to by any member of the SpinCo Group or Subsidiary thereof.

"SpinCo Employees" means (i) any employee who works primarily for the Spin-Off Businesses as of the Pre-Spin Transition Date, provided, that any such individual employed in the United States who is on short-term disability leave, receiving long-term disability benefits or is on any other Leave of Absence on the Pre-Spin Transition Date shall automatically become a SpinCo Employee only if and when such Employee returns to active service, and (ii) any other employee identified or otherwise described in Schedule A hereto.

"SpinCo Equity Awards" means any SpinCo Options, SpinCo Performance-Based Restricted Stock Units, SpinCo Restricted Stock Units, and any other equity awards granted under the SpinCo Equity Plan.

"SpinCo Equity Plans" has the meaning set forth in Section 6.01(b).

"SpinCo Group" means SpinCo and each of its Affiliates after the Distribution.

"SpinCo Master Trust" has the meaning set forth in Section 3.02(a).

"SpinCo NQDCP" means the non-qualified deferred compensation plan established or to be established for the benefit of SpinCo Employees that "mirrors" (i.e., replicates all of the material terms and conditions of) the Zimmer Biomet Deferred Compensation Plan.

"SpinCo Option" means each outstanding stock option of any member of the SpinCo Group, whether vested or unvested, granted under the SpinCo Equity Plan.

"SpinCo Performance-Based Restricted Stock Unit" means each outstanding performance-based restricted stock unit of any member of the SpinCo Group, whether vested or unvested, granted under the SpinCo Equity Plan.

"SpinCo Restricted Stock Unit" means each outstanding restricted stock unit of any member of the SpinCo Group, whether vested or unvested, granted under the SpinCo Equity Plan, that is not a SpinCo Performance-Based Restricted Stock Unit.

"SpinCo Savings Plans" has the meaning set forth in Section 3.02(a).

"SpinCo Severance Plans" means the severance plans established or to be established for the benefit of SpinCo Employees that mirror the Parent Severance Plans.

"SpinCo Welfare Plans" has the meaning set forth in Section 5.01(b).

"Spin-Off Businesses" means the "SpinCo Business" as defined in the Separation Agreement.

"Subsidiary" or "Subsidiaries" means, with respect to any Person, any corporation or other entity (including partnerships and other business associations and joint ventures) of which at least a majority of the voting power represented by the outstanding capital stock or other voting securities or interests having voting power under ordinary circumstances to elect directors or similar members of the governing body of such corporation or entity (or, if there are no such voting interests, fifty percent (50%) or more of the equity interests in such corporation or entity) shall at the time be held, directly or indirectly, by such Person.

"Tax" or "Taxes" means all taxes, charges, fees, levies, penalties or other assessments imposed by any federal, state, local, provincial or foreign taxing authority, including income, gross receipts, excise, real or personal property, sales, use, transfer, customs, duties, franchise, payroll, withholding, social security, receipts, license, stamp, occupation, employment, or other taxes, including any interest, penalties or additions attributable thereto, and any payments to any state, local, provincial or foreign taxing authorities in lieu of any such taxes, charges, fees, levies or assessments.

"USERRA Leave" means a Leave of Absence in respect of which reemployment rights are protected under the Uniformed Services Employment and Reemployment Rights Act.

"US SpinCo Employee" means each SpinCo Employee employed in the United States.

"Workers' Compensation Events" means the event, injury, illness, or condition giving rise to a workers' compensation claim.

Section 1.02 References; Interpretation. Unless the context otherwise requires:

(a) references in this Agreement to Articles, Sections, Exhibits and Schedules shall be deemed references to Articles and Sections of, Exhibits and Schedules to, this Agreement;

(b) references in this Agreement to any time shall be to the then prevailing New York City, New York time unless otherwise expressly provided herein; and

(c) references to an individual as an "Employee" are descriptive only and are not necessarily intended to mean that an individual is in fact an employee of any Party.

Section 1.03 Relation to Other Documents. To the extent there is any inconsistency between this Agreement and the terms of another agreement pertaining to the Distribution that is the subject of this Agreement and such inconsistency (i) arises in connection with or as a result of employment with or the performance of services before or after the Distribution for any member of the Parent Group or SpinCo Group and (ii) relates to the allocation of Liabilities attributable to the employment, service, termination of employment or termination of service of any present or former Parent Group employees or SpinCo Employees or any of their dependents or beneficiaries (and any alternate payees in respect thereof), or other service providers (including any individual who is, or was or is determined to be an independent contractor, temporary employee, temporary service worker, consultant, freelancer, agency employee, leased employee, on-call worker, incidental worker, or non-payroll worker or in any other employment, non-employment, or retainer arrangement or relationship with any member of the Parent Group or the SpinCo Group), the terms of this Agreement shall prevail.

ARTICLE II

GENERAL PRINCIPLES

Section 2.01 Allocation of Assets and Liabilities.

(a) SpinCo Liabilities. Except as otherwise expressly provided in this Agreement or the Separation Agreement, the SpinCo Group hereby assumes (or retains) and agrees to pay, perform, fulfill, and discharge all Liabilities to the extent relating to, arising out of, or resulting from or with respect to:

i. the employment (or termination of employment), including with respect to any statutory or other Liabilities (regardless of whether those Liabilities are otherwise the legal responsibility of the Parent Group or the SpinCo Group), at any time, of each SpinCo Employee (including, in each case, all Liabilities with respect to any such SpinCo Employee relating to, arising out of, or resulting from Employment Tax, Employee Agreements, any Parent Benefit Arrangement or any SpinCo Benefit Arrangement); provided, however, that, notwithstanding anything in this Section 2.01(a) to the contrary, SpinCo shall not assume any Liabilities relating to, arising out of, or resulting from the Parent Retirement Plan, any Parent NQDCPs or any Parent Annual Bonus Plan (other than any Liabilities for any bonuses under any Parent Annual Bonus Plan accruing after 2021), which Liabilities shall be expressly retained by Parent Group; and provided further that the Liabilities described in this paragraph with respect to any US SpinCo Employee shall be assumed by the SpinCo Group in accordance with this Section 2.01(a) only to the extent they are based on actions, omissions, circumstances or events that occurred, or are alleged to have occurred, on or after the Pre-Spin Transition Date;

ii. the retention (or termination of engagement), including with respect to any statutory or other Liabilities (regardless of whether those Liabilities are otherwise the legal responsibility of the Parent Group or the SpinCo Group), prior to, on, or after the Pre-Spin Transition Date, of any individual who is, or was, an independent contractor, temporary employee, temporary service worker, consultant, freelancer, agency employee, leased employee, on-call worker, incidental worker, or non-payroll worker or any other individual in any other similar relationship to the extent the services provided by any such individual were primarily related to the SpinCo Group and such individual is identified to be transferred to the SpinCo Group in connection with the Distribution; provided that, notwithstanding anything in this Section 2.01(a) to the contrary, SpinCo shall not assume any Liabilities relating to, arising out of, or resulting from any Parent NQDCPs; provided further that the Liabilities described in this paragraph with respect to any individual described in this paragraph who is employed or otherwise engaged in the United States shall be assumed by the SpinCo Group in accordance with this Section 2.01(a) only to the extent they are based on actions, omissions, circumstances or events that occurred, or are alleged to have occurred, on or after the Pre-Spin Transition Date; and provided further that, for the avoidance of doubt, this Agreement is not intended to, and does not, address any Liabilities in respect of the services provided by consulting firms, investment advisory firms, valuation advisory firms, legal advisors or other third-party entities retained to provide advice with respect to or in connection with the Distribution;

iii. all Liabilities under any SpinCo Benefit Arrangement, regardless of whether established prior to, on or following the Pre-Spin Transition Date; and

iv. Liabilities and responsibilities expressly assumed or retained by any member of the SpinCo Group pursuant to this Agreement or the Separation Agreement.

(b) Parent Liabilities. Except as otherwise expressly provided in this Agreement or the Separation Agreement, the Parent Group hereby retains (or assumes) and agrees to pay, perform, fulfill, and discharge all Liabilities to the extent relating to, arising out of, or resulting from or with respect to:

i. the employment (or termination of employment), including with respect to any statutory or other Liabilities (except as otherwise provided in this Agreement), of each Parent Employee prior to, on, or after the Pre-Spin Transition Date, unless and until such employee becomes a SpinCo Employee on or after the Pre-Spin Transition Date (including all Liabilities with respect to any such employee to the extent relating to, arising out of, or resulting from Employment Taxes, Employee Agreements or any Parent Benefit Arrangement), subject to Section 2.01(c);

ii. the retention (or termination of engagement), including with respect to any statutory or other Liabilities, prior to, on, or after the Pre-Spin Transition Date, of any individual who is, or was, an independent contractor, temporary employee, temporary service worker, consultant, freelancer, agency employee, leased employee, on-call worker, incidental worker, non-payroll worker or any other individual in any other similar relationship to the extent the services provided by any such individual were primarily related to the Parent Group; provided that, for the avoidance of doubt, this Agreement is not intended to, and does not, address any Liabilities in respect of the services provided by consulting firms, investment advisory firms, valuation advisory firms, legal advisors or other third-party entities retained to provide advice with respect to or in connection with the Distribution; and

iii. Liabilities and responsibilities expressly retained or assumed by any member of the Parent Group pursuant to this Agreement or the Separation Agreement.

(c) Benefit Plan Assets and Liabilities. Subject to Article III hereof, the Parent and each other member of the Parent Group shall assign to the SpinCo Group, and the SpinCo Group shall assume, all assets and Liabilities of the Parent Savings Plans which are associated with SpinCo Employees and the Liabilities for any bonuses to any SpinCo Employees under any Parent Annual Bonus Plan accruing after 2021, but shall not assume any assets or Liabilities of the Parent Retirement Plan, any Parent NQDCPs or any Parent Annual Bonus Plan (other than any Liabilities for any bonuses under any Parent Annual Bonus Plan accruing after 2021). All other Parent Benefit Arrangement assets and liabilities shall be retained by Parent Group.

(d) Other Liabilities. To the extent that this Agreement does not cover particular Liabilities or responsibilities that relate to, arise out of, or result from employment (or termination of employment), Employment Taxes, Employee Agreements or any Benefit Plan and the Parties later determine that they should be allocated in connection with the Distribution, such Liabilities and responsibilities shall be handled in a manner similar to the manner in which this Agreement handles comparable Liabilities and responsibilities, subject to the mutual agreement of the Parties, as evidenced by the written consent of an authorized officer of each Party.

Section 2.02 Employment with SpinCo.

(a) Employment Transfers/Offers of Employment. Except as otherwise required by applicable local Law or expressly provided herein, no later than on or immediately prior to the Pre-Spin Transition Date, Parent Group has taken all actions necessary to ensure that prior to or on the Pre-Spin Transition Date all transferring employees of the Parent Group were employed by a member of the SpinCo (i.e., the SpinCo Employees).

(b) No Severance. Except as otherwise required by applicable local Law or expressly provided herein, the Distribution and the assignment, transfer or continuation of employment of any employee of Parent Group in connection therewith (including in accordance with Section 2.02(a) hereof) shall not be deemed a separation from service or a termination of employment entitling such Employee to be eligible to participate in, or to receive payment of, severance benefits under any applicable Law, severance plan, policy, practice or arrangement of Parent Group, SpinCo Group, or any of their respective Affiliates; provided, however, that any employee of Parent Group

or any of its Affiliates whose employment is not intended to be continued by Parent Group following the Pre-Spin Transition Date and is not assigned to a member of the SpinCo Group, and whose employment is terminated prior to or as of the Pre-Spin Transition Date, shall be deemed to have incurred a separation from service and shall be eligible to receive severance and benefits pursuant to the Parent Severance Plan. In the event that an employee who would otherwise be a SpinCo employee does not accept a transfer from Parent Group to the SpinCo Group, if such employee would be entitled to severance under the Parent Severance Plan, SpinCo shall be responsible for severance payments and benefits, if any, for such employee and shall provide such payments and benefits.

(c) Compensation and Benefits. For a period of at least twelve (12) months following the Distribution Date, SpinCo shall (i) provide or shall cause to be provided to each SpinCo Employee compensation and employee benefit opportunities (exclusive of pension benefits, nonqualified deferred compensation benefits and equity compensation benefits) that are substantially comparable in the aggregate to the opportunities provided to such SpinCo Employee (or, in the case of SpinCo Employees who were not employed by the Parent Group as of immediately prior to the Pre-Spin Transition Date, to similarly situated employees of the Parent Group) immediately before the Pre-Spin Transition Date, (ii) maintain the long-term incentive compensation metrics and target payments for each SpinCo Employee (except as specified in Section 6.01(c)(ii) of this Agreement with regard to Parent Performance-Based Restricted Stock Units converted to SpinCo Performance-Based Restricted Stock Units); and (iii) provide no less favorable severance benefits to SpinCo Employees than those provided under the Parent Severance Plans. However, where employment terms and conditions providing for compensation or benefits exceeding those provided for in this subsection (c) are required by applicable local Law in order to avoid penalties or severance payments, compensation and benefits shall be provided as required by local Law.

(d) Service Credit. SpinCo shall, and shall cause each member of the SpinCo Group to, give each SpinCo Employee full credit for purposes of eligibility, vesting, determination of level of benefits, and, to the extent applicable benefit accruals and benefit subsidies under any SpinCo Benefit Arrangement for such individuals' service with any member of the Parent Group or any predecessor thereto, to the same extent such service was recognized by the applicable Parent Benefit Arrangement; provided, that, such service shall not be recognized to the extent such recognition would result in the duplication of benefits or is prohibited by local Law. In addition, and without limiting the generality of the foregoing provisions of this Section 2.02(d), (i) SpinCo shall cause each SpinCo Employee to be eligible to participate, without any additional waiting time, in any and all SpinCo Benefit Arrangements to the extent coverage under the SpinCo Benefit Arrangement is comparable to a Parent Benefit Arrangement in which the SpinCo Employee participated immediately before the Pre-Spin Transition Date (or such later date on which such individual became a SpinCo Employee) pursuant to the eligibility and waiting time provisions of such Parent Benefit Arrangement. Upon the Pre-Spin Transition Date, and from time to time thereafter as is reasonably necessary, Parent Group shall provide SpinCo with such Information as is necessary to make the proper calculations necessary to comply with the foregoing obligations.

(e) Subsequent and Delayed Transfers. Notwithstanding anything in this Agreement to the contrary, certain transfers of employment to the SpinCo Group may occur following the Pre-Spin Transition Date, either as set forth in this Agreement (including Schedule A) or pursuant to a mutual agreement between the Parties to delay the employment transfer or to otherwise effectuate the employment transfer following the Pre-Spin Transition Date, in each case in connection with the Distribution. The provisions of Section 2.01 shall apply to each employee transferred to the SpinCo Group following the Pre-Spin Transition Date in accordance with the preceding sentence (to the extent such employee does not otherwise satisfy the definition of SpinCo Employee) as if such employee were a SpinCo Employee for purposes of such section. Additionally, to the extent any such employee does not otherwise satisfy the definition of SpinCo Employee, the Parties shall cooperate in good faith and use their commercially reasonable efforts to effectuate the other requirements and principles of this Agreement with respect to such employee, subject to the other provisions of this Agreement (including Sections 8.05 and 8.10).

(f) No Acceleration of Benefits. Except as otherwise provided in this Agreement, no provision of this Agreement shall be construed to create any right, or accelerate vesting or entitlement, to any compensation or benefit whatsoever on the part of any SpinCo Employee or other former, current or future employee of the Parent Group or SpinCo Group under any Parent Benefit Arrangement.

(g) Amendment Authority. Except as otherwise provided in this Agreement, nothing in this Agreement is intended to prohibit any member of the Parent Group or SpinCo Group from amending or terminating any employee benefit plans, policies and compensation programs at any time on or after the Pre-Spin Transition Date.

(h) No Commitment to Employment or Benefits. Nothing contained in this Agreement shall be construed as a commitment or agreement on the part of any person to continue employment with the Parent Group or SpinCo Group or, except as otherwise provided in this Agreement, as a commitment on the part of the Parent Group or SpinCo Group to continue the employment, compensation or benefits of any person for any period or to provide any recall or similar rights to an individual on layoff or any type of Leave of Absence. This Agreement is solely for the benefit of the Parent Group and SpinCo Group and, except to the extent otherwise expressly provided herein, nothing in this Agreement, express or implied, is intended to confer any rights, benefits, remedies, obligations or Liabilities under this Agreement upon any Person, including any SpinCo Employee or other current or former employee, officer, director or contractor of the Parent Group or SpinCo Group, other than the Parties and their respective successors and assigns.

Section 2.03 Establishment of SpinCo Plans and Trusts. As of the Pre-Spin Transition Date, SpinCo shall, or shall cause one of the other members of the SpinCo Group to, establish the following Benefit Arrangements for the benefit of the SpinCo Employees, with terms identical in substance to the terms of the corresponding Parent Benefit Arrangement, except as otherwise provided in this Agreement:

- SpinCo Savings Plans
- SpinCo Master Trust
- SpinCo Welfare Plans
- SpinCo Severance Plans
- SpinCo NQDCP
- SpinCo Annual Bonus Plans
- SpinCo Equity Plans

Section 2.04 Termination of Participating Company Status. Effective as of the Pre-Spin Transition Date, SpinCo shall cease to be a participating company in the Parent Benefit Plans, and, as a result, SpinCo Employees shall cease to be eligible to participate in the Parent Benefit Plans.

Section 2.05 On-Leave US Employees. In addition to, and not in limitation of, the other provisions of this Agreement, SpinCo shall reimburse the Parent Group for all Liabilities incurred by any member of the Parent Group with respect to any On-Leave US Employee to the extent such Liabilities would be required to be assumed by any member of the SpinCo Group under this Agreement if such On-Leave US Employee were a US SpinCo Employee.

(a) For purposes of this Section 2.05, "On-Leave US Employee" means each United States employee who, as of the Pre-Spin Transition Date, works primarily for the Spin-Off Businesses and is on any Leave of Absence, all as determined by the Parent.

(b) The Parent Group shall invoice SpinCo for such Liabilities on a monthly basis, and SpinCo shall reimburse to the Parent Group for such Liabilities by wire transfer of immediately available funds on a monthly basis in arrears.

(c) This Section 2.05 shall not apply to any Liabilities with respect to any On-Leave US Employee which are incurred after the date such On-Leave US Employee's Leave of Absence ends for any reason, including due to return to active employment or commencement of long-term disability benefits.

(d) This Section 2.05 shall not limit any other provision of this Agreement which assigns to the SpinCo Group or any member thereof any additional or different Liabilities or other responsibilities with respect to any On-Leave U.S. Employee.

ARTICLE III

U.S. QUALIFIED AND NON-QUALIFIED RETIREMENT PLANS

Section 3.01 Parent Retirement Plan. The Parent Retirement Plan, and all assets and Liabilities related thereto, shall remain with the Parent Group. For purposes of vesting and the pension benefit calculation only, SpinCo Employees' employment with SpinCo shall be considered employment with the Parent Group for purposes of the Parent Retirement Plan. Not less frequently than twice per annum, SpinCo and Parent shall confer to determine whether any SpinCo Employees who are active participants in the Parent Retirement Plan have terminated employment with SpinCo.

Section 3.02 U.S. and Puerto Rico Savings Plans.

(a) Establishment of SpinCo Savings Plans. As of the Pre-Spin Transition Date, SpinCo shall, or shall have caused one or more members of the SpinCo Group to, establish or maintain defined contribution savings plans with terms substantially similar, but maintaining the same vesting schedule, and with other terms sufficient to avoid a decrease in accrued benefits pursuant to Section 411(d)(6) of the Code and a related trust or trusts, to the Parent Savings Plans and the Parent Master Trust intended to satisfy the requirements of Sections 401(a) and 401(k) of the Code (such defined contribution savings plan or plans, the "SpinCo Savings Plans"). SpinCo shall be responsible for taking all necessary, reasonable, and appropriate action to establish, maintain and administer the SpinCo Savings Plans so that they are qualified under Section 401(a) of the Code, that they satisfy the requirements of Section 401(k) of the Code and that the related trust or trusts thereunder (the "SpinCo Master Trust") are exempt under Section 501(a) of the Code, and as soon as reasonably practicable following the Pre-Spin Transition Date SpinCo shall take all steps reasonably necessary to obtain favorable determinations from the IRS and La Hacienda (as appropriate) as to such initial qualification if an opinion letter is not then applicable to the SpinCo Savings Plans. SpinCo shall be responsible for any and all Liabilities (including Liability for funding) and other obligations with respect to the SpinCo Savings Plans.

(b) Contributions under the Parent Savings Plans as of the Pre-Spin Transition Date. All contributions accrued by SpinCo Employees under the Parent Savings Plans with respect to all employer contributions, including employee deferrals, matching contributions (including any true-up contributions, if applicable), profit-sharing contributions, employer non-elective contributions, and employer contributions for SpinCo Employees accrued for service provided by SpinCo Employees before the Pre-Spin Transition Date, determined in accordance with the terms and provisions of the Parent Savings Plans, ERISA and the Code, and based on all service performed and compensation accrued prior to the Pre-Spin Transition Date, shall be deposited by the Parent Group to the Parent Savings Plans as soon as administratively feasible following the Pre-Spin Transition Date. Any corrective contributions required to be made to the SpinCo Savings Plans shall be the responsibility of SpinCo.

(c) Trustee-to-Trustee Transfer. As soon as practicable following the Pre-Spin Transition Date, Parent Group shall cause any and all assets and Liabilities of the accounts of SpinCo Employees under the Parent Savings Plans, and the value of the assets attributable to such accounts, to be transferred to the SpinCo Savings Plans in a "transfer of assets or Liabilities" in accordance with Section 414(1) of the Code. The assets and Liabilities to be transferred shall include (i) the allocable portion (in proportion to

the aggregate account balances transferred to the SpinCo Savings Plans) of the forfeiture account held in the Parent Saving Plans as of the Pre-Spin Transition Date (net of any estimated unpaid plan expenses for the most recently completed plan year), and (ii) promissory notes evidencing plan loans. SpinCo shall cause the administrators of, and the trustees of the trust or trusts established under the SpinCo Savings Plans (including the SpinCo Master Trust) to accept such transfer, with such transfer to be administered in accordance with applicable Law (including Sections 411(d)(6) and 414(1) of the Internal Revenue Code of 1986). After the transfer has occurred, if on further review it is determined and agreed upon by the Parties that an incorrect amount of assets was transferred, there shall be a corresponding adjustment to correct any such mistake.

(d) Outstanding Loans under the Parent Savings Plans. From the Pre-Spin Transition Date and until the date of the trustee-to-trustee transfer of their account balances, the SpinCo Employees who have outstanding loans originally made from the Parent Savings Plans shall be permitted to continue to repay such loans during their employment with SpinCo Group.

(e) [Reserved]

(f) Subsequent SpinCo Employees. The Parties further agree that, if any individual becomes a SpinCo Employee following the Pre-Spin Transition Date, in accordance with the proviso included in the definition of "SpinCo Employee", as a result of such individual returning to active service after a period of leave (the date of such return, the "Return Date", and such individual, a "Subsequent SpinCo Employee"), the foregoing provisions of Sections 3.02(b) through 3.02(e) shall apply to such Subsequent SpinCo Employee, provided that, for purposes of such Subsequent SpinCo Employee, all references to "Pre-Spin Transition Date" therein shall mean a date, as soon as practicable following the Subsequent SpinCo Employee's Return Date, by which the Parent Group is able to fulfill all of its obligations under such Sections 3.02(b) through 3.02(e) with respect to such Subsequent SpinCo Employee.

Section 3.03 NQDCPs.

(a) Establishment of Plan. Effective as of the Pre-Spin Transition Date, SpinCo shall establish or maintain the SpinCo NQDCP as set forth in Section 2.03 hereof.

(b) Distribution Not a Distributable Event. The Parties acknowledge that, except as may be otherwise expressly provided under the terms of any Parent NQDCP or required under "Section 409A" (as defined below), neither the Distribution nor any transfers of employment incident thereto shall result in a distributable event for any SpinCo Employee or other SpinCo individual service provider under any Parent NQDCP.

(c) Information Exchange. Following the Pre-Spin Transition Date and until all SpinCo Employees and other SpinCo individual service providers have commenced distributions of their benefits under the Parent NQDCPs, SpinCo agrees to notify the Parent in writing within thirty (30) business days after any SpinCo Employee or other SpinCo individual service provider with a vested balance under any Parent NQDCP experiences a separation from service with the SpinCo Group, in order to help facilitate the Parent's administration of the SpinCo Employees' and other SpinCo individual service providers' Parent NQDCP benefits.

ARTICLE IV

INTERNATIONAL EMPLOYEES

Section 4.01 Schedule A. The general provisions and principles in this Article IV and the other terms and conditions of this Agreement are subject to the overriding terms and conditions of Schedule A, which will prevail to the extent of any conflict with this Agreement.

Section 4.02 Benefit Plans. Except as set forth in Schedule A, as of the Pre-Spin Transition Date, SpinCo shall, or shall cause one of its Affiliates to, establish international Benefit Arrangements that are substantially comparable in the aggregate to those Benefit Arrangements provided by Parent Group to International Employees immediately prior to the Pre-Spin Transition Date (the "International Benefit Arrangements"). SpinCo International Employees shall (A) be eligible to participate in the International Benefit Arrangements sponsored or maintained by SpinCo to the extent they were eligible to participate in the corresponding International Benefit Arrangements sponsored or maintained by the Parent prior to the Pre-Spin Transition Date, and (B) receive credit for vesting, eligibility and benefit service to the same extent recognized by Parent Group as of immediately prior to the Pre-Spin Transition Date for all service credited for those purposes under the corresponding International Benefit Arrangements sponsored by the Parent as if that service had been rendered to SpinCo.

Section 4.03 Cooperation/Works Councils. The Parties shall provide reasonable post-Distribution cooperation and assistance to each other with respect to the matters contemplated below by this Section 4.03. SpinCo shall, and shall cause its Subsidiaries to, render full reasonable cooperation to Parent Group in providing in due time all complete and accurate information required by Law or reasonably requested by employees, works councils, labor unions, employee representatives or any other persons or entities (including any information reasonably requested by Parent in connection with any employee-related litigation to which Parent or any Subsidiary is a party) with respect to Parent Group, their operations, their employees, their employee benefits arrangements, the creation of SpinCo, the Contribution, the Distribution, the Distribution Date, the Pre-Spin Transition Date and transfer of employment, the reasons for the transfer of employment, the legal, economic and social consequences of the transaction for the SpinCo Employees and the measures taken by SpinCo and its Subsidiaries in relation therewith. In addition, SpinCo shall, and shall cause its Subsidiaries to, provide Parent and its Subsidiaries with any other information that may be required to respond to any reasonable questions posed by employees, works councils, labor unions, employee representatives or any other persons or entities with respect to the Distribution and to attend, at Parent Group's formal request, any meeting with such employees, works councils, labor unions, employee representatives or other persons or entities where necessary or legally required. SpinCo shall render full reasonable cooperation to Parent Group, and Parent Group shall render full reasonable cooperation to SpinCo, in each case providing in due time all information within its knowledge and engaging in any consultations, required by Law or reasonably requested by employees, works councils and/or unions and/or employee representatives that are required or initiated to accomplish the transfer of any SpinCo Employees to SpinCo as contemplated by this Agreement. SpinCo shall bear all expenses and costs of any compensation resulting from negotiations with works councils, unions and/or employee representatives, including expenses relating to any adjustments or additions to the terms and conditions of employment of any SpinCo Employees that result from such negotiations and which are approved by Parent; provided, however that Parent shall bear its own costs associated with these negotiations (e.g. travel time and expenses to participate in the negotiations). The Parties understand that the provisions of this Agreement may need to be subsequently modified in connection with the consultations and similar processes described in this paragraph and agree to negotiate any such subsequent modifications in good faith and in keeping with the Parties' original intent behind the Agreement.

Section 4.04 Special Provisions. Notwithstanding any other provision in this Agreement to the contrary (including, but not limited to Section 6.01(a)(iv) of this Agreement), Parent's Vice President of Total Rewards and SpinCo's Chief Human Resources Officer, shall have the discretion, power, and authority to adopt and implement special provisions, rules, or procedures applicable to (i) the equitable adjustments in the case of an International Employee who has outstanding equity awards granted under the Parent Equity Plan or any incentive plan of Parent, where such grantee's circumstances warrant a different treatment to the extent that such persons deem such different treatment to be equitable, necessary, or advisable, based on the advice of counsel; (ii) the good faith determination of the employer or former employer, as applicable, of each International Employee; (iii) errors in the timing of employment transfers of International Employees, (iv) issues pertaining to immigration law requirements, and (v) any other decisions regarding the employment, compensation, and benefit arrangements of one or more International Employees as are deemed equitable, necessary or advisable that are not otherwise contemplated by this Agreement (including Schedule A).

ARTICLE V

U.S. WELFARE AND FRINGE BENEFIT PLANS

Section 5.01 Health and Welfare Plans. This Section 5.01 shall apply only to US SpinCo Employees.

(a) Eligibility. Effective on the Pre-Spin Transition Date (or, for any Subsequent SpinCo Employee, such employee's Return Date), all SpinCo Employees shall cease to be eligible to participate in the Parent Welfare Plans. Effective as of the Pre-Spin Transition Date (or, for any Subsequent SpinCo Employee, such employee's Return Date), SpinCo Employees shall be eligible to participate in health and welfare plans for the benefit of SpinCo Employees that mirror the Parent Welfare Plans (collectively, the "SpinCo Welfare Plans").

(b) Waiver of Conditions. SpinCo (acting directly or through its Affiliates) shall cause the SpinCo Welfare Plans to (i) waive all limitations as to preexisting conditions, exclusions and service conditions with respect to participation and coverage requirements applicable to any US SpinCo Employee, other than limitations that were in effect with respect to the US SpinCo Employee under the Parent Welfare Plans as of the Pre-Spin Transition Date, and (ii) provide recognition for service with Parent Group for any waiting period limitation or evidence of insurability requirement applicable to a SpinCo Group Employee; provided, that, service shall not be recognized to the extent such recognition would result in the duplication of benefits. Such waivers described in clauses (i) and (ii) of the foregoing sentence, with respect to the SpinCo Welfare Plans, shall apply to initial enrollment effective following the Pre-Spin Transition Date. Any pre-existing condition limitations, exclusions, and services conditions that remain applicable under the SpinCo Welfare Plans pursuant to clause (i) shall apply only to the extent allowable under HIPAA.

(c) Allocation of Health and Welfare Assets and Liabilities.

i. General Principles. SpinCo shall be responsible with regard to claims by any SpinCo Employees under any medical, prescription drug, dental, vision, life insurance, accidental death and dismemberment insurance, survivor income, business travel, employee assistance, wellness, long-term disability, short-term disability, supplemental short-term disability, tuition reimbursement, flexible spending and healthcare savings accounts, and adoption assistance plans or programs incurred on or after the Pre-Spin Transition Date. For purposes of the foregoing, the following claims and Liabilities shall be deemed to be "incurred" as follows: (v) survivor income, disability, life, accidental death and dismemberment and business travel accident insurance benefits, upon the death, illness, injury, disability or accident giving rise to such benefits, (w) hospital-provided health, dental, prescription drug or other benefits, which become payable with respect to any hospital confinement, upon commencement of such confinement, (x) any other medical, prescription drug, dental, vision, flexible spending and health care savings accounts, employee assistance, and wellness, when the services are rendered, the supplies are provided or medication is acquired by the participant, and not when the condition arose, (y) tuition reimbursement, when the applicable course is completed, and (z) adoption assistance, when the adoption is final (per court order). The Parties agree that in no event may a SpinCo Employee receive benefits under any plan or program that results in a duplication of benefits.

ii. Severance Plans. Except as otherwise specified in Schedule A, SpinCo shall be responsible with regard to claims for severance by any SpinCo Employees which terminate employment on or after the Pre-Spin Transition Date, with any claims paid under the SpinCo Severance Plans.

iii. COBRA and HIPAA Compliance. Parent Group shall continue to be responsible for compliance with the health care continuation requirements of COBRA (including the requirements under the American Recovery and Reinvestment Act), the certificate of creditable coverage requirements of HIPAA, and the corresponding provisions of the Parent Welfare Plans with respect to any SpinCo Employees and any former employees of the Spin-Off Businesses located in the US who incur a qualifying event under COBRA on or before the Pre-Spin Transition Date. SpinCo shall assume responsibility for compliance with the health care continuation requirements of COBRA, the certificate of creditable coverage requirements of HIPAA, and the corresponding provisions of the SpinCo Welfare Plans, with respect to any SpinCo Employees who incur a qualifying event or loss of coverage under the SpinCo Welfare Plans after the Pre-Spin Transition Date. Parent Group and SpinCo Group agree that the consummation of the transactions contemplated by the Separation Agreement shall not constitute a COBRA qualifying event for any purpose of COBRA.

iv. Disability Benefits/Leave of Absence. For any Parent Employee who would be a SpinCo Employee but who has incurred a disability (within the meaning of the applicable provisions of the Parent Welfare Plans providing long-term disability benefits) on or before the Pre-Spin Transition Date, to the extent such disability has been approved by the administrator of the Parent Welfare Plans, such Parent Employee will continue to be covered under the Parent Welfare Plans, with respect to such disability (but not with respect to any reoccurrence of such a disability after such individual returns to active service with the SpinCo Group on or following the Pre-Spin Transition Date); for any Parent Employee who would be a SpinCo Employee but for being on short-term disability leave or any other Leave of Absence at the Pre-Spin Transition Date, such employee shall remain a Parent Employee. A Parent Employee who would be a SpinCo Employee but for receiving disability benefits or being on a Leave of Absence as of the Pre-Spin Transition Date shall automatically become a SpinCo Employee only if and when such employee returns to active service. Any right to reemployment for any individuals who were employed in the Spin-Off Businesses prior to the Pre-Spin Transition Date and who were on disability or Leave of Absence as of immediately prior to the Pre-Spin Transition Date shall be the obligation of the SpinCo Group and not of the Parent Group.

v. Time-Off Benefits. As of the Pre-Spin Transition Date (or, for any Subsequent SpinCo Employee, such employee's Return Date), each US SpinCo Employee shall be subject to SpinCo's vacation, paid time off, and other time-off policies (including, for the avoidance of doubt, any policies governing leaves of absence); provided, however, that SpinCo shall provide US SpinCo Employees with credit for employment service with Parent Group or any member of the Parent Group for purposes of determining each US SpinCo Employee's eligibility for and future accruals of vacation days under SpinCo's vacation policy; provided that such service shall not be recognized to the extent such recognition would result in the duplication of benefits under any such policies. To the extent required by applicable Law, SpinCo shall credit (or continue to credit) each US SpinCo Employee with the amount of accrued but unused vacation time, paid time off, and other time-off benefits (including, for the avoidance of doubt, leave of absence benefits) as such US SpinCo Employee had with the Parent Group or the SpinCo Group as of immediately before the Pre-Spin Transition Date (or, for any Subsequent SpinCo Employee, such employee's Return Date).

vi. Tuition Reimbursement Benefits. To the extent that tuition liabilities that are a Liability of Parent Group (under clause (c)(i), above) are paid by SpinCo Group, Parent Group will reimburse SpinCo Group upon the timely request of SpinCo Group for such reimbursement.

Section 5.02 Unemployment Compensation. Prior to the Pre-Spin Transition Date, members of the Parent Group shall be responsible for making any required state unemployment contributions with respect to US SpinCo Employees or former US SpinCo Employees. If applicable, the Parties agree that the SpinCo Group will apply to dissolve any joint unemployment accounts covering US SpinCo Employees maintained with the Parent Group, effective on December 31, 2021, and SpinCo Group shall establish new accounts covering US SpinCo Employees as necessary to comply with such obligations for periods beginning on the Pre-Spin Transition Date.

Section 5.03 Workers' Compensation. The Parent Group shall be solely responsible for all workers' compensation claims of US SpinCo Employees and former US SpinCo Employees with respect to Workers' Compensation Events occurring before the Pre-Spin Transition Date. The SpinCo Group shall be solely responsible for workers' compensation claims of US SpinCo Employees and former US SpinCo Employees with respect to Workers' Compensation Events occurring on or after the Pre-Spin Transition Date, except for claims that are defined by individual state workers' compensation boards as "cumulative trauma" claims which shall be treated according to applicable law.

ARTICLE VI

EQUITY, INCENTIVE AND DIRECTOR AND EXECUTIVE COMPENSATION PROGRAMS

Section 6.01 Equity Incentive Programs.

(a) General Principles.

i. Parent Group and SpinCo Group shall take any and all reasonable actions as shall be necessary and appropriate to further the provisions of this Article VI, including, to the extent practicable, providing written notice or similar communication to each employee or other individual who holds one or more awards granted under the Parent Equity Plans informing such employee of (i) the actions contemplated by this Article VI with respect to such awards and (ii) whether (and during what time period) any "blackout" period shall be imposed upon holders of awards granted under the Parent Equity Plan during which time awards may not be exercised or settled, as the case may be.

ii. From and after the Distribution, a grantee who has outstanding awards under the Parent Equity Plan shall be considered to have been employed by SpinCo Group to the same extent as considered employed by Parent Group before and after the Distribution for purposes of vesting.

iii. No award described in this Article VI, whether outstanding or to be issued, adjusted, substituted, assumed, converted or cancelled by reason of or in connection with the Distribution, shall be issued, adjusted, substituted, assumed, converted or cancelled until in the judgment of the administrator of the applicable plan or program such action is consistent with all applicable Laws, including federal securities Laws. Any period of exercisability will not be extended on account of a period during which such an award is not exercisable pursuant to the preceding sentence.

iv. SpinCo International Employees shall be subject to this Article VI to the same extent as US SpinCo Employees.

(b) Establishment of SpinCo Equity Plan. On or prior to the Distribution Date, SpinCo shall establish equity award plans for the benefit of eligible SpinCo Employees that are substantially similar to the Parent Equity Plans (the "SpinCo Equity Plans").

(c) Options, Performance Restricted Stock Units and Restricted Stock Units.

i. Options. Each Parent Option shall, as of the Distribution Date automatically and without any action on the part of the holder thereof, be converted into a SpinCo Option in accordance with the succeeding paragraphs of this Section 6.01(c)(i). The number of shares subject to the SpinCo Option shall be equal to the number of shares of Parent Group common stock subject to the Parent Option multiplied by the Equity Exchange Ratio, with the resulting number of shares subject to the SpinCo Option being rounded down to the nearest whole share. The per share exercise price of the SpinCo Option shall be equal to the per share exercise price of the Parent Option immediately prior to the Distribution Date divided by the Equity Exchange Ratio, which amount shall be rounded up to the nearest whole cent. Except as otherwise provided herein, the terms and conditions applicable to the SpinCo Options shall be substantially identical to the terms and conditions applicable to the corresponding Parent Option, including the terms and conditions relating to vesting and the post-termination exercise period (as set forth in the applicable plan, award agreement or in the option holder's then applicable employment agreement with Parent Group, which terms shall remain in effect even after the expiration or termination of such employment agreement). Notwithstanding anything in this Section 6.01(c)(i) to the contrary, the number of shares subject to the converted SpinCo Option and the per share exercise price of the converted SpinCo Option may be adjusted to provide that the aggregate in-the-money value of the SpinCo Option immediately following the Distribution Date is equal to the aggregate in-the-money value of the corresponding Parent Option immediately prior to the Distribution Date to the extent such adjustments comply with Section 409A of the Code. To the extent that 421(a) of the Code applies to any Parent Option, or a Parent Option is structured to avoid the application of Section 409A of the Code, the adjustments described in this Section 6.01(c)(i) will be subject to such modifications, as any, as are required to cause the adjustment contemplated by this Section 6.01(c)(i) to be made in a manner consistent with Section 409A or 421(a) of the Code, as applicable.

ii. Performance Restricted Stock Unit Awards. Each Parent Performance Restricted Stock Unit ("PRSU") shall, as of the Distribution Date automatically and without any action on the part of the holder thereof, be converted into a number of SpinCo PRSUs equal to the number of units of Parent PRSUs multiplied by the Equity Exchange Ratio, with the resulting number of units being rounded up to the nearest whole unit. The performance-vesting conditions of each SpinCo PRSU shall be deemed to have been met at the following levels:

(A) With regard to the portion of the Performance Period (as defined in the PRSU award agreements) completed as of the Distribution Date:

1. PRSUs granted for the performance period of 2020 to 2022 shall be deemed to have met 50% of their performance targets at the end of the Restriction Period (as defined in the PRSU award agreements); and

2. PRSUs granted for the performance period of 2021 to 2023 shall be deemed to have met 82.5% of their performance targets at the end of the Restriction Period.

(B) With regard to the portion of the performance period occurring after the Distribution Date, PRSUs shall be deemed to have met 100% of their performance targets at the end of the Restriction Period.

For avoidance of doubt, SpinCo PRSUs will not vest until the end of the applicable Restriction Periods. Following the Distribution Date, the SpinCo PRSUs shall remain subject to the same terms and conditions as applicable to the corresponding Parent PRSUs prior to the Distribution Date, except with regard to the performance criteria and vesting dates.

iii. Restricted Stock Unit Awards. Each Parent Restricted Stock Unit shall, as of the Distribution Date automatically and without any action on the part of the holder thereof, be converted into a number of SpinCo Restricted Stock Units equal to the number of units of Parent Restricted Stock Units multiplied by the Equity Exchange Ratio, with the resulting number of units being rounded up to the nearest whole unit, subject to restrictions and other terms and conditions terms and conditions substantially identical to those that applied to the Parent Restricted Stock Units immediately before the Pre-Spin Transition Date.

(d) Employee Stock Purchase Plan. SpinCo will not be required to establish an employee stock purchase plan. Employees of SpinCo shall not be eligible to participate in any Offering Period of the Parent ESPP beginning on or after the Pre-Spin Transition Date. All payroll deductions under the Parent ESPP shall cease following the last payroll payment date prior to the Pre-Spin Transition Date. If an option period would be in progress on the Pre-Spin Transition Date, it shall be shortened so that the exercise shall occur by the day prior to the Pre-Spin Transition Date.

(e) Registration and Other Regulatory Requirements. As soon as practicable following the Distribution Date, SpinCo shall prepare and file with the SEC a registration statement on Form S-8 (or another appropriate form) registering shares of SpinCo common stock subject to issuance upon the exercise of the SpinCo Options issuable in accordance with the provisions of this Article VI. Parent Group shall cooperate with and assist SpinCo in the preparation of such registration statement. SpinCo shall keep such registration statement effective (and maintain the current status of the prospectus required thereby) for so long as any SpinCo Options in respect of SpinCo common stock remain outstanding.

(f) Section 16. By approving the adoption of this Agreement, the respective boards of directors of each of Parent Group and SpinCo intend to exempt from the short swing profit recovery provisions of Section 16(b) of the Securities Exchange Act of 1934, by reason of the application of Rule 16b-3 thereunder, all acquisitions and dispositions of equity incentive awards by non-employee directors and officers of each of Parent Group and SpinCo.

(g) Liabilities for Settlement of Awards. From and after the Distribution Date SpinCo shall be responsible for all Liabilities associated with SpinCo Equity Awards, including any option exercise, share delivery, registration or other obligations related to the exercise, vesting or settlement of the SpinCo Equity Awards.

(h) Tax Reporting and Withholding for Equity Based Awards. SpinCo will be responsible for all income, payroll, or other tax reporting related to income of SpinCo Employees and non-employee directors from SpinCo Equity Awards. Further, a member of the SpinCo Group shall be responsible for remitting applicable Tax withholdings for SpinCo Employees to each applicable taxing authority.

(i) Savings Clause. The Parties hereby acknowledge that the provisions of this Article VI are intended to achieve certain Tax, legal and accounting objectives and, in the event such objectives are not achieved, the Parties agree to negotiate in good faith regarding such other actions that may be necessary or appropriate to achieve such objectives.

Section 6.02 Annual Bonus Plans. Effective as of the Pre-Spin Transition Date, SpinCo shall establish or maintain the SpinCo Annual Bonus Plans as set forth in Section 2.03 hereof. Parent Group shall pay each SpinCo Employee such employee's earned and accrued annual bonus for 2021 according to the terms of the Parent Group's applicable Annual Bonus Plans, but shall not be responsible for (and SpinCo shall assume all Liabilities for) any bonuses to any SpinCo Employees under any Parent Annual Bonus Plan accruing after 2021.

ARTICLE VII

DEDUCTIONS

Section 7.01 Deductions.

(a) Garnishments, Tax Levies, Child Support Orders, and Wage Assignments. With respect to any SpinCo Employees with garnishments, tax levies, child support orders, or wage assignments in effect immediately prior to the Pre-Spin Transition Date (or, for any Subsequent SpinCo Employee, such employee's Return Date), a member of the SpinCo Group shall, to the extent permitted by applicable Law, honor such payroll deduction authorizations and shall continue to make payroll deductions and payments to the authorized payee, as specified by the court or governmental order which was filed prior to the Pre-Spin Transition Date (or, for any Subsequent SpinCo Employee, such employee's Return Date).

(b) Authorizations for Payroll Deductions. Unless otherwise prohibited by this Agreement, a Benefit Plan document, or applicable Law, with respect to SpinCo Employees with authorizations for payroll deductions and direct deposits in effect immediately prior to the Pre-Spin Transition Date (or, for any Subsequent SpinCo Employee, such employee's Return Date), a member of the SpinCo Group shall honor such payroll deduction authorizations and shall not require that such SpinCo Employee submit a new authorization to the extent that the type of deduction does not differ from that made prior to the Pre-Spin Transition Date (or, for any Subsequent SpinCo Employee, such employee's Return Date). Such deduction types include, without limitation, contributions to any Benefit Plan and direct deposit of payroll, employee relocation loans, and other types of authorized company receivables usually collectible through payroll deductions.

ARTICLE VIII

MISCELLANEOUS

Section 8.01 Access to Records and Information. Each Party shall provide access upon reasonable request (to the extent permissible under applicable privacy/data protection Laws) to the other Party to any and all employment records, all Form I-9s and other Information with respect to the SpinCo Employees and any other employees of SpinCo described in Section 2.02(e) that are in the possession of such Party or any of its Affiliates.

Section 8.02 Cooperation. After the Distribution Date, each Party shall upon reasonable request provide the other Party and the other Party's respective Affiliates, agents and vendors all Information reasonably necessary to the other Party's performance of its obligations hereunder. The Parties agree to use their respective best efforts and to cooperate with each other in order to carry out their obligations hereunder and to effectuate the terms of this Agreement. Each Party shall use commercially reasonable efforts to cooperate and work together to unify, consolidate and share (to the extent permissible under applicable privacy/data protection Laws) all relevant documents, resolutions, government filings, data, payroll, employment and benefit plan information on regular timetables and cooperate as needed with respect to (i) any claims under or audit of or litigation with respect to any employee benefit plan, policy or arrangement contemplated by this Agreement, (ii) efforts to seek a determination letter, private letter ruling or advisory opinion from the IRS or U.S. Department of Labor on behalf of any employee benefit plan, policy or arrangement contemplated by this Agreement, (iii) any filings that are required to be made or supplemented to the IRS, U.S. Pension Benefit Guaranty Corporation, U.S. Department of Labor or any other Governmental Authority, and (iv) any audits by a Governmental Authority or corrective actions, relating to any benefit plan, labor or payroll practices; provided, however, that requests for cooperation must be reasonable and not interfere with daily business operations. For the avoidance of doubt, the Parties' duties and obligations under this paragraph shall be in addition to, and not in lieu of, the Parties' duties and obligations under Section 4.03 above.

Section 8.03 Asset Recoupment. To the extent the Parent Group holds any repayment "claw-back" or recoupment rights with respect to remuneration paid or provided to SpinCo Employees (e.g., the right to require repayment of compensation upon a termination of employment) in connection with any loan or advance to a SpinCo Employee, such rights are retained by Parent Group. To the extent allocable by applicable law, SpinCo shall recoup such payments from final pay of a terminating SpinCo Employee, and to the extent not recouped, SpinCo shall notify Parent of any terminations of employment, for SpinCo Employees who are subject to repayment rights, within 30 days of such termination.

Section 8.04 No Third-Party Beneficiaries. This Agreement will not create any third-party beneficiary rights, nor will it be enforceable by any Employee, any person representing the interest of Employees, or any spouse, dependent or beneficiary of any Employee, nor will anything herein be or be deemed an amendment to any Benefit Plan. This Agreement is solely an agreement between and for the benefit of the Parties to this Agreement and will be enforceable by them. No term of this Agreement will be deemed to create any contract with any Employee or to give any Employee the right to be retained in the employment of the Parent Group or SpinCo, or to interfere with the Parent Group's or SpinCo's right to terminate the employment of any employee at any time.

Section 8.05 Compliance. The agreements and covenants of the Parties hereunder shall at all times be subject to the requirements and limitations of applicable Law (including, for purposes of Article IV, local rules and customs relating to the treatment of pension plans) and collective bargaining, works council, or other similar agreements. Where an agreement or covenant of a Party hereunder cannot be effected in compliance with applicable Law or an applicable collective bargaining, works council, or other similar agreement, the Parties agree to negotiate in good faith to modify such agreement or covenant to the least extent possible in keeping with the original agreement or covenant in order to comply with applicable Law or such applicable collective bargaining agreement. Each provision of this Agreement is subject to and qualified by this Section 8.05, whether or not such provision expressly states that it is subject to or limited by applicable Law or by applicable collective bargaining, works council, or other similar agreements. Each reference to the Code, ERISA or the Securities Act or any other Law shall be deemed to include the rules, regulations and guidance issued thereunder.

Section 8.06 Preservation of Rights. Unless expressly provided otherwise in this Agreement, nothing herein shall be construed as a limitation on the right of Parent or SpinCo to (a) amend, modify or terminate any Benefit Plan or (b) terminate the employment of any Employee.

Section 8.07 Reimbursement. The Parties acknowledge that the Parent, on the one hand, and SpinCo, on the other hand, may incur costs and expenses (including, without limitation, contributions to Benefit Plans and the payment of insurance premiums) which are, as set forth in this Agreement, the responsibility of the other Party. Accordingly, the Parties agree to reimburse each other for Liabilities and obligations for which such Party is responsible, and shall provide such reimbursement reasonably promptly and in accordance with the terms of any agreement between the Parties or their Affiliates expressly addressing such matters.

Section 8.08 Section 409A. It is the intent of the Parties that this Agreement and all arrangements referenced herein either be exempt from, or comply with, Section 409A of the Code ("Section 409A"), and, to the maximum extent possible, each provision of this Agreement that pertains to any amount that constitutes "deferred compensation" for purposes of Section 409A shall be interpreted and construed in accordance therewith.

Section 8.09 Limitation on Enforcement. This Agreement is an agreement solely between the Parties. Nothing in this Agreement, whether express or implied, shall be construed to: (a) confer upon any current or former Employee of the Parent or SpinCo, or any other person any rights or remedies, including, but not limited to any right to (i) employment or recall; (ii) continued employment or continued service for any specified period; or (iii) claim any particular compensation, benefit or aggregation of benefits, of any kind or nature; or (b) create, modify, or amend any Benefit Plan.

Section 8.10 Further Assurances and Consents. In addition to the actions specifically provided for elsewhere in this Agreement, each of the Parties hereto shall use commercially reasonable efforts to (a) execute and deliver such further instruments and documents and take such other actions as the other party may reasonably request to effectuate the purposes of this Agreement and carry out the terms hereof; (b) take, or cause to be taken, all actions, and do, or cause to be done, all things, reasonably necessary, proper or advisable under applicable Laws and agreements or otherwise to consummate and make effective the transactions contemplated by this Agreement, including, without limitation, using commercially reasonable efforts to obtain any consents and approvals and to make any filings and applications necessary or desirable to consummate the transactions contemplated by this Agreement; provided that no Party shall be obligated to pay any consideration therefor (except for filing fees and other similar charges) to any third party from whom those consents, approvals and amendments are required, or to take any action or omit to take any action described in this paragraph if the taking of action or the omission to take action would be unreasonably commercially burdensome to the Party or the business thereof, in which case the Parties agree to negotiate in good faith to modify the provision of this Agreement that requires such action or omission to the least extent possible, in keeping with the Parties' original intent behind such provision, to remove such unreasonable commercial burden.

Section 8.11 Third Party Consent. If the obligation of any Party under this Agreement depends on the consent of a third party, such as a vendor or insurance company, and that consent is withheld, the Parties shall use commercially reasonable efforts to implement the applicable provisions of this Agreement to the fullest extent practicable. If any provision of this Agreement cannot be implemented due to the failure of a third party to consent, the Parties shall negotiate in good faith to implement the provision in a mutually satisfactory manner, taking into account the original purposes of the provision in light of the Distribution and communications to affected individuals.

Section 8.12 Effect if Distribution Does Not Occur. If the Distribution does not occur, then all actions and events that are to be taken under this Agreement, or otherwise in connection with the Distribution, shall not be taken or occur, except to the extent specifically provided by Parent, and any actions already taken shall be revoked and unwound.

Section 8.13 Disputes. The Parties agree to use commercially reasonable efforts to resolve in an amicable manner any and all controversies, disputes and claims between them arising out of or related in any way to this Agreement. The Parties agree that any controversy, dispute or claim (whether arising in contract, tort or otherwise) arising out of or related in any way to this Agreement that cannot be amicably resolved informally will be resolved pursuant to the dispute resolution procedures set forth in Article VII of the Separation Agreement.

[SIGNATURE PAGE FOLLOWS]

The Parties have caused this Agreement to be signed by their authorized representatives on or as of the 1st day of March, 2022.

PARENT

By: /s/ Chad F. Phipps
Name: Chad F. Phipps
Title: Senior Vice President, General Counsel and Secretary

SPINCO

By: /s/ Vafa Jamali
Name: Vafa Jamali
Title: President and Chief Executive Officer

[Signature Page to Employee Matters Agreement]

Exhibit 10.3

TRANSITION SERVICES AGREEMENT

This Transition Services Agreement (this "Agreement") is entered into as of March 1, 2022 (the "Effective Date"), by and between Zimmer Biomet Holdings, Inc., a corporation organized under the laws of the State of Delaware ("Parent"), and ZimVie Inc., a corporation organized under the laws of the State of Delaware ("SpinCo"). Parent and SpinCo are each referred to in this Agreement as a "Party," and together as the "Parties."

Recitals

WHEREAS, concurrently with the execution of this Agreement, Parent and SpinCo are entering into a Separation and Distribution Agreement (the "Separation Agreement"), pursuant to which, among other things, Parent will transfer the SpinCo Business to SpinCo;

WHEREAS, Parent, directly and indirectly through certain of its Affiliates, currently provides certain support services to the SpinCo Business, and SpinCo and Parent desire that Parent continue to provide, or cause to be provided, certain of such services to SpinCo and its Affiliates for a transitional period, on the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, SpinCo and certain of its Affiliates currently provide certain support services to Parent and certain of its Affiliates, and Parent wishes SpinCo to continue to provide certain of such services to Parent and its Affiliates, and SpinCo wishes to provide such services or cause such services to be provided, all as more fully set forth herein.

Agreement

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I

PERFORMANCE OF SERVICES

Section 1.1 Services.

(a) Subject to the terms and conditions of this Agreement, each Person designated as a "Provider" (each, a "Provider") in a Service Schedule attached as Annex A and Annex B to this Agreement (each, a "Service Schedule") shall perform or cause to be performed the services set forth in such Service Schedule (the "Services") for each Person designated as a "Recipient" (each, a "Recipient") in such Service Schedule during the "Service Period" specified in such Service Schedule (each, a "Service Period"). The Parties acknowledge and agree that their respective Affiliates may be Providers and/or Recipients under this Agreement, and the Parties shall cause their respective Affiliates to comply with their respective obligations under this Agreement, and each Party shall be ultimately responsible for ensuring such compliance with respect to its Affiliates. For purposes of this Agreement, Services to be performed by Parent or its Affiliates in any Service Schedule (a "Parent-Provider Service Schedule") shall be referred to as "Parent-Provider Services," and Services to be performed by SpinCo or its Affiliates in any Service Schedule (a "SpinCo-Provider Service Schedule") shall be referred to as "SpinCo-Provider Services". The Parent-Provider Service Schedules are attached as Annex A to this Agreement, and the SpinCo-Provider Service Schedules are attached as Annex B to this Agreement.

(b) In the event that the Parties mutually agree in writing to (i)(A) the provision by Parent to SpinCo of services that are not then included in the Parent-Provider Services (each, a "New Parent-Provider Service") or (B) a modification of a Parent-Provider Service Schedule, or (ii)(A) the provision by SpinCo to Parent of services that are not then included in the SpinCo-Provider Services (each, a "New SpinCo-Provider Service" and, together with the New SpinCo-Provider Services, the "New Services") or (B) a modification of a SpinCo-Provider Service Schedule, then the Parties shall add or amend a Service Schedule to reflect such New Service or modified Service, as applicable, including the Service Fee applicable to any such New Service or modified Service Schedule, if any, agreed upon by the Parties. Each new or amended Service Schedule shall be deemed part of this Agreement as of the date of final agreement between the Parties with respect thereto, in each case subject to the terms and conditions of this Agreement. Except as otherwise provided in any Service Schedule, no Service Period may extend beyond the two-year anniversary of the Distribution Date, except that any Service Period may be extended up to the third anniversary of the Distribution Date in accordance with the terms hereof or of any Service Schedule.

(c) Each Service Schedule is hereby incorporated into and shall form a part of this Agreement; provided, however, that the terms contained in such Service Schedule shall only apply with respect to the Services provided under that Service Schedule. In the event of a conflict between the terms contained in an individual Service Schedule and the terms in the body of this Agreement, the terms in the Service Schedule shall take precedence with respect to the Services under such Service Schedule only. No terms contained in any individual Service Schedule shall otherwise modify the terms of this Agreement.

Section 1.2 Service Periods. Subject to earlier termination pursuant to Section 5.3, a Provider's obligation to perform the Services set forth in any Service Schedule shall terminate on the last day of the "Service Period" specified in such Service Schedule.

Section 1.3 Subcontracting. Each Provider of Services shall have the right to subcontract such Services to one or more third parties; provided, however, that (a) consent of the Recipient shall not be required to the extent the same third parties provided the same Services prior to the Effective Date; (b) to the extent the Services were not provided by such third party prior to the Effective Date, the subcontracting Provider shall provide at least 15 days' advance written notice to the Recipient prior to engaging such subcontractor for such Services; (c) the subcontracting Provider shall execute the necessary contracts, and the appropriate provisions, required under applicable Laws; (d) the subcontracting Provider shall use reasonable care and prudence in the selection and monitoring of any such subcontractor; (e) the subcontracting Provider shall remain primarily responsible for ensuring that such Services are provided and that any such subcontractor performs its obligations in accordance with the terms of this Agreement; and (f) notwithstanding anything to the contrary in Article II, if the subcontracting Provider provided a Service directly (and not through a subcontractor) during the Service Baseline Period, then the subcontracting Provider shall bear any incremental cost of providing such Service to the Recipient through such subcontractor above the cost (including applicable Service Fees and Reimbursable Costs) of the subcontracting Provider directly providing such Service.

Section 1.4 Cooperation. Each Recipient of Services shall (a) perform any obligations or activities assigned to such Recipient in this Agreement, including in the applicable Service Schedule(s); (b) promptly provide to the applicable Provider (and any applicable subcontractors) the materials, documentation and information reasonably necessary for performance of such Services; (c) comply with the Provider's reasonable instructions that are necessary for the Provider to perform such Services; (d) promptly report to the Provider any known problem affecting the performance of any such Services; (e) participate in discussions regarding the provision of Services where reasonably required by the Provider in order to facilitate decision making in relation to the Services; and (f) subject to Recipient's reasonable policies and procedures, grant the Provider (and any subcontractors) access to such Recipient's premises and systems as reasonably necessary for the Provider to perform its obligations hereunder; provided, that this Section 1.4 shall not require a Party to incur any out-of-pocket costs or expenses, unless and except as expressly provided in this Agreement or otherwise agreed in writing by the Parties. In the event that a Recipient fails to comply with any of the obligations under clauses (a) – (f) above, and such failure adversely affects Provider's ability to perform the Services, Provider shall have the right, after giving 10 days' prior written notice to the Recipient, to suspend the applicable Services until such failure is resolved.

Section 1.5 Consents. Nothing in this Agreement shall require a Provider to perform or cause to be performed any Service to the extent that the manner of such performance would constitute a violation of any applicable Law or any existing contract or agreement with a third party. If a Provider becomes aware that any such violation is reasonably likely, such Provider shall use commercially reasonable efforts to promptly advise the Recipient of such potential violation, and such Provider and Recipient will mutually seek an alternative that addresses such potential violation. The Parties shall cooperate with one another and use their respective commercially reasonable efforts to obtain all appropriate consents, waivers, permits, licenses, and/or sublicenses ("Consents"), where reasonably necessary, of any relevant third party required under any existing contract or agreement with a third party to allow Provider to perform, or cause to be performed, all Services to be provided hereunder in accordance with the standards set forth herein. Recipient shall reimburse Provider for all reasonable and out-of-pocket costs and expenses (if any) incurred by Provider or any of its Subsidiaries in connection with obtaining such Consent. Neither Provider nor Recipient shall be obligated to contribute any capital, pay any consideration, grant any concession or incur any additional Liability to any third party other than ordinary and customary fees to a Governmental Authority from whom such consents are required, which shall be payable by the Recipient. If, with respect to a Service, the Parties, despite the use of such commercially reasonable efforts, are unable to obtain any such Consent, the Recipient shall be responsible for procuring the Services from alternative sources and the Provider shall have no further responsibility for such Services.

Section 1.6 Transitional Nature of the Services. Each Party acknowledges the transitional nature of the Services and agrees that each Recipient shall use its commercially reasonable efforts to transition the Services to its own internal organization or to engage alternative third-party service providers as soon as reasonably practicable after the Effective Date and in no event later than the last day of the Service Period referenced in the applicable Service Schedule.

Section 1.7 Relationship of the Parties. The Parties acknowledge and agree that this Agreement does not create a fiduciary relationship, partnership, joint venture or relationships of trust or agency between the Parties and that all Services are performed by Providers as independent contractors to the Recipients.

ARTICLE II
COMPENSATION

Section 2.1 Service Fees. SpinCo shall pay to Parent, on a quarterly basis in arrears, the aggregate amount due by SpinCo and its Affiliates in respect of the Parent-Provider Services in accordance with the amounts, formulas and procedures set forth in the "Service Fees" section in the Parent-Provider Service Schedules (the "Parent-Provider Service Fees"). Parent shall pay to SpinCo, on a quarterly basis in arrears, the aggregate amount due by Parent and its Affiliates in respect of the SpinCo-Provider Services in accordance with the amounts, formulas and procedures set forth in the "Service Fees" section in the SpinCo-Provider Service Schedules (the "SpinCo-Provider Service Fees," and together with the Parent-Provider Service Fees, the "Services Fees"). During the term of this Agreement, the amount of a Service Fee for any Service may be modified to the extent of (a) any adjustments mutually agreed by the Parties, (b) any adjustments due to a change in Level of Service requested by Recipient and agreed by Provider, and (c) any adjustment in the rates or charges imposed by any third-party provider that is providing Services; provided that Provider will notify Recipient in writing of any such change in rates at least thirty (30) days prior to the effective date of such rate change. Together with any invoice for Service Fees, Provider shall provide Recipient with reasonable documentation, including any additional documentation reasonably requested by Recipient to the extent that such documentation is in Provider's or its Subsidiaries' possession or control, to support the calculation of such Service Fees.

Section 2.2 Reimbursement. To the extent not included in the Service Fee for a Service and subject to the other terms and conditions of this Agreement, SpinCo shall reimburse Parent for all reasonable documented out-of-pocket costs and expenses (including reasonable travel-related expenses) actually incurred by Parent and its Affiliates in connection with the performance of the Parent-Provider Services under this Agreement ("Parent Reimbursable Costs"). To the extent not included in the Service Fee for a Service and subject to the other terms and conditions of this Agreement, Parent shall reimburse SpinCo for all reasonable documented out-of-pocket costs and expenses (including reasonable travel-related expenses) actually incurred by SpinCo and its Affiliates in connection with the performance of the SpinCo-Provider Services under this Agreement ("SpinCo Reimbursable Costs," and together with the Parent Reimbursable Costs, the "Reimbursable Costs"). Each Party shall make available to the other Party, upon reasonable request, receipts and other relevant documentation pertaining to Reimbursable Costs.

Section 2.3 Invoicing; Payment. Within 15 days after the end of each calendar quarter until the expiration or termination of this Agreement, (a) Parent shall submit to SpinCo an invoice or invoices for Parent-Provider Service Fees due and Parent Reimbursable Costs incurred during such calendar quarter, and (b) SpinCo shall submit to Parent an invoice or invoices for SpinCo-Provider Service Fees due and SpinCo Reimbursable Costs incurred during such calendar quarter. Each invoice shall set forth in reasonable detail the calculation of the charges and amounts and applicable Taxes for each Service for which such invoice relates. Unless otherwise specified in

the Service Schedules, amounts due under this Agreement shall be invoiced and paid in U.S. dollars by wire transfer of immediately available funds to one or more accounts designated by the Party to whom such payments are owed. All payments due under this Agreement (other than any amounts disputed by a Party in good faith) shall be made within 30 days after the date of the applicable invoice (the "Due Date"). Late payments shall bear interest at a rate equal to five percent (5%) per annum. Such interest shall be calculated on the basis of the actual number of days elapsed from the Due Date up to and including the actual date of payment, without compounding.

Section 2.4 Right to Suspend Services. If payment in full of any invoice (other than amounts disputed by a Party in good faith) is not received by the Due Date of such invoice, to the extent the aggregate amount of such overdue unpaid invoices exceeds $1,000,000, the Party to whom such payment is owed shall have the right, after giving 15 days' prior written notice to the other Party, to suspend all or any portion of the Service or other obligations under this Agreement as to which such overdue payment relates until such time as all amounts then due, including any accrued interest, have been paid. After such payment in full is received, performance of the suspended Services and other obligations shall resume.

Section 2.5 Taxes.

(a) Each Recipient shall be responsible for (i) excise, sales, use, transfer, stamp, documentary, filing, recordation and other similar Taxes, (ii) value added, goods and services or similar recoverable indirect Taxes ("VAT") and (iii) any related interest and penalties (collectively, "Sales Taxes"), in each case imposed or assessed as a result of the provision of such Services, but excluding any gross receipts-based or net-income based Taxes. In particular, but without prejudice to the generality of the foregoing, all amounts payable pursuant to this Agreement are exclusive of amounts in respect of Sales Taxes. Any Sales Taxes shall be separately stated on the relevant invoice to a Recipient and will be payable by such Recipient pursuant to Section 2.3. Where any taxable supply for VAT purposes is made pursuant to this Agreement by a Provider to a Recipient, the Recipient shall either (x) on receipt of a valid VAT invoice pay to the Provider or its designee such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services; or (y) where required by applicable Law to do so, account directly to the relevant Governmental Authority for any such VAT amounts. Each Provider agrees that it shall take commercially reasonable actions to cooperate with each Recipient in obtaining any refund, return, rebate, or the like of any Sales Tax, including by filing any necessary exemption or other similar forms, certificates, or other similar documents. The Recipient shall promptly reimburse the Provider for any costs incurred by the Provider or its Affiliates in connection with the Recipient obtaining a refund or overpayment of refund, return, rebate, or the like of any Sales Tax. For the avoidance of doubt, any applicable gross receipts-based or net income-based Taxes shall be borne by the Provider unless the Provider is required by Law to obtain, or allowed to separately invoice for and obtain, reimbursement of such Taxes from the applicable Recipient.

(b) Each Recipient shall be entitled to deduct and withhold Taxes required by any Governmental Authority to be withheld on payments made pursuant to this Agreement. To the extent any amounts are so withheld, the applicable Recipient shall (i) pay, in addition to the amount otherwise due to the Provider under this Agreement, such additional amount as is necessary to ensure that the net amount actually received by the Provider will equal the

full amount the Provider would have received had no such deduction or withholding been required, (ii) pay such deducted and withheld amount to the proper Governmental Authority, and (iii) promptly provide to the Provider evidence of such payment to such Governmental Authority. Any amounts so deducted or withheld shall be considered paid to the Provider for all purposes of this Agreement. The Provider shall, prior to the date of any payment to be made pursuant to this Agreement, at the request of the Recipient, make commercially reasonable efforts to provide the Recipient any certificate or other documentary evidence (x) required by any Governmental Authority or under applicable Law or (y) which the Provider is entitled by any Governmental Authority or under applicable Law to provide in order to reduce the amount of any Taxes that may be deducted or withheld from such payment and the Recipient agrees to accept and act in reliance on any such duly and properly executed certificate or other applicable documentary evidence.

Section 2.6 Currency Exchange Rate Service Fee Adjustments. During the term of this Agreement, each Provider will determine semi-annually (on June 15 and December 15 of each year) whether the Exchange Rate between U.S. dollars and the official local currency for each country in which such Provider performs Services has changed by more than 5% since the later of the Effective Date or June 15 of the immediately preceding year. If the Exchange Rate has changed by more than 5% since the later of the Effective Date or June 15 of the immediately preceding year, the Parties shall cooperate to promptly adjust the Service Fees with respect to the Services provided in such country, with such adjustment being effective for all Services performed by such Provider from the June 15 or December 15 date on which the change was measured.

ARTICLE III
STANDARD OF SERVICES; INDEMNIFICATION; LIMITATIONS

Section 3.1 Standard of Services. Each Provider shall, and shall cause each subcontractor to, (a) perform the Services in all material respects in accordance with applicable Laws, and (b) except as expressly provided otherwise in the Service Schedules, use commercially reasonable efforts to perform the Services in a manner substantially consistent with the quality, manner, level of care, skill, timeliness and diligence with which such Services (or analogous services) were performed for the Recipient (the "Level of Service") in the six-month period immediately prior to the Effective Date (the "Service Baseline Period"); provided, that, if not so previously provided, then such Services shall be performed in a manner substantially similar to similar services provided to Provider's Affiliates or businesses. Notwithstanding the foregoing, a Provider may make changes from time to time in the manner of performing the Services if such Provider is making similar changes in performing analogous services for itself and if such Provider furnishes to Recipient reasonable prior written notice (in content and timing) of such changes; provided, that if such change shall materially adversely affect the timeliness or quality of, or the Service Fees for, the applicable Service, the Parties shall cooperate to agree on modifications to such Services as are commercially reasonable in consideration of the circumstances. Unless a Service Schedule specifies a particular volume or quantity, the applicable Provider shall not be obligated to perform any Service in a volume or quantity at a rate that exceeds the rate of the highest volumes or quantities of analogous services provided for the benefit of the Recipient during the Service Baseline Period. No Provider shall be required to perform any of the Services for the benefit of any Person other than the applicable Recipient for such Service.

Section 3.2 Personnel. Except as otherwise agreed by the Parties in writing and subject to Section 1.3, each Provider shall have sole discretion and authority with respect to designating, employing, assigning, compensating and discharging personnel, third party service providers, subcontractors and consultants in connection with performance of the Services and notwithstanding anything to the contrary herein, in no event shall a Provider be obligated under this Agreement to retain or hire any specific personnel, third party service providers, subcontractors or consultants, acquire any equipment or technology, expand or modify any facilities or incur any capital expenditures, unless the Provider agrees, in its sole discretion, to do so, and the Recipient agrees to bear all related costs and expenses in accordance with the terms hereof. Notwithstanding anything to the contrary herein, and for clarity, in no event shall Parent or its Affiliates have any obligation to favor operation of the SpinCo Business over its own business operations or those of its Affiliates.

Section 3.3 Disclaimer. **RECIPIENT HEREBY ACKNOWLEDGES THAT PROVIDER AND ITS AFFILIATES DO NOT ORDINARILY PROVIDE THE SERVICES CONTEMPLATED UNDER THIS AGREEMENT TO THIRD PARTIES AS PART OF THEIR RESPECTIVE BUSINESS ACTIVITIES. ACCORDINGLY, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, RECIPIENT ACKNOWLEDGES AND AGREES THAT THE SERVICES ARE PROVIDED "AS IS", THAT RECIPIENT ASSUMES ALL RISK AND LIABILITY ARISING FROM OR RELATING TO ITS USE AND RELIANCE UPON THE SERVICES, AND NEITHER PROVIDER NOR ITS AFFILIATES NOR ANY OF THEIR RESPECTIVE REPRESENTATIVES MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, BY STATUTE OR OTHERWISE, IN CONNECTION WITH OR WITH RESPECT TO ANY OF THE SERVICES. PROVIDER AND ITS AFFILIATES AND THEIR RESPECTIVE REPRESENTATIVES DISCLAIM ALL OTHER EXPRESS AND ALL IMPLIED WARRANTIES RELATING TO THE SERVICES, INCLUDING IMPLIED WARRANTIES OF QUALITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE OR PURPOSE, ALL WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE AND THE NON-INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES.**

Section 3.4 Impracticability. No Provider shall be required to perform any Service to the extent the performance of such Service becomes impracticable as a result of a cause outside the reasonable control of such Provider, including an act of God or public enemy, war, terrorism, government acts or regulations, administrative acts or decisions, fire, flood, embargo, quarantine, epidemic, pandemic or disease outbreak (including COVID-19) or worsening thereof, labor strike or work stoppage by workers, accident, closing of ports, unusually severe weather or any other cause similar to any of the foregoing, or to the extent the provision of such Service would require such Provider to violate any applicable Law or any existing contract or agreement with a third party (any such cause or legal, policy or contractual impediment, an "Impracticability Event"). Such Provider shall promptly notify the applicable Recipient upon learning of such Impracticability Event and shall use commercially reasonable efforts to resolve or work around

any such Impracticability Event and to resume the performance of a suspended Service as soon as reasonably practicable. During the period of an Impracticability Event, to the extent Provider fails to provide any Services because substitute services are not commercially reasonable or technically feasible, Recipient shall be relieved of its obligation to pay the applicable Service Fee on a pro rata basis for such period (*i.e.*, with the applicable Service Fee reduced by a percentage equivalent to the length of such temporary nonperformance as related to the number of days in the billing cycle for the applicable Services).

Section 3.5 Operations; Facilities. If a Recipient intends to modify the current operation or facilities (including changing location of facilities) of the Parent Business or the SpinCo Business, as applicable, in any material respect, and such modified operations or facilities would prevent the Provider from performing the Services or materially increase the cost to provide any Services, the Recipient shall promptly, and in any event at least 30 days prior to such modification, notify the Provider of such intended modifications. The Parties shall negotiate in good faith to continue the provision of the relevant Services and, failing such agreement, the Provider shall not be required to provide such Services to the extent affected by such modification.

Section 3.6 Indemnification.

(a) Subject to the limitations set forth in Section 3.7, except as otherwise specifically set forth in the Separation Agreement or in any Ancillary Agreement, Parent shall, and shall cause the members of the Parent Group to, defend, indemnify and hold harmless SpinCo, each member of the SpinCo Group and each of their respective past, present and future directors, officers, employees and agents, in each case in their respective capacities as such, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the "SpinCo Indemnified Parties"), from any and all Liabilities incurred by such SpinCo Indemnified Parties to the extent relating to, arising out of or resulting from (i) the material breach of this Agreement by Parent or any of its Affiliates, or (ii) the fraud, bad faith, gross negligence or willful misconduct of Parent or any of its Affiliates in performing their respective obligations under this Agreement.

(b) Subject to the limitations set forth in Section 3.7, except as otherwise specifically set forth in the Separation Agreement or in any Ancillary Agreement, SpinCo shall, and shall cause the members of the SpinCo Group to, defend, indemnify and hold harmless Parent, each member of the Parent Group and each of their respective past, present and future directors, officers, employees and agents, in each case in their respective capacities as such, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the "Parent Indemnified Parties"), from any and all Liabilities incurred by such Parent Indemnified Parties to the extent relating to, arising out of or resulting from (i) the material breach of this Agreement by SpinCo or any of its Affiliates, or (ii) the fraud, bad faith, gross negligence or willful misconduct of Parent or any of its Affiliates in performing their respective obligations under this Agreement.

(c) To the extent that Parent and SpinCo have indemnification obligations to one another in connection with a single Action, Parent and SpinCo shall contribute to the aggregate Liabilities arising from such Action in such proportion as is appropriate to reflect their relative Liabilities, as well as any other relevant equitable considerations. The amount paid or payable by Parent or SpinCo for purposes of apportioning the aggregate Liabilities shall be deemed to include all reasonable legal fees and expenses incurred by such Party in connection with investigating, preparing for or defending against such Action. If the Parties cannot agree on an allocation of any such Liabilities for Actions, they shall resolve the matter pursuant to the procedures set forth in Article VII of the Separation Agreement.

(d) The procedures for indemnification set forth in Sections 4.5, 4.6 and 4.7 of the Separation Agreement shall govern claims for indemnification under this Agreement, *mutatis mutandis*.

(e) The indemnities contained in this Section 3.6 shall survive for a period of 12 months after the expiration or termination of this Agreement for any reason. Notwithstanding the preceding sentence, any Action in respect of which indemnity may be sought under this Agreement shall survive the time at which it would otherwise terminate pursuant to the preceding sentence if a written notice of an indemnification claim shall have been given by the Party seeking indemnification prior to the expiration of the 12-month survival period.

(f) Tax Matters Agreement Coordination. The provisions of Section 3.6(a)-(e) shall not apply to Taxes to the extent specifically addressed in the Tax Matters Agreement, subject to the terms thereof. It is understood and agreed that Taxes and Tax matters, including the control of Tax-related proceedings, shall be governed by the Tax Matters Agreement to the extent specifically addressed in the Tax Matters Agreement, subject to the terms thereof. In the case of any conflict or inconsistency between this Agreement and the Tax Matters Agreement in relation to any matters addressed by the Tax Matters Agreement, the Tax Matters Agreement shall prevail. All capitalized terms used in this Section 3.6(f) but not defined in this Agreement have the meaning ascribed thereto in the Separation Agreement.

Section 3.7 Limitation of Liability. **NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, (A) NO PROVIDER SHALL BE RESPONSIBLE FOR ANY ACT OR OMISSION OF ANY RECIPIENT OR SUCH RECIPIENT'S AFFILIATES OR REPRESENTATIVES IN RESPECT OF THE SERVICES; (B) IN NO EVENT SHALL EITHER PARTY OR ITS AFFILIATES OR REPRESENTATIVES BE LIABLE FOR NEGLIGENCE (OTHER THAN GROSS NEGLIGENCE) IN PERFORMING THEIR OBLIGATIONS UNDER THIS AGREEMENT; AND (C) IN NO EVENT SHALL EITHER PARTY OR ITS AFFILIATES OR REPRESENTATIVES BE LIABLE FOR ANY CONSEQUENTIAL DAMAGES THAT ARE NOT REASONABLY FORESEEABLE OR ANY PUNITIVE OR SPECIAL DAMAGES, LOSS OF REVENUE, INCOME OR PROFITS, DOWNTIME, DIMINUTION IN THE VALUE OR PERFORMANCE OR ANY MULTIPLE THEREOF AND DIMINUTION OR LOSS OF BUSINESS, REPUTATION OR OPPORTUNITY OR ANY MULTIPLE THEREOF, ARISING FROM OR RELATING TO ANY ACT OR OMISSION UNDER THIS AGREEMENT; PROVIDED, HOWEVER, THAT THE LIMITATIONS OF LIABILITY IN THIS CLAUSE (C) SHALL NOT APPLY TO LOSSES RESULTING FROM SUCH PARTY'S OR ITS AFFILIATE'S FRAUD, BAD FAITH OR WILLFUL MISCONDUCT OR FOR THIRD PARTY CLAIMS SUBJECT TO INDEMNIFICATION PURSUANT TO SECTION 3.6. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE LIABILITY OF EACH PROVIDER AND ITS AFFILIATES WITH RESPECT TO THIS AGREEMENT OR ANYTHING DONE (OR OMITTED) IN CONNECTION HEREWITH,**

INCLUDING THE PERFORMANCE OR BREACH HEREOF, OR FROM THE SALE, DELIVERY, PROVISION OR USE OF ANY OF THE SERVICES PROVIDED UNDER OR PURSUANT TO THIS AGREEMENT, WHETHER IN CONTRACT, IN TORT OR OTHERWISE, SHALL NOT EXCEED THE AGGREGATE SERVICES FEES PAID IN THE IMMEDIATELY PRECEDING ONE-YEAR PERIOD TO THE PROVIDER AND ITS AFFILIATES PURSUANT TO THIS AGREEMENT.

ARTICLE IV
CONFIDENTIALITY; INTELLECTUAL PROPERTY; DATA SECURITY

Section 4.1 Confidentiality. Section 6.9 of the Separation Agreement is hereby incorporated by reference herein (but for this purpose, only to the extent applicable to this Agreement, and not to the Separation Agreement or any other Ancillary Agreement), with such sections applying to all Parties hereunder as the context allows.

Section 4.2 Intellectual Property.

(a) Each Provider, for itself and on behalf of its Affiliates, hereby grants to each Recipient and such Recipient's Affiliates, and each Recipient, for itself and on behalf of its Affiliates, hereby grants to each Provider and such Provider's Affiliates, a non-exclusive, revocable, non-transferable (except as provided in Section 6.3), non-sublicensable (except to third parties as required for the provision or receipt of Services, but not for their own independent use), royalty-free, worldwide license to use any Intellectual Property which is owned or controlled by the granting Party or such granting Party's Affiliates (including, for clarity, any and all improvements, modifications, enhancements or derivative works thereof owned by such granting Party or its Affiliates), solely to the extent and for the duration necessary for the Provider to provide, or the Recipient to receive, the applicable Service under this Agreement.

(b) Except as expressly provided in this Agreement (including any Service Schedule), no Recipient shall otherwise acquire any right, title or interest (including any license rights or rights of use) in any such Intellectual Property by reason of the provision of the Services. Any Intellectual Property that is created, authored, conceived of, made, or otherwise developed by or on behalf of a Provider or its Representatives in performing the Services will remain, as between the Parties, the sole property of (and exclusively owned by) such Provider; provided that (a) such Recipient shall own any written reports or tangible deliverables (whether in paper, electronic, or other form) resulting from the performance of the Services that Provider, at a Recipient's request, prepares specifically for and delivers to such Recipient is hereby assigned to such Recipient; and (b) such Provider, for itself and on behalf of its Affiliates, hereby grants to such Recipient and such Recipient's Affiliates a non-exclusive, irrevocable, perpetual, non-transferable (except as provided in Section 6.3), non-sublicensable (except to third parties as required for the provision or receipt of Services, but not for their own independent use), royalty-free, worldwide license to use any Intellectual Property which is owned by such Provider or such Provider's Affiliates (including, for clarity, any and all improvements, modifications, enhancements or derivative works thereof owned by such Provider or its Affiliates) that is contained in such written reports or tangible deliverables solely to the extent necessary for such Recipient and its Affiliates to use such written reports or tangible deliverables for their intended purpose in the conduct of their business. To the extent any right, title or interest in or to any Intellectual Property created by a Provider hereunder vests in a Recipient, by operation of law or otherwise, in a manner contrary to the agreed upon ownership as set forth in this Section 4.2, such Recipient hereby presently assigns (and without limiting the foregoing, agrees in the future to assign) to such Provider any and all such right, title or interest in and to such Intellectual Property.

(c) Except as expressly set forth herein, each Party expressly acknowledges that nothing contained herein shall be construed or interpreted as a grant or transfer, by implication or otherwise, of any licenses or other rights in Intellectual Property.

Section 4.3 Data Protection; Information Security and Privacy.

(a) Each Party shall ensure that it complies in all material respects with all applicable requirements of privacy and data protection Laws and the Data Protection Agreement in relation to its performance under this Agreement.

(b) Each Provider will maintain commercially reasonable security measures to protect the confidentiality, integrity and availability of the systems utilized to provide the Services, and the related data (including confidential, proprietary and personal information and protected health information). Each Provider shall use commercially reasonable measures to protect any data owned by the other Provider and shared with such Provider, consistent with such Provider's practices in protecting its own data, but in no event less than customary and reasonable practices or as required by applicable privacy and cybersecurity laws.

(c) In the event of a security incident or data breach impacting a Provider's systems, related data or Services, the Provider shall give notice of such security incident or data breach, provide a description of the nature and scope of the incident, and provide reasonable assistance and cooperation in any investigation, as soon as possible but in no event less than required by applicable privacy and cybersecurity laws or contracts. No Provider shall notify or otherwise disclose the existence of any security incident or data breach related to the other Party's data (including confidential, proprietary and personal information and protected health information), without the consent of the other Party, unless otherwise required by applicable privacy and cybersecurity laws or contracts.

ARTICLE V
TERM AND TERMINATION

Section 5.1 Term. The term of this Agreement shall commence as of the Effective Date and, subject to earlier termination pursuant to Section 5.3, shall expire upon the last to expire or terminate of the Service Periods.

Section 5.2 Service Periods; Renewals. Subject to earlier termination pursuant to Section 5.3, this Agreement shall terminate with respect to any Service upon the expiration or termination of the Service Period for such Service. Any Service Period may be renewed or extended only by mutual written agreement of the Parties pursuant to Section 1.1(b).

Section 5.3 Termination.

(a) A Party (the "Non-Breaching Party") may terminate this Agreement with respect to any Service, in whole but not in part, at any time upon 30 days' prior written notice to the other Party (the "Breaching Party") if the Breaching Party (or its Affiliate) has failed to perform any of its material obligations under this Agreement relating to such Service, and such failure shall have continued without cure for a period of 30 days after receipt by the Breaching Party of a written notice of such failure from the Non-Breaching Party. For the avoidance of doubt, failure of a Party to pay amounts owed with respect to a Service in accordance with this Agreement shall be deemed a breach for purposes of this Section 5.3(a).

(b) A Recipient may terminate this Agreement with respect to any Service, in whole but not in part, at any time upon 60 days' prior written notice to the applicable Provider for any reason or no reason; provided, that, if earlier notice is otherwise required by the terms of a contract with a subcontractor, the notice period with respect to the applicable Service shall be the notice period set forth in such contract, plus 10 days. Upon early termination by a Recipient with respect to any Service pursuant to this Section 5.3(b), Recipient shall reimburse Provider (or its Affiliates) for such reasonable and foreseeable documented out-of-pocket fees, costs and expenses (the "Termination Charges") as may be incurred by Provider (or its Affiliates) as a result of such early termination or significant reduction of such Service. Such Termination Charges are either set forth on a Service Schedule or shall be provided to Recipient upon request. Such Termination Charges may include wind-down costs, breakage fees, early termination fees or charges, minimum volume make-up charges or other amounts payable to third parties or internal costs incurred by Provider (or its Affiliates) in its commercially reasonable efforts to discontinue the provision of such Services. Provider shall, and shall cause its Affiliates to, use commercially reasonable efforts to minimize the existence and amount of such Termination Charges; provided, that the foregoing obligations shall not alter or diminish Recipient's obligation to pay Termination Charges as reasonably determined by Provider in accordance with the terms hereof.

(c) This Agreement may be terminated, in whole or in part (including with respect to any particular Service), by mutual written agreement of the Parties at any time. Such written agreement shall specify the effective date of termination and the applicable terms and conditions in connection therewith.

Section 5.4 Survival of Obligations. The expiration or termination of this Agreement or of any Service Period for any reason shall not relieve the Parties of any obligation that accrued prior to such expiration or termination, including all obligations of any Recipient to pay any Service Fees due to any Provider hereunder. The provisions in the following Sections and Articles shall survive the expiration or termination of this Agreement or any Service Period for any reason: Sections 3.3, 3.6, 3.7, 4.1 and 5.4; and Article VI.

ARTICLE VI
MISCELLANEOUS

Section 6.1 Severability. If any provision of this Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof or thereof, or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. Upon such determination, the Parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the Parties.

Section 6.2 Notices. All notices, requests, claims, demands or other communications under this Agreement shall be in writing and shall be given or made (and except as provided herein, shall be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service, by certified mail, return receipt requested, or by electronic mail ("e-mail"), so long as confirmation of receipt of such e-mail is requested and received, to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 6.2):

If to Parent, to:

c/o Zimmer Biomet Holdings, Inc.
345 East Main Street
Warsaw, Indiana 46580
Attention: General Counsel
E-mail: legal.americas@zimmerbiomet.com

with copies (which will not constitute notice) to:

White & Case LLP
1221 Avenue of the Americas
New York, New York 10020-1095
Attention: Morton A. Pierce, Esq.
Michelle B. Rutta, Esq.
Robert Chung, Esq.
E-mail: morton.pierce@whitecase.com
michelle.rutta@whitecase.com
robert.chung@whitecase.com

and

Faegre Drinker Biddle & Reath LLP
600 E. 96th Street, Suite 600
Indianapolis, IN 46240
Attention: Trevor J. Belden
E-mail: trevor.belden@faegredrinker.com

If to SpinCo, to:

ZimVie Inc.
10225 Westmoor Dr.
Westminster, CO 80021
Attention: Heather Kidwell, General Counsel
E-mail: heather.kidwell@zimvie.com

with copies (which will not constitute notice), to:

White & Case LLP
1221 Avenue of the Americas
New York, New York 10020-1095
Attention: Morton A. Pierce, Esq.
Michelle B. Rutta, Esq.
Robert Chung, Esq.
E-mail: morton.pierce@whitecase.com
michelle.rutta@whitecase.com
robert.chung@whitecase.com

and

Faegre Drinker Biddle & Reath LLP
600 E. 96th Street, Suite 600
Indianapolis, IN 46240
Attention: Trevor J. Belden
E-mail: trevor.belden@faegredrinker.com

Section 6.3 Assignability. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns; provided, however, that neither Party may assign its rights or delegate its obligations under this Agreement without the express prior written consent of the other Party. Notwithstanding the foregoing, no such consent shall be required for the assignment of a Party's rights and obligations under this Agreement in connection with a Change of Control of a Party so long as the resulting, surviving or transferee Person assumes all the obligations of the assigning Party by operation of Law or pursuant to an agreement in form and substance reasonably satisfactory to the non-assigning Party.

Section 6.4 Third Party Beneficiaries. Except as provided in Section 3.6 with respect to SpinCo Indemnified Parties and Parent Indemnified Parties (in their respective capacities as such), (a) the provisions of this Agreement are solely for the benefit of the Parties and are not intended to confer upon any other Person any rights or remedies hereunder, and (b) there are no third-party beneficiaries of this Agreement and this Agreement shall not provide any third party with any remedy, claim, Liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement.

Section 6.5 Waiver of Default. Waiver by a Party of any default by the other Party of any provision of this Agreement must be in writing and shall not be deemed a waiver by the waiving Party of any subsequent or other default, nor shall it prejudice the rights of the other Party. No failure or delay by a Party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall a single or partial exercise thereof prejudice any other or further exercise thereof or the exercise of any other right, power or privilege.

Section 6.6 Dispute Resolution. Article VII of the Separation Agreement is hereby incorporated by reference herein (but for this purpose, only to the extent applicable to this Agreement, and not to the Separation Agreement or any other Ancillary Agreement). Parent designates SVP of Strategy and SpinCo designates SVP of Strategy for purposes of Section 7.1(a) of the Separation Agreement. Each Party may replace its designee upon written notice to the other Party.

Section 6.7 Governing Law.

(a) This Agreement (and any claims or disputes arising out of or related hereto or thereto or to the transactions contemplated hereby or to the inducement of any party to enter herein, whether for breach of contract, tortious conduct or otherwise and whether predicated on common law, statute or otherwise) shall be governed by and construed and interpreted in accordance with the Laws of the State of Delaware irrespective of the choice of laws principles of the State of Delaware, including all matters of validity, construction, effect, enforceability, performance and remedies.

(b) Subject to the provisions of Section 6.6, each of the Parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Court of Chancery of the State of Delaware, or, if (and only if) such court finds it lacks subject matter jurisdiction, the Federal court of the United States of America sitting in Delaware, and appellate courts thereof, or, if (and only if) such court finds it lacks jurisdiction, another state court in the State of Delaware, in any action or proceeding arising out of or relating to this Agreement for recognition or enforcement of any judgment or award relating hereto, and each of the Parties hereby irrevocably and unconditionally (i) agrees not to commence any such action or proceeding except in the Court of Chancery of the State of Delaware, or, if (and only if) such court finds it lacks subject matter jurisdiction, the Federal court of the United States of America sitting in Delaware, and appellate courts thereof, or, if (and only if) such court finds it lacks jurisdiction, another state court in the State of Delaware, (ii) agrees that any claim in respect of any such action or proceeding may be heard and determined in the Court of Chancery of the State of Delaware, or, if (and only if) such court finds it lacks subject matter jurisdiction, the Federal court of the United States of America sitting in Delaware, and appellate courts thereof, or, if (and only if) such court finds it lacks jurisdiction, another state court in the State of Delaware, (iii) waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any such action or proceeding in such courts and (iv) waives, to the fullest extent permitted by applicable Law, the defense of an inconvenient forum to the maintenance of such action or proceeding in such courts.

Section 6.8 Headings. The article, section and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 6.9 Interpretation. In this Agreement, (a) words in the singular shall be deemed to include the plural and vice versa and words of one gender shall be deemed to include the other genders as the context requires; (b) the terms “hereof,” “herein,” and “herewith” and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole (including all of the Schedules, Exhibits and Appendices hereto and thereto) and not to any particular provision of this Agreement; (c) Article, Section, Schedule, Exhibit and Appendix references are to the Articles, Sections, Schedules, Exhibits and Appendices to this Agreement, unless otherwise specified; (d) unless otherwise stated, all references to any agreement shall be deemed to include the exhibits, schedules and annexes to such agreement; (e) the word “including”

and words of similar import when used in this Agreement shall mean "including, without limitation," unless otherwise specified; (f) the word "or" shall not be exclusive; (g) unless otherwise specified in a particular case, the word "days" refers to calendar days; (h) references to "business day" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions are generally authorized or required by Law to close in New York, New York; (i) references herein to this Agreement or any other agreement contemplated herein shall be deemed to refer to this Agreement or such other agreement as of the date on which it is executed and as it may be amended, modified or supplemented thereafter, unless otherwise specified; and (j) the word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if."

Section 6.10 Amendment. No provisions of this Agreement shall be deemed waived, amended, supplemented or modified by a Party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the Party against whom it is sought to enforce such waiver, amendment, supplement or modification.

Section 6.11 Counterparts; Entire Agreement; Corporate Power.

(a) This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Party.

(b) This Agreement, the Separation Agreement and the other Ancillary Agreements and the Exhibits, Schedules and appendices hereto and thereto contain the entire agreement between the Parties with respect to the subject matter hereof, supersede all previous agreements, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter, and there are no agreements or understandings between the Parties other than those set forth or referred to herein or therein. This Agreement, the Separation Agreement and the Ancillary Agreements together govern the arrangements in connection with the Separation and the Distribution and would not have been entered into independently.

(c) Parent represents on behalf of itself and, to the extent applicable, each of its Subsidiaries, and SpinCo represents on behalf of itself and, to the extent applicable, each of its Subsidiaries, as follows:

(i) each such Person has the requisite corporate or other power and authority and has taken all corporate or other action necessary in order to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby; and

(ii) this Agreement has been duly executed and delivered by it and constitutes a valid and binding agreement of it enforceable in accordance with the terms thereof.

(d) Each Party acknowledges and agrees that delivery of an executed counterpart of a signature page to this Agreement (whether executed by manual, stamp or mechanical signature) by facsimile or by e-mail in portable document format (.pdf) shall be effective as delivery of such executed counterpart of this Agreement. Each Party expressly adopts and confirms each such facsimile, stamp or mechanical signature (regardless of whether delivered in person, by mail, by courier, by facsimile or by e-mail in portable document format (.pdf)) made in its respective name

as if it were a manual signature delivered in person, agrees that it shall not assert that any such signature or delivery is not adequate to bind such Party to the same extent as if it were signed manually and delivered in person and agrees that, at the reasonable request of the other Party at any time, it shall as promptly as reasonably practicable cause this Agreement to be manually executed (any such execution to be as of the date of the initial date thereof) and delivered in person, by mail or by courier.

Section 6.12 Specific Performance. Subject to the provisions of Section 6.6, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the Party or Parties who are, or are to be, thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief in respect of their respective rights under this Agreement, in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative. The Parties agree that the remedies at law for any breach or threatened breach, including monetary damages, are inadequate compensation for any loss and that any defense in any action for specific performance that a remedy at law would be adequate is waived. Any requirements for the securing or posting of any bond with such remedy are waived by each of the Parties. Unless otherwise agreed in writing, Provider shall continue to provide Services and the Parties shall honor all other commitments under this Agreement during the course of dispute resolution pursuant to the provisions of Section 6.6 with respect to all matters not subject to such dispute; provided, however, that this obligation shall only exist during the term of this Agreement.

Section 6.13 Mutual Drafting. This Agreement shall be deemed to be the joint work product of the Parties and any rule of construction that a document shall be interpreted or construed against a drafter of such document shall not be applicable.

Section 6.14 Further Assurances. Subject to the terms of this Agreement, each Party shall take, or cause to be taken, any and all reasonable actions, including the execution, acknowledgement, filing and delivery of any and all documents and instruments that any other Party may reasonably request in order to effect the intent and purpose of this Agreement and the transactions contemplated hereby.

Section 6.15 Audit Assistance. Each of the Parties and their respective Subsidiaries are or may be subject to regulation and audit by a Governmental Authority (including a Taxing Authority), standards organizations, customers or other parties to contracts with such Parties or their respective Subsidiaries under applicable Law, standards or contract provisions. If a Governmental Authority, standards organization, customer or other party to a contract with a Party or its Subsidiary exercises its right to examine or audit such Party's or its Subsidiary's books, records, documents or accounting practices and procedures pursuant to such applicable Law, standards or contract provisions, and such examination or audit relates to the Services, then the other Party shall provide, at the sole cost and expense of the requesting Party, all assistance reasonably requested by the Party that is subject to the examination or audit in responding to such examination or audits or requests for information, to the extent that such assistance or Information is within the reasonable control of the cooperating Party and is related to the Services.

ARTICLE VII
DEFINITIONS

Section 7.1 Definitions. For purposes of this Agreement (including the Recitals hereof), the following terms have the following meanings:

"Action" has the meaning set forth in the Separation Agreement.

"Affiliate" has the meaning set forth in the Separation Agreement.

"Agreement" has the meaning set forth in the Preamble.

"Ancillary Agreement" has the meaning set forth in the Separation Agreement.

"Breaching Party" has the meaning set forth in Section 5.3(a).

"Change of Control" has the meaning set forth in the Separation Agreement.

"Consents" has the meaning set forth in Section 1.5.

"Data Protection Agreement" means the Data Protection Agreement, dated as of the Effective Date, in substantially the form attached as Annex C hereto.

"Distribution" has the meaning set forth in the Separation Agreement.

"Due Date" has the meaning set forth in Section 2.3.

"Exchange Rate" means, at any time, Parent's most recent monthly transaction rate, as determined in the ordinary course of business consistent with past practice.

"Governmental Authority" has the meaning set forth in the Separation Agreement.

"Impracticability Event" has the meaning set forth in Section 3.4.

"Intellectual Property" has the meaning set forth in the Separation Agreement.

"Law" has the meaning set forth in the Separation Agreement.

"Level of Service" has the meaning set forth in Section 3.1.

"Liabilities" has the meaning set forth in the Separation Agreement.

"New Parent-Provider Service" has the meaning set forth in Section 1.1(b).

"New Services" has the meaning set forth in Section 1.1(b).

"New SpinCo-Provider Service" has the meaning set forth in Section 1.1(b).

"Non-Breaching Party" has the meaning set forth in Section 5.3(a).

"Parent Business" has the meaning set forth in the Separation Agreement.

“Parent Group” has the meaning set forth in the Separation Agreement.

“Parent Indemnified Parties” has the meaning set forth in Section 3.6(b).

“Parent-Provider Service Fees” has the meaning set forth in Section 2.1.

“Parent-Provider Service Schedule” has the meaning set forth in Section 1.1(a).

“Parent-Provider Services” has the meaning set forth in Section 1.1(a).

“Parent Reimbursable Costs” has the meaning set forth in Section 2.2.

“Person” has the meaning set forth in the Separation Agreement.

“Provider” has the meaning set forth in Section 1.1(a).

“Recipient” has the meaning set forth in Section 1.1(a).

“Reimbursable Costs” has the meaning set forth in Section 2.2.

“Representatives” has the meaning set forth in the Separation Agreement.

“Sales Tax” has the meaning set forth in Section 2.5(a).

“Separation” has the meaning set forth in the Separation Agreement.

“Service Baseline Period” has the meaning set forth in Section 3.1.

“Service Fees” has the meaning set forth in Section 2.1.

“Service Period” has the meaning set forth in Section 1.1(a).

“Service Schedule” has the meaning set forth in Section 1.1(a).

“Services” has the meaning set forth in Section 1.1(a).

“SpinCo Business” has the meaning set forth in the Separation Agreement.

“SpinCo Group” has the meaning set forth in the Separation Agreement.

“SpinCo Indemnified Parties” has the meaning set forth in Section 3.6(a).

“SpinCo-Provider Service Fees” has the meaning set forth in Section 2.1.

“SpinCo-Provider Service Schedule” has the meaning set forth in Section 1.1(a).

“SpinCo-Provider Services” has the meaning set forth in Section 1.1(a).

“SpinCo Reimbursable Costs” has the meaning set forth in Section 2.2.

"Subsidiary" has the meaning set forth in the Separation Agreement.

"Tax" has the meaning set forth in the Separation Agreement.

"Taxing Authority" means a national, foreign, municipal, state, federal or other Governmental Authority responsible for the administration of any Tax.

"Termination Charges" has the meaning set forth in Section 5.3(b).

"VAT" has the meaning set forth in Section 2.5(a).

[Remainder of page intentionally left blank;
Signatures appear on following page]

IN WITNESS WHEREOF, this Agreement has been executed and delivered by the Parties as of the Effective Date.

ZIMMER BIOMET HOLDINGS, INC.

By: /s/ Chad F. Phipps
Name: Chad F. Phipps
Title: Senior Vice President, General Counsel and Secretary

ZIMVIE INC.

By: /s/ Vafa Jamali
Name: Vafa Jamali
Title: President and Chief Executive Officer

Exhibit 10.4

Dated March / 1 / 2022

Intellectual Property Matters Agreement

between

ZIMMER BIOMET HOLDINGS, INC.

and

ZIMVIE INC.

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INTELLECTUAL PROPERTY MATTERS AGREEMENT

THIS INTELLECTUAL PROPERTY MATTERS AGREEMENT (this "Agreement") is made effective as of March 1, 2022 (the "Effective Date"), by and between Zimmer Biomet Holdings, Inc., a Delaware corporation ("Parent"), and ZimVie Inc., a Delaware corporation ("SpinCo"). Each of Parent and SpinCo may individually be referred to in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, pursuant to that certain Separation and Distribution Agreement, dated as of March 1, 2022, by and between Parent and SpinCo (as it may be amended or supplemented, the "Separation and Distribution Agreement" or "SDA"), Parent and the other members of the Parent Group (as defined in the SDA) have contributed, assigned, transferred, conveyed and delivered to SpinCo (as defined in the SDA), all of the right, title and interest of Parent and the other members of the Parent Group in and to the SpinCo Intellectual Property (as defined in the SDA), in accordance with and subject to the terms and conditions of the SDA;

WHEREAS, pursuant to the Separation and Distribution Agreement, the Parties have agreed to deliver, or cause to be delivered, executed copies of this Agreement on or prior to the Effective Time;

WHEREAS, Parent and the other members of the Parent Group desire to grant to SpinCo and the other members of the SpinCo Group, and SpinCo and the other members of the SpinCo Group desire to be granted, certain non-exclusive licenses under the Licensed Parent IP (as defined below) in accordance with and subject to the terms and conditions of this Agreement; and

WHEREAS, SpinCo and the other members of the SpinCo Group desire to grant to Parent and the other members of the Parent Group, and Parent and the other members of the Parent Group desire to be granted, certain non-exclusive licenses under the Licensed SpinCo IP (as defined below) in accordance with and subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained in this Agreement and the Separation and Distribution Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. Definitions. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Separation and Distribution Agreement. For the purpose of this Agreement, the following terms shall have the following meanings:

1.1 "Acquired Party" has the meaning set forth in Section 9.4(b).

1.2 "Agreement" has the meaning set forth in the preamble.

1.3 "Control" or "Controlled" means, with respect to any Intellectual Property owned or licensed by a Person, the legal authority or right of such Person to grant a license or sublicense of or under such Intellectual Property as provided for herein, without (a) violating the terms of any agreement or arrangement with, or rights of, any Third Party, (b) requiring any consent, approvals, or waivers from any Third Party, or (c) requiring the payment or granting of any consideration to any Third Party.

1.4 "Copyrights" mean any and all mask work rights, industrial designs, design and database rights, works of authorship (whether or not copyrightable), copyrights, copyrights and copyrightable subject matter and similar rights in protectable material, including "moral", "economic" rights and all applications and registrations for the foregoing, but in each case, excluding Know-How.

1.5 “Derivative Product” means, with respect to a product of a Licensed Party, any successor, extension, upgrade, or new or enhanced version of such product (or other derivative that arises from the natural evolution of such product) that (a) is substantially based on the same design and materials as such product, have substantially the same features as such product, and perform substantially the same functions as such product; and (b) is created, generated, or developed by or on behalf of the Licensed Party or any of its Affiliates (or any of their respective permitted successors or permitted assigns), whether contemplated as of the Effective Time or thereafter.

1.6 “Divested Licensed Products” has the meaning set forth in Section 9.4(c).

1.7 “Excluded IP” means any and all Intellectual Property primarily used (or held for use) in or primarily relating to the following: (i) Rosa® Surgical Robot; (ii) Trabecular Metal™ Technology (including the manufacturing materials and methods therefor); (iii) WalterLorenz® Surgical Assist Arm; (iv) MyMobility® Platform; (v) OptiVu™ Mixed Reality/Augmented Reality technology; (vi) Surgical Navigation (Naviscout™); (vii) VerteGen/Equivabone; (viii) Mimix®; (vix) Mimix® QS; (vx) Otomimix; (xxi) Calcigen®-S; (xxii) ProOsteon; (xxiii) CapSpheres; and (xxiv) Vivacit-E® Vitamin E Polyethelyne. Excluded IP also means any and all “Technology” and “Improvements” as those terms are defined in the Fiber DBM License Agreement.

1.8 “Existing Products” has the meaning set forth in Section 9.4(b).

1.9 “Improvement” means, with respect to any Intellectual Property, any other Intellectual Property that is an improvement, enhancement, derivative work, modification, adaptation, or new application of, or that otherwise relates to, such original Intellectual Property (whether or not protectable under applicable Intellectual Property law).

1.10 “Insolvency Event” means, with respect to a Party: (a) the Party files in any court or agency pursuant to any statute or regulation of any state or country, a petition in bankruptcy or insolvency or for reorganization or for an arrangement or for the appointment of a receiver or trustee of the Party or of its assets; (b) if the Party proposes a written agreement of composition or extension of its debts; (c) if the Party is served with an involuntary petition against it, filed in any insolvency proceeding, and such petition shall not be dismissed within sixty (60) days after the filing thereof; (d) if the Party proposes or is party to any dissolution or liquidation; or (e) if the Party makes an assignment for the benefit of creditors

1.11 “Intellectual Property” means mean any and all intellectual property, whether registered or unregistered, of every kind and description throughout the world, including any and all United States and non-United States: (a) Trademarks; (b) Patents; (c) Copyrights; (d) rights in Software; (e) Know-How; (f) all applications and registrations for the foregoing; (g) rights of privacy, publicity and in or with respect to social media; and (h) all rights to sue and collect damages or remedies for past, present, and future infringement, misappropriation, or other violation thereof

1.12 “Intellectual Property Improvement” has the meaning set forth in Section 3.1.

1.13 “Know-How” means mean any and all trade secrets and other confidential or proprietary information, know-how, technical, scientific, regulatory and other information, data (including biological, chemical, pharmacological, toxicological, pharmaceutical, physical and analytical, safety, quality control, manufacturing, preclinical, non-clinical, in-vitro, regulatory, technical, or clinical data) inventions, invention disclosures, creations, techniques, compositions, processes, specifications, tools, apparatus, formulae, and methodologies, but in each case, excluding Patents.

1.14 “Licensed Parent IP” means all Intellectual Property (other than Trademarks and rights of privacy, publicity and in or with respect to social media), in each case, Controlled by any member of Parent Group as of immediately after the Effective Time that is necessary for or otherwise used or practiced as of the Effective Time in the developing, designing, manufacturing, having manufactured, importing, exporting, selling, offering for sale, marketing, distributing and other commercializing of SpinCo Products, including instruments, services, and software (as they exist as of the Effective Date) and surgical and treatment techniques associated therewith. For the avoidance of doubt, “Licensed Parent IP” excludes the Excluded IP.

1.15 “Licensed Parent Products” means any products or services of Parent, as of the Effective Date, and any Derivative Products thereof, including, for clarity, products or services in the research and development pipeline of Parent as of the Effective Date.

1.16 “Licensed Party” means a Party in its capacity as a licensee under this Agreement.

1.17 “Licensing Party” means a Party in its capacity as a licensor under this Agreement.

1.18 “Licensed Product” means, as applicable, each of the Licensed SpinCo Products or the Licensed Parent Products.

1.19 “Licensed SpinCo IP” means all Intellectual Property (other than Trademarks and rights of privacy, publicity and in or with respect to social media), in each case, Controlled by any member of SpinCo Group as of immediately after the Effective Time that is necessary for or otherwise used or practiced as of the Effective Time in the developing, designing, manufacturing, having manufactured, importing, exporting, selling, offering for sale, marketing, distributing and other commercializing of Licensed Parent Products, including instruments, services, and software (as they exist as of the Effective Date) and surgical and treatment techniques associated therewith. For the avoidance of doubt, “Licensed SpinCo IP” (a) includes the SpinCo Intellectual Property; and (b) excludes the Excluded IP.

1.20 “Licensed SpinCo Products” means the SpinCo Products and any Derivative Products thereof.

1.21 “Party” and “Parties” have the meaning set forth in the preamble.

1.22 “Parent” has the meaning set forth in the preamble.

1.23 “Parent Field” means any field other than the SpinCo Field.

1.24 “Parent License” has the meaning set forth in Section 2.2.

1.25 “Patents” means: (i) all national, regional and international patents and patent applications, including provisional patent applications, whether pending, enforced, abandoned or expired; (ii) all patent applications filed either from the patents, patent applications or provisional applications in clause (i) or from an application claiming priority from any of these, including divisionals, continuations, continuations-in-part, converted provisionals, and continued prosecution applications; (iii) all patents that have issued or in the future issue from the foregoing or counterparts thereof patent applications specified in clauses (i) and (ii), including utility models, petty patents, design patents and certificates of invention; and (iv) all patent term extensions or restorations by existing or future extension or restoration mechanisms, including any supplementary protection certificates and the like, as well as any revalidations, reissues, re-examinations, oppositions and the like of the foregoing patents or patent applications specified in clauses (i), (ii) and (iii).

1.26 "Purchaser" has the meaning set forth in Section 9.4(c).

1.27 "Separation and Distribution Agreement" or "SDA" has the meaning set forth in the preamble.

1.28 "SpinCo" has the meaning set forth in the preamble.

1.29 "SpinCo Field" means the field of (a) developing, designing, manufacturing, having manufactured, importing, exporting, selling, offering for sale, marketing, distributing and otherwise commercializing: (i) either (A) dental reconstructive implants, dental prosthetic products, dental regenerative products, dental treatment design or planning software or services, digital dentistry products or services, (B) implants or surgical instruments whose primary purpose is the placement of bone fixation or motion preservation devices in or attachment to the vertebral column (including pedicle screws, disc repair and/or replacement devices, and the placement of interbody fusion or motion preservation devices for the treatment of degenerative conditions, deformities, disease, tumors or traumatic injury of the spine) or (C) non-invasive and implantable bone growth stimulation products; and (ii) any and all associated instrumentation (including patient specific instrumentation), treatment or surgical planning, surgical navigation and surgical techniques and (b) seeking and maintaining all necessary approvals in connection with any of the foregoing, provided, however, that the "Field" expressly excludes: the development, design, manufacture, having manufactured, importation, exportation, sale, offer for sale, marketing, distribution or other commercialization of products, instruments or surgical techniques primarily related to the brain, brain stem, spinal cord, maxillofacial surgery, craniomaxillofacial reconstructive surgery, orthognathic surgery, and/or craniotomy procedures (including, for clarity, brain biopsy procedures, brain ablation procedures, deep brain stimulation, nerve root stimulation, epidural needle placement, and/or dural procedures such as for the removal of spinal cord tumors).

1.30 "SpinCo License" has the meaning set forth in Section 2.1.

2. License Grants.

2.1 Grant of Rights to SpinCo and its Affiliates. Subject to the terms and conditions of this Agreement, Parent on behalf of itself and its Affiliates, hereby grants to SpinCo and its Affiliates a non-exclusive perpetual, irrevocable, transferable (in accordance with Section 9.4), fully paid-up and royalty-free right and license (with the right to grant sublicenses in accordance with Section 2.3(a)) under:

(a) the Licensed Parent IP to develop, design, make, have made, use, sell, offer to sell, market, distribute, import, dispose of and otherwise exploit Licensed SpinCo Products in the SpinCo Field, and

(b) any Copyrights included in the Licensed Parent IP to reproduce, distribute, perform, display, and create derivative works of the Copyrights included in the Licensed Parent IP in the SpinCo Field

(the "SpinCo License").

2.2 Grant of Rights to Parent and its Affiliates. Subject to the terms and conditions of this Agreement, SpinCo on behalf of itself and its Affiliates, hereby grants to Parent and its Affiliates a non-exclusive, perpetual, irrevocable, transferable (in accordance with Section 9.4), fully paid-up and royalty-free right and license (with the right to grant sublicenses in accordance with Section 2.3(b)) under:

(a) the Licensed SpinCo IP to develop, design, make, have made, use, sell, offer to sell, market, distribute, import, dispose of and otherwise exploit Licensed Parent Products in the Parent Field, and

(b) any Copyrights included in the Licensed SpinCo IP to reproduce, distribute, perform, display, and create derivative works from of the Copyrights included in the Licensed SpinCo IP in the Parent Field

(the "Parent License").

2.3 Sublicense Rights**.**

(a) SpinCo and its Affiliates shall have the right to grant sublicenses under the SpinCo License to : (i) have all or part of any Licensed SpinCo Products made by a Third Party contractor for the use, sale, offer for sale, marketing, distribution, importation, disposition, and other exploitation by SpinCo or its Affiliates or (ii) a Purchaser (as defined below) pursuant to Section 9.4(c). Any such sublicense shall be in writing and shall be consistent with and subject to the terms of this Agreement in so far as such terms relate to the SpinCo License, including Section 6. SpinCo shall be responsible for any breach of this Agreement that is caused (directly or indirectly) by the performance (or failure to perform) of any of SpinCo's sublicensees.

(b) Parent and its Affiliates shall have the right to grant sublicenses under the Parent License to: (i) have all or part of any Licensed Parent Product made by a Third Party contractor for the use, sale, or offer for sale, marketing, distribution, importation, disposition, and other exploitation by Parent or its Affiliates or (ii) a Purchaser (as defined below) pursuant to Section 9.4(c). Any such sublicense shall be in writing and shall be consistent with and subject to the terms of this Agreement in so far as such terms relate to the Parent License, including Section 6. Parent shall be responsible for any breach of this Agreement that is caused (directly or indirectly) by the performance (or failure to perform) of any of Parent's sublicensees.

2.4 No Implied Licenses. Except as expressly set forth in this Agreement, no licenses, sublicenses or other rights are granted to any Licensed Party (whether implied, by estoppel or otherwise) under this License Agreement and any rights not expressly granted by any Licensing Party hereunder are reserved by such Licensing Party.

3. Intellectual Property.

3.1 Ownership of Improvements. The ownership of any Improvements to the Licensed Parent IP or the Licensed SpinCo IP, or the subject matter described or claimed therein, as applicable, that are created, authored, conceived of, made, or otherwise developed by or on behalf of either Party or any of its Affiliates after the Effective Date (each, an "Intellectual Property Improvement") will be determined in accordance with applicable United States Laws (regardless of where the applicable activities occurred).

3.2 No License to Intellectual Property Improvements. Each Party expressly acknowledges and agrees that no right or license, express or implied, is granted hereunder in or to any Intellectual Property Improvements by either Party as the Licensing Party to the other Party as the Licensed Party. Neither Party shall have any obligation to provide or deliver to the other Party with any Intellectual Property (including any Intellectual Property Improvement) or embodiment thereof. Any decision to apply for a patent or other protection on any Intellectual Property Improvement shall be at the sole discretion and expense of the Party that owns such Intellectual Property Improvement.

3.3 Ownership under the Separation and Distribution Agreement or any other Ancillary Agreements. Notwithstanding any provision of this Agreement to the contrary, ownership of any Intellectual Property under the Separation and Distribution Agreement or any other Ancillary Agreements shall be as described therein.

3.4 Prosecution and Maintenance.

(a) As between the Parties, Parent shall have the sole and exclusive right, but not the obligation, to obtain, prosecute (including carrying out any interferences, reissue proceedings and re-examinations), and maintain throughout the world (whether directly or through its Affiliates, Subsidiaries or Third Party designees), the Licensed Parent IP at its expense.

(b) As between the Parties, SpinCo shall have the sole and exclusive right, but not the obligation, to obtain, prosecute (including carrying out any interferences, reissue proceedings and re-examinations), and maintain throughout the world (whether directly or through its Affiliates, Subsidiaries or Third Party designees), the Licensed SpinCo IP at its expense.

3.5 Notice of Infringement. If a Licensed Party becomes aware of any actual or threatened infringement or violation by any Third Party of the Intellectual Property licensed to the Licensed Party under this Agreement, then the Licensed Party shall notify the Licensing Party of such infringement.

3.6 Enforcement and Defense.

(a) As between the Parties, Parent shall have the sole and exclusive right, but not the obligation, to enforce and defend the Licensed Parent IP (whether directly or through its Affiliates, Subsidiaries or Third Party designees), including the institution of any Action for infringement of the Licensed Parent IP at its sole expense. As between the Parties, Parent shall have the sole and exclusive right to control the prosecution of any such Action it commences (whether directly or through its Affiliates, Subsidiaries or Third Party designees) and shall be entitled to retain any and all damages awarded or paid pursuant to any settlement of such Action.

(b) As between the Parties, SpinCo shall have the sole and exclusive right, but not the obligation, to enforce and defend the Licensed SpinCo IP (whether directly or through its Affiliates, Subsidiaries or Third Party designees), including the institution of any Action for infringement of the Licensed SpinCo IP at its sole expense. As between the Parties, SpinCo shall have the sole and exclusive right to control the prosecution of any such Action it commences (whether directly or through its Affiliates, Subsidiaries or Third Party designees) and shall be entitled to retain any and all damages awarded or paid pursuant to any settlement of such Action.

3.7 Cooperation. Upon the initiating Party's request and at the initiating Party's expense, the other Party agrees to reasonably cooperate with such initiating Party in the prosecution, maintenance and enforcement of Intellectual Property rights licensed under this Agreement.

4. Representations and Warranties; Covenants.

4.1 Representations and Warranties. Each of Parent (on behalf of itself and its Affiliates (as applicable)) and SpinCo (on behalf of itself and its Affiliates (as applicable)) makes the representations and warranties set forth in this Section 4.1 to the other Party as of the Effective Date.

(a) It is duly organized, validly existing, and in good standing under the laws of its jurisdiction of formation. It has full corporate power and authority to execute, deliver, and perform this Agreement, and the execution, delivery and performance by it of this Agreement have been duly authorized by all requisite corporate action.

(b) This Agreement constitutes a valid and legally binding agreement enforceable against it in accordance with its terms (except as the enforceability thereof may be limited by applicable Laws).

4.2 Compliance with Laws. Each Party shall comply, and shall cause its Affiliates and sublicensees to comply, with all applicable Laws in performing its and their obligations and exercising its and their rights pursuant to this Agreement.

4.3 DISCLAIMER. EXCEPT AS MAY BE EXPRESSLY PROVIDED IN SECTION 4 OF THIS AGREEMENT, NEITHER PARTY MAKES, AND EACH PARTY EXPRESSLY DISCLAIMS, UNDER THIS AGREEMENT, ANY REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED AND WHETHER UNDER THIS AGREEMENT OR AT LAW, INCLUDING ANY REPRESENTATION OR WARRANTY (A) OF QUALITY, MERCHANTABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE, VALIDITY OR ENFORCEABILITY, (B) ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR TRADE USAGE OR (C) THAT ANY INTELLECTUAL PROPERTY LICENSED FROM ONE PARTY TO THE OTHER PARTY HEREUNDER MAY BE PRACTICED WITHOUT INFRINGING THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

5. LIMITATION OF LIABILITY. EXCEPT TO THE EXTENT ARISING FROM CLAIMS THAT A LICENSED PARTY HAS PRACTICED ANY INTELLECTUAL PROPERTY LICENSED UNDER THIS AGREEMENT OUTSIDE OF THE SCOPE OF THE LICENSE GRANTED UNDER THIS AGREEMENT TO SUCH LICENSED PARTY OR BREACHES OF SECTION 6 HEREOF, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, INDIRECT, COLLATERAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, LOST PROFITS SUFFERED OR SIMILAR ITEMS (INCLUDING LOSS OF REVENUE, INCOME OR PROFITS, DIMINUTION OF VALUE OR LOSS OF BUSINESS REPUTATION OR OPPORTUNITY), OR DAMAGES CALCULATED ON MULTIPLES OF EARNINGS OR OTHER METRIC APPROACHES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, IN CONNECTION WITH ANY DAMAGES ARISING HEREUNDER.

6. Confidentiality.

6.1 Duty of Confidence**.** Subject to the other provisions of this Section 6, all Confidential Information disclosed by a Party or its Affiliates under this Agreement will be maintained in confidence and otherwise safeguarded by the recipient Party. The recipient Party may only use and disclose the Confidential Information of the other Party for the purposes of this Agreement. Subject to the other provisions of this Section 6, each Party shall hold as confidential such Confidential Information of the other Party or its Affiliates in the same manner and with the same protection as such recipient Party maintains its own confidential information. Except as

expressly provided in this Section 6, a recipient Party may only disclose Confidential Information of the other Party to employees, agents, contractors, consultants and advisers of the recipient Party and its Affiliates to the extent reasonably necessary for the purposes of, and for those matters undertaken pursuant to, this Agreement; provided that such Persons are bound to maintain the confidentiality of the Confidential Information in a manner consistent with the confidentiality provisions of this Agreement.

6.2 Exceptions**.** The obligations under this Section 6 shall not apply to any information to the extent that the recipient Party can demonstrate by competent evidence that such information:

(a) is (at the time of disclosure) or becomes (after the time of disclosure) known to the public or part of the public domain through no breach of this Agreement by the recipient Party or its Affiliates;

(b) was known to, or was otherwise in the possession of, the recipient Party or its Affiliates prior to the time of disclosure by the disclosing Party or any of its Affiliates;

(c) is disclosed to the recipient Party or an Affiliate on a non-confidential basis by a Third Party who is entitled to disclose it without breaching any confidentiality obligation to the disclosing Party or any of its Affiliates; or

(d) is independently developed by or on behalf of the recipient Party or its Affiliates, as evidenced by its written records, without reference to the Confidential Information disclosed by the disclosing Party or its Affiliates under this Agreement.

Specific aspects or details of Confidential Information shall not be deemed to be within the public domain or in the possession of the recipient Party merely because the Confidential Information is embraced by more general information in the public domain or in the possession of the recipient Party. Further, any combination of Confidential Information shall not be considered in the public domain or in the possession of the recipient Party merely because individual elements of such Confidential Information are in the public domain or in the possession of the recipient Party unless the combination and its principles are in the public domain or in the possession of the recipient Party.

6.3 Authorized Disclosures**.** In the event that the recipient Party is required to disclose Confidential Information of the disclosing Party pursuant to applicable Law or in connection with bona fide legal process, such disclosure shall not be a breach of this Agreement; provided that the recipient Party (a) informs the disclosing Party as soon as reasonably practicable of the required disclosure, (b) limits the disclosure to the required purpose, and (c) at the disclosing Party's request and expense, to the extent permitted by applicable Law, assists in an attempt to object to or limit the required disclosure.

7. Residual Knowledge. Notwithstanding anything to the contrary in this Agreement, each Party acknowledges the practical difficulty of policing the use of information in the unaided memory of the other Party or its Affiliates and its and their officers, directors, employees and agents, and as such each Party agrees that the other Party shall not be liable for the use by any of its or its Affiliates' officers, directors, employees or agents of specific Confidential Information of the first Party (or any of the first Party's Affiliates) that is retained in the unaided memory of such officer, director, employee or agent; provided that (a) such officer, director, employee or agent is not aware that such Confidential Information is the Confidential Information of the first Party at the time of such use; (b) the foregoing is not intended to grant, and shall not be deemed to grant, the other Party, its Affiliates or its officers, directors, employees and agents (i) a right to disclose the first Party's Confidential Information, or (ii) a license under any Intellectual Property of the first Party; and (c) such officer, director, employee or agent has not intentionally memorized such Confidential Information for use outside this Agreement.

8. Term and Termination; Remedies.

8.1 Term. The term of this Agreement shall be perpetual, unless earlier terminated in accordance with Section 8.2.

8.2 Termination.

(a) This Agreement may be terminated in its entirety upon the mutual written agreement of the Parties.

(b) Without prejudice to any rights that have accrued under this Agreement or any of its rights and remedies, each Party may terminate this Agreement solely with respect to the rights and licenses granted from such terminating Party by giving ninety (90) calendar days prior written notice to the other Party:

(i) if the other Party commits material breach of any of its obligations under this Agreement and, if that breach is capable of remedy, the other Party has failed to remedy that breach within ninety (90) calendar days after receipt of written notice requiring it to remedy that breach;

(ii) if an Insolvency Event with respect to the other Party has occurred.

8.3 Remedies Cumulative. In the event of a breach of this Agreement by either Party, the non-breaching Party shall be entitled to seek monetary damages or injunctive or other equitable relief in addition to any other rights or remedies it may have under this Agreement.

8.4 Effects of Termination; Survival. In the event that this Agreement is terminated in its entirety, all rights and obligations of either Party under this Agreement shall immediately terminate, including the licenses granted under Section 2 and any sublicenses subsequently granted by SpinCo or Parent, as applicable. Further, the following provisions of this Agreement shall survive any termination (whether in part or in its entirety) of this Agreement Section 5 (*Limitation of Liability*), Section 6 (*Confidentiality*), Section 8.3 (*Remedies Cumulative*), Section 8.4 (*Effects of Termination; Survival*), Section 9 (*Miscellaneous*) and Section 1 (*Definitions*) (to the extent necessary to give effect to the foregoing sections in this sentence).

9. Miscellaneous.

9.1 Interpretation. Unless the context of this Agreement otherwise requires: (a) words in the singular shall be deemed to include the plural and vice versa and words of one gender shall be deemed to include the other genders as the context requires; (b) the terms “hereof,” “herein,” and “herewith” and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement (or the Separation and Distribution Agreement) as a whole (including all of the Schedules, Exhibits and Appendices hereto and thereto) and not to any particular provision of this Agreement (or the Separation and Distribution Agreement); (c) Article, Section, Schedule, Exhibit and Appendix references are to the Articles, Sections, Schedules, Exhibits and Appendices to this Agreement (or, as applicable, or the Separation and Distribution Agreement), unless otherwise specified; (d) unless otherwise stated, all references to any agreement (including this Agreement and the Separation and Distribution Agreement) shall be deemed to include the exhibits, schedules and annexes (including all Schedules, Exhibits and Appendixes) to such agreement; (e) the word “including” and words of similar import when used in this Agreement (or the Separation and Distribution Agreement) shall mean “including, without limitation,” unless otherwise specified; (f) the word “or” shall not be exclusive; (g) unless otherwise specified in a particular case, the word “days” refers to calendar days; (h) references to “business day” shall mean any day other than a

Saturday, a Sunday or a day on which banking institutions are generally authorized or required by law to close in New York, New York; (i) references herein to this Agreement or any other agreement contemplated herein shall be deemed to refer to this Agreement or such other agreement as of the date on which it is executed and as it may be amended, modified or supplemented thereafter, unless otherwise specified; (j) the word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if"; and (k) unless expressly stated to the contrary in this Agreement or the Separation and Distribution Agreement, all references to "the date hereof," "the date of this Agreement," "hereby" and "hereupon" and words of similar import shall all be references to the Effective Date.

9.2 Notices. All notices, requests, claims, demands or other communications under this Agreement and, to the extent applicable, shall be in writing and shall be given or made (and except as provided herein, shall be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service, by certified mail, return receipt requested, or by e-mail, so long as confirmation of receipt of such e-mail is requested and received, to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice addressed as follows:

If to Parent, to:

Zimmer Biomet Holdings, Inc.
345 East Main Street
Warsaw, Indiana 46580
Attention: General Counsel
E-mail: legal.americas@zimmerbiomet.com

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

White & Case LLP
1221 Avenue of the Americas
New York, New York 10020-1095
Attention: Morton A. Pierce, Esq.
Michelle B. Rutta, Esq.
Robert Chung, Esq.
E-mail: morton.pierce@whitecase.com
michelle.rutta@whitecase.com
robert.chung@whitecase.com

If to SpinCo, to:

ZimVie Inc.
10225 Westmoor Dr.,
Westminster, CO 80021
Attention: General Counsel
E-mail: heather.kidwell@zimvie.com

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

White & Case LLP
1221 Avenue of the Americas
New York, New York 10020-1095
Attention: Morton A. Pierce, Esq.
Michelle B. Rutta, Esq.
Robert Chung, Esq.

E-mail: morton.pierce@whitecase.com
michelle.rutta@whitecase.com
robert.chung@whitecase.com

or to such other address or addresses as the Parties may from time to time designate in writing by like notice.

9.3 Amendment; Waiver. No provisions of this Agreement shall be deemed waived, amended, supplemented or modified by a Party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the Party against whom it is sought to enforce such waiver, amendment, supplement or modification.

9.4 Assignability; Change of Control.

(a) The rights, benefits and obligations of each Party under (or relating to) this Agreement (including any licenses or sublicenses granted pursuant to this Agreement) are personal to such Party. A Party may not assign (including in a bankruptcy or similar proceeding) or assume in a bankruptcy or similar proceeding this Agreement or any rights, benefits or obligations under or relating to this Agreement, in each case whether by operation of law or otherwise, without the other Party's prior written consent (which shall not be unreasonably withheld, conditioned, or delayed); provided that a Party may, with notice to the other Party but without the consent of the other Party, assign or transfer its rights and obligations under this Agreement in whole or in part to one or more of its Affiliates; provided that no such assignment by a Party to an Affiliate shall release such Party from its obligations under this Agreement. In the event of a permitted assignment, this Agreement shall be binding upon and inure to the benefit of the Parties and their respective permitted successors and permitted assigns. Any attempted assignment that contravenes the terms of this Agreement shall be void *ab initio* and of no force or effect.

(b) In the event of a Change of Control of either Party (the "Acquired Party") the licenses set forth herein shall survive and shall be enforceable by the acquiring or surviving party, but the definition of "SpinCo Licensed Products" or "Parent Licensed Products" (as the case may be, i.e., SpinCo Licensed Products if SpinCo is the Acquired Party, Parent Licensed Products if Parent is the Acquired Party) shall thereafter be limited, with respect to the Acquired Party (but, for clarity, not the other Party), to only those products which such Acquired Party had made generally commercially available prior to the effective date of the Change of Control ("Existing Products") and Derivative Products of such Existing Products. For the avoidance of doubt: (i) the Existing Products of the Acquired Party (i.e., SpinCo Licensed Products or Parent Licensed Product, as applicable) will not include any products made available by the acquirer or any of its Affiliates prior to the Change in Control or any Derivative Products of such products; (ii) the Intellectual Property of the acquiring party shall not be included in the licensed Intellectual Property of the Acquired Party (i.e., the Licensed SpinCo IP or Licensed Parent IP) and therefore shall not be subject to the Acquired Party's licenses hereunder; and (iii) the definition of SpinCo Licensed Products or Parent Licensed Products, as the case may be, shall continue to apply to Existing Products of the Acquired Party notwithstanding the rebranding of such Existing Product by an acquirer.

(c) From time to time, a Licensed Party may elect to divest a business or product line to a third-party purchaser (the "Purchaser"). In such event, the Licensed Party shall be entitled to grant a limited sublicense to the Purchaser (subject to providing written notice thereof and a copy of the sublicense agreement to the Licensing Party), under all of the license rights granted under this Agreement, for the sole purpose of permitting the Purchaser to make, have made, use, import, sell, offer for sale, lease, dispose of, and otherwise commercialize such Licensed Party's Licensed Products in the form that they existed as of the effective date of such divestiture and any Derivative Products thereof (collectively, the "Divested Licensed Products"); provided that (i) the Licensed Party shall enter into such sublicense with such Purchaser pursuant to a written sublicense agreement requiring the sublicensee to comply with the terms and conditions set forth in this Agreement; (ii) the Purchaser shall be entitled to exercise all of the sublicensed rights under this Agreement solely with respect to the Divested Licensed Products; and (iii) the Purchaser may further exercise the sublicense rights set forth in this Section 9.4(c) (subject to providing written notice to the Licensing Party) only in the event of its subsequent sale of a business or product line that includes the Divested Licensed Products (but no further sublicenses shall be permitted thereafter).

9.5 Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral or written, with respect to such matters, except for (a) the Separation and Distribution Agreement (and the Exhibits, Schedules and Annexes thereto) and (b) the other Ancillary Agreements and any other written agreement of the Parties that expressly provides that it is not superseded by this Agreement. In the event and to the extent that there shall be a conflict between the provisions of this Agreement and the provisions of the Separation and Distribution Agreement, this Agreement shall control with respect to the subject matter hereof, and the Separation and Distribution Agreement shall control with respect to all other matters; provided that any Action relating to the prosecution, maintenance, enforcement and defense of any Intellectual Property licensed under this Agreement, including any Action for infringement against the other Party, shall be considered subject matter under this Agreement, and in the event of conflict between this Agreement and the Separation and Distribution Agreement with respect to such matters, this Agreement shall control.

9.6 Parties in Interest. This Agreement will inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Except as expressly set forth herein, nothing in this Agreement, express or implied, is intended to confer upon any Person other than the Parties or their successors or permitted assigns, any rights or remedies under or by reason of this Agreement.

9.7 Expenses. Except as otherwise expressly provided in this Agreement, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by the Party incurring such costs and expenses.

9.8 Governing Law; Jurisdiction.

(a) This Agreement (and any claims or disputes arising out of or related hereto or to the inducement of any party to enter herein, whether for breach of contract, tortious conduct or otherwise and whether predicated on common law, statute or otherwise) shall be governed by and construed and interpreted in accordance with the Laws of the State of Delaware irrespective of the choice of laws principles of the State of Delaware, including all matters of validity, construction, effect, enforceability, performance and remedies.

(b) Subject to the provisions of Article VII of the Separation and Distribution Agreement, each of the Parties hereby irrevocably and unconditionally submits to the exclusive jurisdiction of the Court of Chancery of the State of Delaware or, if such court shall not have jurisdiction, the United States District Court for the District of Delaware, or if such court shall not have jurisdiction, the other state courts of the State of Delaware, and any appellate court from any appeal thereof, in any Action arising out of or relating to this Agreement or the transactions contemplated hereby, and each of the Parties hereby irrevocably and unconditionally (i) agrees not to commence any such Action except in such courts, (ii) agrees that any claim in respect of any such Action may be heard and determined in the Court of Chancery of the State of Delaware or, to the extent permitted by Law, in such other courts, (iii) waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any such Action in the Court of Chancery of the State of Delaware or such other courts, and (iv) waives, to the fullest extent permitted by Law, the defense of an inconvenient forum to the maintenance of such Action in the Court of Chancery of the State of Delaware or such other courts.

9.9 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the Parties hereto or the parties thereto, respectively, and delivered to the other Party hereto or parties thereto, respectively.

9.10 Headings. The article, section and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

9.11 Severability. Any provision of this Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof or thereof, or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. Upon such determination, the Parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the Parties.

9.12 Rules of Construction. This Agreement shall be deemed to be the joint work product of the Parties and any rule of construction that a document shall be interpreted or construed against a drafter of such document shall not be applicable.

9.13 Specific Performance. Subject to the provisions of Article VII of the Separation and Distribution Agreement, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the Party hereto, who are, or are to be, thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief in respect of their respective rights under this Agreement, in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative. The Parties agree that the remedies at law for any breach or threatened breach, including monetary damages, are inadequate compensation for any loss and that any defense in any action for specific performance that a remedy at law would be adequate is waived. Any requirements for the securing or posting of any bond with such remedy are waived by each of the Parties.

9.14 Rights in Bankruptcy. All rights and licenses granted under or pursuant to this Agreement by Parent and SpinCo, including in Section 2, are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code or analogous provisions of applicable Law outside the United States, licenses of right to “intellectual property” as defined under Section 101 of the U.S. Bankruptcy Code or analogous provisions of applicable law outside the United States. Each Party agrees that the other, as licensee of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the U.S. Bankruptcy Code or any other provisions of applicable Law outside the United States that provide similar protection for such intellectual property.

9.15 Force Majeure. No Party shall be deemed in default of this Agreement for any delay or failure to fulfill any obligation (other than a payment obligation) hereunder so long as and to the extent to which any delay or failure in the fulfillment of such obligation is prevented, frustrated, hindered or delayed as a consequence of circumstances of Force Majeure. In the event of any such excused delay, the time for performance of such obligations (other than a payment obligation) shall be extended for a period equal to the time lost by reason of the delay unless this Agreement has previously been terminated under Section 8.2. A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of any such event, (a) provide written notice to the other Party of the nature and extent of any such Force Majeure condition; and (b) use commercially reasonable efforts to remove any such causes and resume performance under this Agreement as soon as reasonably practicable.

9.16 Further Assurances. SpinCo and Parent hereby covenant and agree, without the necessity of any further consideration, to execute, acknowledge and deliver any and all such other documents and take any such other action as may be reasonably necessary or appropriate to implement this Agreement and carry out the intent and purposes of this Agreement.

9.17 No Agency. Nothing herein contained will be construed to place the Parties in the relationship of partners, principal and agent, or employer and employee. Neither Party will have the power to assume, create or incur liability or any obligation of any kind, express or implied, in the name of or on behalf of the other Party by virtue of this Agreement.

9.18 Affiliate Status. To the extent that a Party is required hereunder to take certain action with respect to entities designated in this Agreement as such Party's Subsidiaries or Affiliates, such obligation shall apply to such entities only during such period of time that such entities are Subsidiaries or Affiliates of such Party. To the extent that this Agreement requires a Subsidiary or an Affiliate of any Party to take or omit to take any action, such agreement and obligation includes the obligation of such Party to cause such Subsidiary or Affiliate to take or omit to take such action.

9.19 Dispute Resolution. Article VII of the Separation and Distribution Agreement is hereby incorporated by reference herein (but for this purpose, only to the extent applicable to this Agreement, and not to the Separation and Distribution Agreement or any other Ancillary Agreement). Parent designates its Vice President, Chief Patent Counsel or their respective designee and SpinCo designates its Senior Patent Counsel or their respective designee for purposes of Section 7.1(a) of the Separation and Distribution Agreement. Each Party may replace its designee upon written notice to the other Party.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

ZIMMER BIOMET HOLDINGS, INC.

By: /s/ Chad F. Phipps
Name: Chad F. Phipps
Title: Senior Vice President, General Counsel and Secretary

ZIMVIE INC.

By: /s/ Vafa Jamali
Name: Vafa Jamali
Title: President and Chief Executive Officer

Exhibit 10.5

STOCKHOLDER AND REGISTRATION RIGHTS AGREEMENT
BY AND BETWEEN
ZIMMER BIOMET HOLDINGS, INC.
AND
ZIMVIE INC.
DATED AS OF MARCH 1, 2022

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STOCKHOLDER AND REGISTRATION RIGHTS AGREEMENT

This STOCKHOLDER AND REGISTRATION RIGHTS AGREEMENT, dated as of March 1, 2022 (this "Agreement"), is by and between Zimmer Biomet Holdings, Inc., a Delaware corporation ("Parent"), and ZimVie Inc., a Delaware corporation ("SpinCo"). Capitalized terms used herein and not otherwise defined shall have the respective meanings assigned to them in Article I.

R E C I T A L S

WHEREAS, Parent currently owns all of the issued and outstanding shares of common stock, par value $0.01 per share, of SpinCo (the "SpinCo Shares");

WHEREAS, the board of directors of Parent has determined that it is appropriate and desirable to distribute 80.3% of the outstanding SpinCo Shares owned by Parent to Parent's shareholders, on a pro rata basis (the "Distribution");

WHEREAS, Parent intends for the Distribution to take place pursuant to a registration statement on a Form 10 (the "Distribution Registration Statement");

WHEREAS, Parent may Sell those SpinCo Shares that are not distributed in the Distribution (such SpinCo Shares, the "Retained Shares") through one or more transactions, including pursuant to one or more transactions registered under the Securities Act;

WHEREAS, SpinCo desires to grant to the Parent Group the Registration Rights for the Retained Shares and other Registrable Securities, subject to the terms and conditions of this Agreement; and

WHEREAS, the Parent Group desires to grant SpinCo a proxy to vote the Retained Shares in proportion to the votes cast by SpinCo's other stockholders, on the terms and subject to the conditions of this Agreement.

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

ARTICLE I

DEFINITIONS

For the purpose of this Agreement, the following terms shall have the following meanings:

"Affiliate" shall have the meaning given to such term in the Separation and Distribution Agreement.

"Agreement" shall have the meaning set forth in the Preamble.

"Ancillary Agreements" shall have the meaning given to such term in the Separation and Distribution Agreement.

"Ancillary Filings" shall have the meaning set forth in Section 2.03(a)(i).

"Applicable Quarter" shall mean the first full financial accounting quarter beginning after the date of the Distribution; provided, that, if such full financial accounting quarter is the quarter ended December 31, then "Applicable Quarter" shall mean the year ended December 31.

"Blackout Notice" shall have the meaning set forth in Section 2.01(d).

"Blackout Period" shall have the meaning set forth in Section 2.01(d).

"Block Trade" means an Underwritten Offering not involving any "road show" which is commonly known as a "block trade."

"Change of Control" shall have the meaning given to such term in the Separation and Distribution Agreement.

"Deadline" shall mean the date that is thirty (30) days after the due date for the Form 10-K or Form 10-Q (as applicable) for the Applicable Quarter; provided, that, if the Deadline pursuant to the foregoing sentence would fall on a date that is not a business day, then the Deadline shall be the next business day.

"Debt" shall mean any indebtedness of any member of the Parent Group, including debt securities, notes, credit facilities, credit agreements and other debt instruments, including, in each case, any amounts due thereunder.

"Demand Registration" shall have the meaning set forth in Section 2.01(a).

"Disadvantageous Condition" shall have the meaning set forth in Section 2.01(d).

"Dispute" shall have the meaning given to such term in the Separation and Distribution Agreement.

"Distribution" shall have the meaning set forth in the Recitals.

"Distribution Date" shall have the meaning given to such term in the Separation and Distribution Agreement.

"Distribution Registration Statement" shall have the meaning set forth in the Recitals.

"Exchange Act" shall mean the U.S. Securities Exchange Act of 1934, as amended, together with the rules and regulations promulgated thereunder.

"Exchange Offer" shall mean an exchange offer of Registrable Securities for outstanding securities of a Holder.

"Governmental Authority" shall have the meaning given to such term in the Separation and Distribution Agreement.

"Group" shall have the meaning given to such term in the Separation and Distribution Agreement.

"Holder" shall mean any member of the Parent Group, so long as such Person holds any Registrable Securities, and any Permitted Transferee, so long as such Person holds any Registrable Securities.

"Indemnifying Party" shall have the meaning set forth in Section 2.07(c).

"Indemnitee" shall have the meaning set forth in Section 2.07(c).

"Initiating Holder" shall have the meaning set forth in Section 2.01(a).

"Law" shall have the meaning given to such term in the Separation and Distribution Agreement.

"Loss" or "Losses" shall have the meaning set forth in Section 2.07(a).

"Offering Confidential Information" shall mean, with respect to a Piggyback Registration, (i) SpinCo's plan to file the relevant Registration Statement and engage in the offering being registered, (ii) any information regarding the offering being registered (including the potential timing, price, number of shares, underwriters or other counterparties, selling stockholders or plan of distribution) and (iii) any other information (including information contained in draft supplements or amendments to

offering materials) provided to any Holders by SpinCo (or by third parties) in connection with a Piggyback Registration; provided, that Offering Confidential Information shall not include information that (x) was or becomes generally available to the public (including as a result of the filing of the relevant Registration Statement) other than as a result of a disclosure by any Holder, (y) was or becomes available to any Holder from a source not bound by any confidentiality agreement with SpinCo or (z) was otherwise in such Holder's possession prior to it being furnished to such Holder by SpinCo or on SpinCo's behalf.

"Parent" shall have the meaning set forth in the Preamble.

"Parent Group" shall have the meaning given to such term in the Separation and Distribution Agreement.

"Participating Banks" means such investment banks that engage in any Security Exchanges with one or more members of the Parent Group.

"Parties" shall mean the parties to this Agreement.

"Permitted Transferee" shall mean any Transferee and any Subsequent Transferee.

"Person" shall mean an individual, a general or limited partnership, a corporation, a trust, a joint venture, an unincorporated organization, a limited liability entity, any other entity and any Governmental Authority.

"Piggyback Registration" shall have the meaning set forth in Section 2.02(a).

"Private Exchange" shall mean a private exchange pursuant to which one or more members of the Parent Group shall Sell some or all of their Registrable Securities to one or more Participating Banks in exchange, directly or indirectly, for any equity interest of Parent or the satisfaction of Debt, in a transaction or series of transactions not required to be registered under the Securities Act.

"Prospectus" shall mean the prospectus included in any Registration Statement, all amendments and supplements to such prospectus (including, for the avoidance of doubt, any Takedown Prospectus Supplement), including post-effective amendments, and all other material incorporated by reference in such prospectus.

"Public Exchange" shall mean a public exchange pursuant to which one or more members of the Parent Group shall Sell some or all of their Registrable Securities to one or more Participating Banks in exchange, directly or indirectly, for any equity interest of Parent or the satisfaction of Debt, in a transaction or series of transactions registered under the Securities Act.

"Registrable Securities" shall mean the Retained Shares and any SpinCo Shares or other securities issued with respect to, in exchange for, or in replacement of such Retained Shares; provided, that the term "Registrable Securities" excludes any security (i) the offering and Sale of which has been effectively registered under the Securities Act and which has been Sold in accordance with a Registration Statement, (ii) that has been Sold by a Holder in a transaction or transactions exempt from the registration and prospectus delivery requirements of the Securities Act under Section 4(1) thereof (including transactions pursuant to Rule 144) such that the further Sale of such securities by the transferee or assignee is not restricted under the Securities Act or (iii) that has been Sold by a Holder in a transaction in which such Holder's rights under this Agreement are not, or cannot be, assigned.

"Registration" shall mean a registration with the SEC of the offer and Sale to the public of any Registrable Securities under a Registration Statement. The terms "Register", "Registered" and "Registering" shall have correlative meanings.

"Registration Expenses" shall mean all expenses incident to the SpinCo Group's performance of or compliance with this Agreement, including all (i) registration, qualification and filing fees, (ii) fees and expenses of compliance with securities or blue sky Laws (including reasonable fees and disbursements of counsel in connection with blue sky qualifications within the United States of any Registrable Securities being registered), (iii) printing expenses, messenger, telephone and delivery expenses, (iv) fees and disbursements of counsel for Parent and SpinCo and customary fees and expenses for independent certified public accountants retained by the SpinCo Group (including the expenses of any comfort letters or costs associated with the delivery by the SpinCo Group members' independent certified public accountants of comfort letters customarily requested by underwriters) and (v) fees and expenses of listing any Registrable Securities on any securities exchange on which the SpinCo Shares are then listed and Financial Industry Regulatory Authority registration and filing fees; but excluding any internal expenses of the SpinCo Group (including all salaries and expenses of employees of members of the SpinCo Group performing legal or accounting duties).

"Registration Period" shall have the meaning set forth in Section 2.01(c).

"Registration Rights" shall mean the rights of the Holders to cause SpinCo to Register Registrable Securities pursuant to Article II.

"Registration Statement" shall mean any registration statement of SpinCo filed with, or to be filed with, the SEC under the rules and regulations promulgated under the Securities Act, including the related Prospectus, amendments and supplements to such registration statement, including post-effective amendments, and all exhibits and all material incorporated by reference into such registration statement. For the avoidance of doubt, it is acknowledged and agreed that such Registration Statement may be on any applicable form, including Form S-1, Form S-3, Form S-3ASR or Form S-4 and may be a Shelf Registration Statement.

"Retained Shares" shall have the meaning set forth in the Recitals.

"Sale" shall mean the direct or indirect transfer, sale, assignment or other disposition of a security. The terms "Sell" and "Sold" shall have correlative meanings.

"SEC" shall mean the U.S. Securities and Exchange Commission.

"Securities Act" shall mean the U.S. Securities Act of 1933, as amended, together with the rules and regulations promulgated thereunder.

"Security Exchanges" shall mean one or more Public Exchanges or Private Exchanges.

"Separation" shall have the meaning given to such term in the Separation and Distribution Agreement.

"Separation and Distribution Agreement" shall mean the Separation and Distribution Agreement by and between Parent and SpinCo in connection with the Separation and the Distribution, as it may be amended, modified or supplemented from time to time.

"Shelf Registration" means a registration pursuant to a Shelf Registration Statement.

"Shelf Registration Statement" shall mean a Registration Statement of SpinCo for an offering of Registrable Securities to be made on a delayed or continuous basis pursuant to Rule 415 under the Securities Act (or similar provisions then in effect).

"SpinCo" shall have the meaning set forth in the Preamble.

"SpinCo Board" shall mean the board of directors of SpinCo.

"SpinCo Group" shall have the meaning given to such term in the Separation and Distribution Agreement.

"SpinCo Public Sale" shall have the meaning set forth in Section 2.02(a).

"SpinCo Shares" shall have the meaning set forth in the Preamble.

"Subsequent Transferee" shall have the meaning set forth in Section 4.05(b).

"Subsidiary" shall have the meaning given to such term in the Separation and Distribution Agreement.

"Takedown Prospectus Supplement" shall have the meaning set forth in Section 2.01(g).

"Takedown Request" shall have the meaning set forth in Section 2.01(g).

"Tax Opinions/Rulings" shall have the meaning given to such term in the Tax Matters Agreement.

"Third Party" shall have the meaning given to such term in the Separation and Distribution Agreement.

"Transferee" shall have the meaning set forth in Section 4.05(b).

"Underwritten Offering" shall mean a Registration in which Registrable Securities are Sold to an underwriter or underwriters on a firm commitment basis for reoffering to the public.

ARTICLE II

REGISTRATION RIGHTS

Section 2.01 Registration.

(a) Any Holder(s) of Registrable Securities (collectively, the "Initiating Holder") shall have the right (including, for the avoidance of doubt, in connection with its rights pursuant to Section 2.05) to request that SpinCo file a Registration Statement on behalf of itself or, in the case of the Parent Group, on behalf of the Participating Banks with the SEC on the appropriate registration form for all or part of the Registrable Securities held by such Initiating Holder, by delivering a written request thereof to SpinCo specifying the number of shares of Registrable Securities such Initiating Holder wishes to Register (a "Demand Registration"). SpinCo shall (i) within five (5) days of the receipt of such request, give written notice of such Demand Registration to all Holders of Registrable Securities, (ii) use its reasonable best efforts to prepare and file the Registration Statement as expeditiously as possible, but in any event within thirty (30) days of such request and (iii) use its reasonable best efforts to cause the Registration Statement to become effective in respect of each Demand Registration in accordance with the intended method of distribution set forth in the written request delivered by the Initiating Holder. SpinCo shall include in such Registration all Registrable Securities with respect to which SpinCo receives, within the ten (10) days immediately following the receipt by the Holder(s) of such notice from SpinCo, a request for inclusion in the Registration from the Holder(s) thereof. Each such request from a Holder of Registrable Securities for inclusion in the Registration shall also specify the aggregate amount of Registrable Securities proposed to be Registered. The Initiating Holder may request that the Registration Statement be on any appropriate form, including Form S-4 in the case of an Exchange Offer or an S-3 in the case of a Shelf Registration Statement, and SpinCo shall effect the Registration on the form so requested.

(b) There shall be no limitation on the number of Demand Registrations pursuant to Section 2.01(a) (including any exercise of rights to Demand Registration transferred pursuant to Section 4.05 and including any exercise of rights to Demand Registration made pursuant to any registration rights agreement entered into pursuant to Section 2.05); provided, however that the Holder(s) may not require SpinCo to effect a Demand Registration within sixty (60) days after the effective date of a previous registration by SpinCo, other than a Shelf Registration, effected pursuant this Section 2.01 (it being understood that the Distribution Registration Statement shall not be treated as a Demand Registration). The Registrable Securities requested to be Registered pursuant to Section 2.01(a) must represent (i) an aggregate offering price of Registrable Securities that is reasonably expected to equal at least $10,000,000 (or its equivalent if the Registrable Securities are to be offered in an Exchange Offer) or (ii) all of the remaining Registrable Securities owned by the requesting Holder and its Affiliates.

(c) SpinCo shall be deemed to have effected a Registration for purposes of this Section 2.01 if the Registration Statement is declared effective by the SEC or becomes effective upon filing with the SEC and remains effective until the earlier of (i) the date when all Registrable Securities thereunder have been Sold and (ii) ninety (90) days from the effective date of the Registration Statement (such period, as applicable, the "Registration Period"). No Registration shall be deemed to have been effective if the conditions to closing specified in the underwriting agreement or dealer manager agreement, if any, entered into in connection with such Registration are not satisfied by reason of a wrongful act, misrepresentation or breach of such applicable underwriting agreement or dealer manager agreement by any member of the SpinCo Group. If during the Registration Period, such Registration is interfered with by any stop order, injunction or other order or requirement of the SEC or other Governmental Authority or the need to update or supplement the Registration Statement, the Registration Period shall be extended on a day-for-day basis for any period in which the Holder(s) is unable to complete an offering as a result of such stop order, injunction or other order or requirement of the SEC or other Governmental Authority or as a result of such need to update or supplement the Registration Statement.

(d) With respect to any Registration Statement or Takedown Prospectus Supplement, whether filed or to be filed pursuant to this Agreement, if SpinCo shall reasonably determine, upon the advice of legal counsel, that maintaining the effectiveness of such Registration Statement or filing an amendment or supplement thereto (or, if no Registration Statement has yet been filed, filing such a Registration Statement), or filing such Takedown Prospectus Supplement, would (i) require the public disclosure of material nonpublic information concerning any transaction or negotiations involving SpinCo or any of its consolidated Subsidiaries that would materially interfere with such transaction or negotiations or (ii) require the public disclosure of material nonpublic information concerning SpinCo or any of its consolidated Subsidiaries that, if disclosed at such time, would be materially adverse to SpinCo (a "Disadvantageous Condition"), SpinCo may, for the shortest period reasonably practicable, and in any event for not more than sixty (60) consecutive days (a "Blackout Period"), notify the Holders whose offers and Sales of Registrable Securities are covered (or to be covered) by such Registration Statement or Takedown Prospectus Supplement that such Registration Statement is unavailable for use (or will not be filed as requested) (such notice, a "Blackout Notice"). Upon the receipt of any Blackout Notice, the Holders shall forthwith discontinue use of the Prospectus or Takedown Prospectus Supplement contained in any effective Registration Statement; provided, that, if at the time of receipt of such Blackout Notice any Holder shall have Sold its Registrable Securities (or have signed a firm commitment underwriting agreement with respect to the purchase of such shares) and the Disadvantageous Condition is not of a nature that would require a post-effective amendment to the Registration Statement or Takedown Prospectus Supplement, then SpinCo shall use its reasonable best efforts to take such action as to eliminate any restriction imposed by federal securities Laws on the timely delivery of such Registrable Securities; provided, further, that, if implementation of such Blackout Period would materially impair the ability of Parent or any member of the Parent Group to Sell its Registrable Securities in accordance with its or their intended method of distribution before the Deadline, then SpinCo may not impose such Blackout Period (and any Blackout Period then in effect shall automatically expire) and SpinCo shall as soon as reasonably possible revise, amend and/or supplement the Registration Statement, as applicable, so that it does not include any misstatement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. When any Disadvantageous Condition as to which a Blackout Notice has been previously delivered shall cease to exist, SpinCo shall promptly notify the Holders and take such actions in respect of such Registration Statement or Takedown Prospectus Supplement as are otherwise required by this Agreement. The Registration Period for any Registration Statement for which SpinCo has given notice of a Blackout Period shall be increased by the length of time of such Blackout Period. SpinCo shall not impose, in any 365-day period, Blackout Periods lasting, in the aggregate, in excess of sixty (60) days. If SpinCo declares a Blackout Period with respect to a Demand Registration for a Registration Statement that has not yet been declared effective or a Takedown Request for which a Takedown Prospectus Supplement has not yet been filed, (i) the Holders may by notice to SpinCo withdraw the related Demand Registration request or Takedown Request, and (ii) the Holders shall not be responsible for any of SpinCo's related Registration Expenses.

(e) If the Initiating Holder so indicates at the time of its request pursuant to Section 2.01(a) or Section 2.01(g), such offering of Registrable Securities shall be in the form of an Underwritten Offering or an Exchange Offer, and SpinCo shall include such information in the written notice to the Holders required under Section 2.01(a). In the event that the Initiating Holder intends to Sell the Registrable Securities by means of an Underwritten Offering or Exchange Offer, the right of any Holder to include Registrable Securities in such Registration shall be conditioned upon such Holder's participation in such Underwritten Offering or Exchange Offer and the inclusion of such Holder's Registrable Securities in the Underwritten Offering or the Exchange Offer to the extent provided herein.

(f) If the managing underwriter or underwriters of a proposed Underwritten Offering of Registrable Securities included in a Registration pursuant to this Section 2.01 inform(s) in writing the Holders participating in such Registration that, in its or their opinion, the number of securities requested to be included in such Registration exceeds the number that can be Sold in such offering without being likely to have an adverse effect on the price, timing or distribution of the securities offered or the market for the securities offered, the number of Registrable Securities to be included in such Registration shall be reduced to the maximum number recommended by the managing underwriter or underwriters and allocated (i) first, Registrable Securities requested by any member of the Parent Group participating in the Underwritten Offering, (ii) second, Registrable Securities requested by all other Holders to be included in the Underwritten Offering on a pro rata basis calculated among the other Holders, including the Initiating Holder (other than any member of the Parent Group), in proportion to the number of Registrable Securities each Holder has requested to be included in such Registration; provided, that if the foregoing would result in a reduction of the Registrable Securities of the Initiating Holder to be included in such Registration, the Initiating Holder may notify SpinCo in writing that the Registration Statement shall be abandoned or withdrawn, in which event SpinCo shall abandon or withdraw such Registration Statement and (iii) third, all other Registrable Securities requested and otherwise eligible to be included in such Underwritten Offering (including Registrable Securities to be sold for the account of the SpinCo) on a pro rata basis calculated based on the number of shares requested to be Registered. In the event the Initiating Holder notifies SpinCo that such Registration Statement shall be abandoned or withdrawn, such Holder shall not be deemed to have requested a Demand Registration pursuant to Section 2.01(a), and SpinCo shall not be deemed to have effected a Demand Registration pursuant to Section 2.01(b) with respect to such abandoned or withdrawn Registration Statement.

(g) With respect to any Demand Registration, the requesting Holders may request that SpinCo effect a Registration of the Registrable Securities under a Shelf Registration, in which event SpinCo shall file, and shall thereafter use its reasonable best efforts to make and keep effective in accordance with Section 2.01(c) (including by filing any post-effective amendments or prospectus supplements as required by law or renewing or refiling upon expiration), a Shelf Registration Statement. Thereafter, SpinCo shall, within five (5) days of the receipt of the written request of Holders for a resale of Registrable Securities (a "Takedown Request"), give written notice of such Takedown Request to all Holders of Registrable Securities included on such Shelf Registration and shall file a prospectus supplement (a "Takedown Prospectus Supplement") to such Shelf Registration Statement under Rule 424 promulgated under the Securities Act with respect to resales of the Registrable Securities pursuant to Holder's intended method of distribution thereof. Each Takedown Request shall specify the Registrable Securities to be registered, their aggregate amount and the intended method or methods of distribution thereof. There shall be no limitations on the number of Underwritten Offerings pursuant to a Shelf Registration. Notwithstanding anything else to the contrary in this Agreement, the requirement to deliver a Takedown Notice and the piggyback rights described in this Section 2.01(g) shall not apply to an Underwritten Offering that constitutes a block trade.

Section 2.02 Piggyback Registrations.

(a) If SpinCo proposes to file a Registration Statement (other than a Shelf Registration) or a Prospectus supplement filed pursuant to a Shelf Registration Statement under the Securities Act with respect to any offering of such securities for its own account (other than (i) a Registration or Takedown Prospectus Supplement under Section 2.01, (ii) a Registration pursuant to a Registration Statement on Form S-8 or Form S-4 or similar form that relates to a transaction subject to Rule 145 under the Securities Act, (iii) in connection with any dividend reinvestment or similar plan, (iv) for the sole purpose of offering securities to another entity or its security holders in connection with the acquisition of assets or securities of such entity or any similar transaction or (v) a Registration in which the only SpinCo Shares being registered are SpinCo Shares issuable upon conversion of debt securities that are also being registered) (a "SpinCo Public Sale")), then, as soon as practicable, but in any event not less than fifteen (15) days prior to the proposed date of filing such Registration Statement, SpinCo shall give written notice of such proposed filing to each Holder, and such notice shall offer such Holders the opportunity to Register under such Registration Statement such number of Registrable Securities as each such Holder may request in writing (a "Piggyback Registration"). Subject to Section 2.02(b) and Section 2.02(c), SpinCo shall use its reasonable best efforts to include in a Registration Statement with respect to a SpinCo Public Sale all Registrable Securities that are requested to be included therein within five (5) business days after the written receipt of any such notice; provided, however, that if, at any time after giving written notice of its intention to Register any securities and prior to the effective date of the Registration Statement filed in connection with such Registration, SpinCo shall determine for any reason not to Register or to delay Registration of the SpinCo Public Sale, SpinCo may, at its election, give written notice of such determination to each such Holder and, thereupon, (x) in the case of a determination not to Register, shall be relieved of its obligation to Register any Registrable Securities in connection with such Registration, without prejudice, however, to the rights of any Holder to request that such Registration be effected as a Demand Registration under Section 2.01 and (y) in the case of a determination to delay Registration, shall be permitted to delay Registering any Registrable Securities for the same period as the delay in Registering such other SpinCo Shares in the SpinCo Public Sale. No Registration effected under this Section 2.02 shall relieve SpinCo of its obligation to effect any Demand Registration under Section 2.01. If the offering pursuant to a Registration Statement pursuant to this Section 2.02 is to be an Underwritten Offering, then each Holder making a request for a Piggyback Registration pursuant to this Section 2.02(a) shall, and SpinCo shall use reasonable best efforts to coordinate arrangements with the underwriters so that each such Holder may, participate in such Underwritten Offering. If the offering pursuant to such Registration Statement is to be on any other basis, then each Holder making a request for a Piggyback Registration pursuant to this Section 2.02(a) shall, and SpinCo shall use reasonable best efforts to coordinate arrangements so that each such Holder may, participate in such offering on such basis. For purposes of clarification, SpinCo's filing of a Shelf Registration Statement shall not be deemed to be a SpinCo Public Sale; provided, however, that any prospectus supplement filed pursuant to a Shelf Registration Statement with respect to an offering of SpinCo Shares for its own account and/or for the account of any other Persons will be a SpinCo Public Sale, unless such offering qualifies for an exemption from the SpinCo Public Sale definition in this Section 2.02(a); provided, further that if SpinCo files a Shelf Registration for its own account and/or for the account of any other Persons, SpinCo agrees that it shall use its reasonable best efforts to include in such Registration Statement such disclosures as may be required by Rule 430B under the Securities Act in order to ensure that the Holders may be added to such Shelf Registration at a later time through the filing of a Prospectus supplement rather than a post-effective amendment.

(b) In the case of any Underwritten Offering, each Holder shall have the right to withdraw such Holder's request for inclusion of its Registrable Securities in such Underwritten Offering pursuant to Section 2.02(a) at any time prior to the execution of an underwriting agreement with respect thereto by giving written notice to SpinCo of such Holder's request to withdraw and, subject to the preceding clause, each Holder shall be permitted to withdraw all or part of such Holder's Registrable Securities from a Piggyback Registration at any time prior to the effective date thereof.

(c) If the managing underwriter or underwriters of any proposed Underwritten Offering of a class of Registrable Securities included in a Piggyback Registration informs SpinCo and each Holder in writing that, in its or their opinion, the number of securities of such class that such Holder and any other Persons intend to include in such offering exceeds the number that can be Sold in such offering without being likely to have an adverse effect on the price, timing or distribution of the securities offered or the market for the securities offered, then the securities to be included in such Registration shall be (i) first, all securities of SpinCo or any other Persons for whom SpinCo is effecting the Underwritten Offering, as the case may be, proposes to Sell; (ii) second, Registrable Securities requested by Parent to be included in such Underwritten Offering; (iii) third, Registrable Securities requested by all other Holders to be included in such Underwritten Offering on a pro rata basis calculated based on the number of shares requested to be registered and (iv) fourth, all other securities requested and otherwise eligible to be included in such Underwritten Offering (including securities to be sold for the account of Parent) on a pro rata basis calculated based on the number of shares requested to be Registered.

(d) In any Underwritten Offering pursuant to Section 2.01 or Section 2.02 that is not a SpinCo Public Sale, Parent, in the event Parent is participating in such Underwritten Offering, or the Holders of a majority of the outstanding Registrable Securities being included in the Underwritten Offering or Exchange Offer, in the event Parent is not participating in such Underwritten Offering or Exchange Offer, shall select the underwriter(s), dealer-manager(s), financial printer, solicitation and/or exchange agent (if any) and Holder's counsel for such Underwritten Offering or Exchange Offer. In any SpinCo Public Sale, SpinCo shall select the underwriter(s), dealer-manager(s), financial printer, solicitation and/or exchange agent (if any) and Parent, in the event Parent is participating in such Underwritten Offering or Exchange Offer, or the Holders of a majority of the outstanding Registrable Securities being included in the SpinCo Public Sale, in the event Parent is not participating in such Underwritten Offering or Exchange Offer, shall select counsel to the Holder(s).

Section 2.03 Registration Procedures.

(a) In connection with SpinCo's Registration obligations under Section 2.01 and Section 2.02, SpinCo shall use its reasonable best efforts to effect such Registration to permit the offer and Sale of such Registrable Securities in accordance with the intended method or methods of distribution thereof as expeditiously as reasonably practicable, and in connection therewith, SpinCo shall, and shall cause the members of the SpinCo Group to:

(i) prepare and file the required Registration Statement or Takedown Prospectus Supplement, including all exhibits and financial statements and, in the case of an Exchange Offer, any document required under Rule 425 or Rule 165 with respect to such Exchange Offer (collectively, the "Ancillary Filings") required under the Securities Act to be filed therewith, and before filing with the SEC a Registration Statement or Prospectus, or any amendments or supplements thereto, (A) furnish to the underwriters or dealer managers, if any, and to the Holders, copies of all documents prepared to be filed, which documents shall be subject to the review and comment of such underwriters or dealer managers and such Holders and their respective counsel, and provide such underwriters or dealer managers, if any, and such Holders and their respective counsel reasonable time to review and comment thereon and (B) not file with the SEC any Registration Statement or Prospectus or amendments or supplements thereto or any Ancillary Filing to which the Holders or the underwriters or dealer managers, if any, shall reasonably object;

(ii) prepare and file with the SEC such amendments and post-effective amendments to such Registration Statement and supplements to the Prospectus and any Ancillary Filing as may be reasonably requested by the participating Holders;

(iii) promptly notify the participating Holders and the managing underwriters or dealer managers, if any, and, if requested, confirm such advice in writing and provide copies of the relevant documents, as soon as reasonably practicable after notice thereof is received by any member of the SpinCo Group (A) when the applicable Registration Statement or any amendment thereto has been filed or becomes effective, the applicable Prospectus or any amendment or supplement to such Prospectus has been filed, or any Ancillary Filing has been filed, (B) of any comments (written or oral) by the SEC or any request (written or oral) by the SEC or any other Governmental Authority for amendments or supplements to such Registration Statement, such Prospectus or any Ancillary Filing, or for any additional information, (C) of the issuance by the SEC of any stop order suspending the effectiveness of such Registration Statement, any order preventing or suspending the use of any preliminary or final Prospectus or any Ancillary Filing, or the initiation or threatening of any proceedings for such purposes, (D) if, at any time, the representations and warranties (written or oral) in any applicable underwriting agreement or dealer manager agreement cease to be true and correct in all material respects and (E) of the receipt by any member of the SpinCo Group of any notification with respect to the suspension of the qualification of the Registrable Securities for offering or Sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose;

(iv) (A) promptly notify each participating Holder and the managing underwriter(s) or dealer manager(s), if any, when SpinCo becomes aware of the occurrence of any event as a result of which the applicable Registration Statement, the Prospectus included in such Registration Statement (as then in effect) or any Ancillary Filing contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements therein (in the case of such Prospectus and any preliminary Prospectus, in light of the circumstances under which they were made) not misleading, or if for any other reason it shall be necessary during such time period to amend or supplement such Registration Statement, Prospectus or any Ancillary Filing in order to comply with the Securities Act, and (B) in either case, as promptly as reasonably practicable thereafter, prepare and file with the SEC, and furnish without charge to each participating Holder and the underwriter(s) or dealer manager(s), if any, an amendment or supplement to such Registration Statement, Prospectus or Ancillary Filing that will correct such statement or omission or effect such compliance;

(v) use its reasonable best efforts to prevent or obtain the withdrawal of any stop order or other order suspending the use of any preliminary or final Prospectus;

(vi) promptly (A) incorporate in a Prospectus supplement or post-effective amendment such information as the managing underwriter(s) or dealer manager(s), if any, and the Holders may reasonably request in order to permit the intended method of distribution with respect to such Registrable Securities and (B) make all required filings of such Prospectus supplement or post-effective amendment as soon as reasonably practicable after being notified of the matters to be incorporated in such Prospectus supplement or post-effective amendment;

(vii) furnish to each participating Holder and each underwriter or dealer manager, if any, without charge, as many conformed copies as such Holder or underwriter or dealer manager may reasonably request of the applicable Registration Statement and any amendment or post-effective amendment thereto, including financial statements and schedules, but excluding all documents and exhibits (A) incorporated therein by reference or (B) that are available via the SEC's EDGAR system;

(viii) deliver to each participating Holder and each underwriter or dealer manager, if any, without charge, as many copies of the applicable Prospectus (including each preliminary Prospectus) and any amendment or supplement thereto as such Holder or underwriter or dealer manager may reasonably request (it being understood that SpinCo consents to the use of such Prospectus or any amendment or supplement thereto by each participating Holder and the underwriter(s) or dealer manager(s), if any, in connection with the offering and Sale of the Registrable Securities covered by such Prospectus or any amendment or supplement thereto) and such other documents as such participating Holder or underwriter or dealer manager may reasonably request in order to facilitate the Sale of the Registrable Securities by such Holder or underwriter or dealer manager;

(ix) on or prior to the date on which the applicable Registration Statement is declared effective or becomes effective, use its reasonable best efforts to register or qualify, and cooperate with each participating Holder, the managing underwriter(s) or dealer manager(s), if any, and their respective counsel, in connection with the registration or qualification of, such Registrable Securities for offer and Sale under the securities or "blue sky" Laws of each state and other jurisdiction of the United States as any participating Holder or managing underwriter(s) or dealer manager(s), if any, or their respective counsel reasonably request, and in any foreign jurisdiction mutually agreeable to SpinCo and the participating Holders, and do any and all other acts or things reasonably necessary or advisable to keep such registration or qualification in effect for so long as such Registration Statement remains in effect and so as to permit the continuance of offers and Sales and dealings in such jurisdictions for so long as may be necessary to complete the distribution of the Registrable Securities covered by the Registration Statement; provided that SpinCo will not be required to qualify generally to do business in any jurisdiction where it is not then so qualified, to take any action which would subject it to taxation or general service of process in any such jurisdiction where it is not then so subject or conform its capitalization or the composition of its assets at the time to the securities or blue sky Laws of any such jurisdiction;

(x) in connection with any Sale of Registrable Securities that will result in such securities no longer being Registrable Securities, cooperate with each participating Holder and the managing underwriter(s) or dealer manager(s), if any, to (A) facilitate the timely preparation and delivery of certificates representing Registrable Securities to be Sold and not bearing any restrictive Securities Act legends and (B) register such Registrable Securities in such denominations and such names as such participating Holder or the underwriter(s) or dealer manager(s), if any, may request at least two (2) business days prior to such Sale of Registrable Securities; provided that SpinCo may satisfy its obligations hereunder without issuing physical stock certificates through the use of the Depository Trust Company's Direct Registration System;

(xi) cooperate and assist in any filings required to be made with the Financial Industry Regulatory Authority and each securities exchange, if any, on which any of SpinCo's securities are then listed or quoted and on each inter-dealer quotation system on which any of SpinCo's securities are then quoted, and in the performance of any due diligence investigation by any underwriter or dealer manager (including any "qualified independent underwriter") that is required to be retained in accordance with the rules and regulations of each such exchange, and use its reasonable best efforts to cause the Registrable Securities covered by the applicable Registration Statement to be registered with or approved by such other Governmental Authorities as may be necessary to enable the seller or sellers thereof or the underwriter(s) or dealer manager(s), if any, to consummate the Sale of such Registrable Securities;

(xii) no later than the effective date of the applicable Registration Statement, provide a CUSIP number for all Registrable Securities and provide the applicable transfer agent with printed certificates for the Registrable Securities which are in a form eligible for deposit with the Depository Trust Company; provided, that SpinCo may satisfy its obligations hereunder without issuing physical stock certificates through the use of the Depository Trust Company's Direct Registration System;

(xiii) obtain for delivery to and addressed to each participating Holder and to the underwriter(s) or dealer manager(s), if any, opinions from outside counsel for SpinCo, in each case dated the effective date of the Registration Statement or, in the event of an Underwritten Offering, the date of the closing under the underwriting agreement or, in the event of an Exchange Offer, the date of the closing under the dealer manager agreement or similar agreement or otherwise, and in each such case in customary form and content for the type of Underwritten Offering or Exchange Offer, as applicable;

(xiv) in the case of an Underwritten Offering or Exchange Offer, obtain for delivery to and addressed to SpinCo and the managing underwriter(s) or dealer manager(s), if any, and, to the extent requested, each participating Holder, a cold comfort letter from SpinCo's independent registered public accounting firm in customary form and content for the type of Underwritten Offering or Exchange Offer, dated the date of execution of the underwriting agreement or dealer manager agreement or, if none, the date of commencement of the Exchange Offer, and brought down to the closing, whether under the underwriting agreement or dealer manager agreement, if applicable, or otherwise;

(xv) in the case of an Exchange Offer that does not involve a dealer manager, provide to each participating Holder such customary written representations and warranties or other covenants or agreements as may be requested by any participating Holder comparable to those that would be included in an underwriting or dealer manager agreement;

(xvi) use its reasonable best efforts to comply with all applicable rules and regulations of the SEC and make generally available to its security holders, as soon as reasonably practicable, but in any event no later than ninety (90) days, after the end of the 12-month period beginning with the first day of SpinCo's first quarter commencing after the effective date of the applicable Registration Statement, an earnings statement satisfying the provisions of Section 11(a) of the Securities Act and covering the period of at least twelve (12) months, but not more than eighteen (18) months, beginning with the first month after the effective date of the Registration Statement;

(xvii) provide and cause to be maintained a transfer agent and registrar for all Registrable Securities covered by the applicable Registration Statement from and after a date not later than the effective date of such Registration Statement;

(xviii) cause all Registrable Securities covered by the applicable Registration Statement to be listed on each securities exchange on which any of SpinCo's securities are then listed or quoted and on each inter-dealer quotation system on which any of SpinCo's securities are then quoted;

(xix) provide (A) each Holder participating in the Registration, (B) the underwriters (which term, for purposes of this Agreement, shall include any Person deemed to be an underwriter within the meaning of Section 2(11) of the Securities Act), if any, of the Registrable Securities to be registered, (C) the Sale or placement agent therefor, if any, (D) the dealer manager therefor, if any, (E) counsel for such Holder, underwriters, agent, or dealer manager and (F) any attorney, accountant or other agent or representative retained by such Holder or any such underwriter or dealer manager, as selected by such Holder, in each case, the opportunity to participate in the preparation of such Registration Statement, each Prospectus included therein or filed with the SEC, and each amendment or supplement thereto; and for a reasonable period prior to the filing of such Registration Statement, upon execution of a customary confidentiality agreement, make available for inspection upon reasonable notice at reasonable times and for reasonable periods, by the parties referred to in clauses (A) through (F) above, all pertinent financial and other records, pertinent corporate and other documents and properties of the SpinCo Group that are available to SpinCo, and cause all of the SpinCo Group's officers, directors and employees and the independent public accountants who have certified its financial statements to make themselves available at reasonable times and for reasonable periods to discuss the business of SpinCo and to supply all information available to SpinCo reasonably requested by any such Person in connection with such Registration Statement as shall be necessary to enable them to exercise their due diligence or other responsibility, subject to the foregoing;

(xx) cause the senior executive officers of SpinCo to participate at reasonable times and for reasonable periods in the customary "road show" presentations that may be reasonably requested by the managing underwriter(s) or dealer manager(s), if any, and otherwise to facilitate, cooperate with, and participate in each proposed offering contemplated herein and customary selling efforts related thereto;

(xxi) comply with all requirements of the Securities Act, Exchange Act and other applicable Laws, rules and regulations, as well as all applicable stock exchange rules; and

(xxii) take all other customary steps reasonably necessary or advisable to effect the Registration and distribution of the Registrable Securities contemplated hereby.

(b) As a condition precedent to any Registration hereunder, SpinCo may require each Holder as to which any Registration is being effected to furnish to SpinCo such information regarding the distribution of such securities and such other information relating to such Holder, its ownership of Registrable Securities and other matters as SpinCo may from time to time reasonably request in writing. Each such Holder agrees to furnish such information to SpinCo and to cooperate with SpinCo as reasonably necessary to enable SpinCo to comply with the provisions of this Agreement.

(c) Each Holder shall, as promptly as reasonably practicable, notify SpinCo, at any time when a Prospectus is required to be delivered (or deemed delivered) under the Securities Act, of the occurrence of an event, of which such Holder has knowledge, relating to such Holder or its Sale of Registrable Securities thereunder requiring the preparation of a supplement or amendment to such Prospectus so that, as thereafter delivered (or deemed delivered) to the purchasers of such Registrable Securities, such Prospectus will not contain an untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they are made, not misleading.

(d) Parent agrees (on behalf of itself and each member of the Parent Group), and any other Holder agrees by acquisition of such Registrable Securities, that, upon receipt of any written notice from SpinCo of the occurrence of any event of the kind described in Section 2.03(a)(iv), such Holder will forthwith discontinue Sales of Registrable Securities pursuant to such Registration Statement until such Holder's receipt of the copies of the supplemented or amended Prospectus contemplated by Section 2.03(a)(iv), or until such Holder is advised in writing by SpinCo that the use of the Prospectus may be resumed, and if so directed by SpinCo, such Holder will deliver to SpinCo, at SpinCo's expense, all copies of the Prospectus covering such Registrable Securities current at the time of receipt of such notice. In the event SpinCo shall give any such notice, the period during which the applicable Registration Statement is required to be maintained effective shall be extended by the number of days during the period from and including the date of the giving of such notice through the date when each seller of Registrable Securities covered by such Registration Statement either receives the copies of the supplemented or amended Prospectus contemplated by Section 2.03(a)(iv) or is advised in writing by SpinCo that the use of the Prospectus may be resumed.

Section 2.04 Underwritten Offerings or Exchange Offers.

(a) If requested by the managing underwriter(s) for any Underwritten Offering or dealer manager(s) for any Exchange Offer that is requested by Holders pursuant to a Demand Registration or Takedown Request under Section 2.01, SpinCo shall enter into an underwriting agreement or dealer manager agreement, as applicable, with such underwriter(s) or dealer manager(s) for such offering, such agreement to be reasonably satisfactory in substance and form to SpinCo and the underwriter(s) or dealer manager(s) and, if Parent Group is a participating Holder, to Parent Group. Such agreement shall contain such representations and warranties by SpinCo and such other terms as are generally prevailing in agreements of that type. Each Holder with Registrable Securities to be included in any Underwritten Offering or Exchange Offer by such underwriter(s) or dealer manager(s) shall enter into such underwriting agreement or dealer manager agreement at the request of SpinCo, which agreement shall contain such reasonable representations and warranties by the Holder and such other reasonable terms as are generally prevailing in agreements of that type.

(b) To the extent requested in writing by the managing underwriter or underwriters of any Underwritten Offering, SpinCo agrees not to, and shall exercise reasonable best efforts to obtain agreements (in the underwriters' customary form) from its directors, executive officers and beneficial owners of five percent (5%) or more of SpinCo Shares not to, directly or indirectly offer, Sell, pledge, contract to Sell (including any short Sale), grant any option to purchase or otherwise Sell any equity securities of SpinCo or enter into any hedging transaction relating to any equity securities of SpinCo during the ninety (90) days beginning on pricing date of such Underwritten Offering (except as part of such Underwritten Offering or any Distribution or pursuant to registrations on Form S-8 or S-4 or any successor forms thereto) unless the managing underwriter or underwriters otherwise agree to a shorter period.

(c) No Holder may participate in any Underwritten Offering or Exchange Offer hereunder unless such Holder (i) agrees to Sell such Holder's securities on the basis provided in any underwriting arrangements or dealer manager agreements approved by SpinCo or other Persons entitled to approve such arrangements and (ii) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements, dealer manager agreements and other documents reasonably required under the terms of such underwriting arrangements or dealer manager agreements or this Agreement.

Section 2.05 Registration Rights Agreement with Participating Banks.

If one or more members of the Parent Group decides to engage in a Security Exchange with one or more Participating Banks, SpinCo shall enter into a registration rights agreement with the Participating Banks in connection with such Security Exchange on terms and conditions consistent with this Agreement (other than the voting provisions contained in Article III hereof) and reasonably satisfactory to SpinCo and the Parent Group.

Section 2.06 Registration Expenses Paid by Parent.

In the case of any Registration of Registrable Securities required pursuant to this Agreement, Parent shall pay all Registration Expenses regardless of whether the Registration Statement becomes effective. Parent shall also pay (a) any fees or disbursements of any Holder, (b) all expenses incurred in connection with the printing, mailing and delivering of copies of any Registration Statement, any Prospectus, any other offering documents and any amendments and supplements thereto to any underwriters and dealers, (c) any underwriting discounts, fees or commissions attributable to the offer and Sale of any Registrable Securities, (d) any fees and expenses of the underwriters or dealer managers, the cost of preparing, printing or producing any agreements among underwriters, underwriting agreements and blue sky or legal investment memoranda, (e) any selling agreements and any other similar documents in connection with the offering, Sale, distribution or delivery of the Registrable Securities or other SpinCo Shares to be Sold, including any fees of counsel for any underwriters in connection with the qualification of the Registrable Securities or other SpinCo Shares to be Sold for offering and Sale or distribution under state securities Laws, any stock transfer taxes, out-of-pocket costs and expenses relating to any investor presentations on any "road show" presentations undertaken in connection with marketing of the Registrable Securities and (f) any fees and expenses of any counsel to the Holder or the underwriters or dealer managers.

Section 2.07 Indemnification.

(a) SpinCo agrees to indemnify, defend and hold harmless, to the full extent permitted by applicable Law, each Holder whose shares are included in a Registration Statement, such Holder's Affiliates and their respective officers, directors, agents, advisors, employees and each Person, if any, who controls (within the meaning of the Securities Act or the Exchange Act) such Holder, from and against any and all losses, claims, damages, liabilities (or actions or proceedings in respect thereof, whether or not such indemnified party is a party thereto) and expenses, joint or several (including reasonable costs of investigation and legal expenses) (each, a "Loss" and collectively, "Losses") arising out of or based upon (i) any untrue or alleged untrue statement of a material fact contained in any Registration Statement under which the offering and Sale of such Registrable Securities was Registered under the Securities Act (including any final or preliminary Prospectus contained therein or any amendment thereof or supplement thereto or any documents incorporated by reference therein), or any

such statement made in any free writing prospectus (as defined in Rule 405 under the Securities Act) that SpinCo has filed or is required to file pursuant to Rule 433(d) of the Securities Act or any Ancillary Filing or (ii) any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein (in the case of a Prospectus, preliminary Prospectus or free writing prospectus, in light of the circumstances under which they were made) not misleading; provided, however that with respect to any untrue statement or omission or alleged untrue statement or omission made in any Prospectus, the indemnity agreement contained in this paragraph shall not apply to the extent that any such liability or Loss results from or arises out of or is based upon any untrue statement or alleged untrue statement or omission or alleged omission made therein in reliance upon and in conformity with written information furnished to SpinCo by or on behalf of the Indemnitee (as hereinafter defined), in either case expressly for use in such Registration Statement, Prospectus, free writing prospectus or Ancillary Filing relating to such Holder's Registrable Securities. This indemnity shall be in addition to any liability SpinCo may otherwise have, including under the Separation and Distribution Agreement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Holder or any indemnified party and shall survive the Sale of such securities by such Holder.

(b) Each participating Holder whose Registrable Securities are included in a Registration Statement agrees (severally and not jointly) to indemnify, defend and hold harmless, to the full extent permitted by applicable Law, SpinCo, its directors, officers, agents, advisors, employees and each Person, if any, who controls (within the meaning of the Securities Act and the Exchange Act) SpinCo from and against any and all Losses arising out of or based upon any untrue or alleged untrue statement or omission or alleged omission made in such Registration Statement, or the Prospectus included therein, in reliance upon and in conformity with information furnished in writing to SpinCo by such Holder or on such Holder's behalf, in either case expressly for use in such Registration Statement, Prospectus, free writing prospectus or Ancillary Filing relating to such Holder's Registrable Securities. This indemnity shall be in addition to any liability the participating Holder may otherwise have, including under the Separation and Distribution Agreement. In no event shall the liability of any participating Holder hereunder be greater in amount than the dollar amount of the net proceeds received by such Holder under the Sale of the Registrable Securities giving rise to such indemnification obligation. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of SpinCo or any indemnified party.

(c) Any claim or action with respect to which a Party (an "Indemnifying Party") may be obligated to provide indemnification to any Person entitled to indemnification hereunder (an "Indemnitee") shall be subject to the procedures and other provisions for indemnification set forth in Sections 4.4 and 4.5 of the Separation and Distribution Agreement.

(d) If for any reason the indemnification provided for in Section 2.07(a) or Section 2.07(b) is unavailable to an Indemnitee or insufficient to hold it harmless as contemplated by Section 2.07(a) or Section 2.07(b), then the Indemnifying Party shall contribute to the amount paid or payable by the Indemnitee as a result of such Loss in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party on the one hand and the Indemnitee on the other hand. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Indemnifying Party or the Indemnitee and the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. For the avoidance of doubt, the establishment of such relative fault, and any disagreements or disputes relating thereto, shall be subject to Section 4.04. Notwithstanding anything in this Section 2.07(d) to the contrary, no Indemnifying Party (other than SpinCo) shall be required pursuant to this Section 2.07(d) to contribute any amount in excess of the amount by which the net proceeds received by such Indemnifying Party from the Sale of Registrable Securities in the offering to which the Losses of the Indemnitees relate (before deducting expenses, if any) exceeds the amount of any damages which such Indemnifying Party has otherwise been required to pay by reason of such untrue statement or omission. The Parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 2.07(d) were determined by pro rata allocation or by any other method of allocation that

does not take account of the equitable considerations referred to in this Section 2.07(d). No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. The amount paid or payable by an Indemnitee hereunder shall be deemed to include, for purposes of this Section 2.07(d), any legal or other expenses reasonably incurred by such Indemnitee in connection with investigating, preparing to defend or defending against or appearing as a third party witness in respect of, or otherwise incurred in connection with, any such loss, claim, damage, expense, liability, action, investigation or proceeding. If indemnification is available under this Section 2.07, the Indemnifying Parties shall indemnify each Indemnitee to the full extent provided in Section 2.07(a) and Section 2.07(b) without regard to the relative fault of said Indemnifying Parties or Indemnitee. Any Holders' obligations to contribute pursuant to this Section 2.07(d) are several and not joint.

Section 2.08 Reporting Requirements; Rule 144.

Until the earlier of (a) the expiration or termination of this Agreement in accordance with its terms and (b) the date upon which there cease to be any Holders of Registrable Securities, SpinCo shall use its reasonable best efforts to be and remain in compliance with the periodic filing requirements imposed under the SEC's rules and regulations, including the Exchange Act, and any other applicable Laws or rules, and thereafter shall timely file such information, documents and reports as the SEC may require or prescribe under Sections 13, 14 and 15(d), as applicable, of the Exchange Act so that SpinCo will qualify for registration on Form S-3 and to enable the Holders to Sell Registrable Securities without registration under the Securities Act consistent with the exemptions from registration under the Securities Act provided by (i) Rule 144 or Regulation S under the Securities Act, as amended from time to time, or (ii) any similar SEC rule or regulation then in effect. From and after the date hereof through such earlier date, SpinCo shall forthwith upon request furnish any Holder (x) a written statement by SpinCo as to whether it has complied with such requirements and, if not, the specifics thereof, (y) a copy of the most recent annual or quarterly report of SpinCo and (z) such other reports and documents filed by SpinCo with the SEC as such Holder may reasonably request in availing itself of an exemption for the offering and Sale of Registrable Securities without registration under the Securities Act.

Section 2.09 Registration Rights Covenant.

SpinCo covenants that it will not, and it will cause the members of the SpinCo Group not to, grant any right of registration under the Securities Act relating to the SpinCo Shares or any of its other securities to any Person other than pursuant to this Agreement, unless the rights so granted to another Person do not limit or restrict the rights of the Holder(s) hereunder. If SpinCo enters into any agreement after the date hereof granting any Person registration rights with respect to any security of SpinCo which agreement contains any material provisions more favorable to such Person than those set forth in this Agreement, SpinCo will notify Parent and will agree to such amendments to this Agreement as may be necessary to provide these rights to Parent, at Parent's election.

ARTICLE III

VOTING RESTRICTIONS; TRANSFERABILITY

Section 3.01 Voting of SpinCo Shares.

(a) From the date of this Agreement and until the date that the Parent Group ceases to own any Retained Shares, Parent shall, and shall cause each member of the Parent Group to (in each case, to the extent that they own any Retained Shares), be present, in person or by proxy, at each and every SpinCo stockholder meeting, and otherwise to cause all Retained Shares owned by them to be counted as present for purposes of establishing a quorum at any such meeting, and to vote or consent on any matter (including waivers of contractual or statutory rights), or cause to be voted or consented on any such matter, all such Retained Shares in proportion to the votes cast by the other holders of SpinCo Shares on such matter.

(b) From the date of this Agreement and until the date that the Parent Group ceases to own any Retained Shares, Parent hereby grants, and shall cause each member of the Parent Group (in each case, to the extent that they own any Retained Shares) to grant, an irrevocable proxy, which shall be deemed coupled with an interest sufficient in Law to support an irrevocable proxy to SpinCo or its designees, to vote, with respect to any matter (including waivers of contractual or statutory rights), all Retained Shares owned by them, in proportion to the votes cast by the other holders of SpinCo Shares on such matter; provided, that (i) such proxy shall automatically be revoked as to a particular Retained Share upon any Sale of such Retained Share from a member of the Parent Group to a Person other than a member of the Parent Group and (ii) nothing in this Section 3.01(b) shall limit or prohibit any such Sale.

(c) Parent acknowledges and agrees (on behalf of itself and each member of the Parent Group) that SpinCo will be irreparably damaged in the event any of the provisions of this Article III are not performed by Parent in accordance with their terms or are otherwise breached. Accordingly, it is agreed that SpinCo shall be entitled to an injunction to prevent breaches of this Article III and to specific enforcement of the provisions of this Article III in any action instituted in any court of the United States or any state having subject matter jurisdiction over such action.

Section 3.02 Transferability. It is the mutual objective of the Parties to provide the Parent Group with the greatest liquidity feasible so as to be able to achieve a clean exit at the highest valuation and with the least disruption to either Parent or SpinCo. Therefore, in light of the foregoing, the Parties have agreed as follows: SpinCo and the SpinCo Board shall not take any action that would interfere with the ability of the Parent Group to Sell the Registrable Securities, whether pursuant to a Registration or otherwise. Without limiting the generality of the foregoing, SpinCo and the SpinCo Board agree (a) not to adopt a shareholder rights plan or similar plan or agreement unless such plan by its terms exempts or, at the time of adoption of such plan SpinCo and the SpinCo Board take action to exempt, any Transferee to whom one or more members of the Parent Group Sells any Registrable Securities (and any Subsequent Transferee to whom such Transferee may Sell Registrable Securities, and similarly to any further Subsequent Transferee); (b) to take all actions necessary to ensure that no state anti-takeover law in any way restricts any Permitted Transferee, in each case from acquiring Registrable Securities pursuant to such Sale or any accumulation of SpinCo Shares or other securities of SpinCo by the Permitted Transferee up to and including an aggregate beneficial ownership of SpinCo Shares and other securities of SpinCo of 19.7%, provided that, these clauses (a) and (b) shall only be applicable for one Permitted Transferee at a time; and (c) to assist, cooperate with and act as necessary or appropriate to facilitate the Parent Group's investigation and implementation of a Sale of Registrable Securities; it being understood that SpinCo and the SpinCo Board shall take no action to interfere with or impede and shall in all respects facilitate as requested any tax-free exchange of the Registrable Securities such as a debt-for-equity or equity-for-equity exchanges, including facilitating the completion of any such transactions by the Deadline and otherwise in accordance with the Tax Opinions/Rulings.

ARTICLE IV

MISCELLANEOUS

Section 4.01 Further Assurances.

In addition to the actions specifically provided for elsewhere in this Agreement, each of the Parties shall cooperate with each other and use (and cause its respective Subsidiaries and Affiliates to use) reasonable best efforts, prior to, on and after the date hereof, to take, or cause to be taken, all actions, and to do, or cause to be done, all things, reasonably necessary, proper or advisable under applicable Laws, regulations and agreements to consummate and make effective the transactions contemplated by this Agreement.

Section 4.02 Term and Termination.

This Agreement shall terminate at such time as there are no Registrable Securities, except for provisions of Section 2.06 and Section 2.07 and all of this Article IV, which shall survive any such termination.

Section 4.03 Counterparts; Entire Agreement; Corporate Power.

(a) This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the Parties hereto or the parties thereto, respectively, and delivered to the other Party.

(b) This Agreement and the Exhibit hereto contain the entire agreement between the Parties with respect to the subject matter hereof, and supersede all previous agreements, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter, and there are no agreements or understandings between the Parties with respect to such subject matter other than those set forth or referred to herein or therein.

(c) Parent represents on behalf of itself and each other member of the Parent Group, and SpinCo represents on behalf of itself and each other member of the SpinCo Group, as follows:

(i) each such Person has the requisite corporate or other power and authority and has taken all corporate or other action necessary in order to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby, and

(ii) this Agreement has been duly executed and delivered by it and constitutes a valid and binding agreement of it enforceable in accordance with the terms hereof.

(d) Each Party acknowledges that it and each other Party may execute this Agreement by facsimile, stamp or mechanical signature, and that delivery of an executed counterpart of a signature page to this Agreement (whether executed by manual, stamp or mechanical signature) by facsimile or by email in portable document format (PDF) shall be effective as delivery of such executed counterpart of this Agreement. Each Party expressly adopts and confirms each such facsimile, stamp or mechanical signature (regardless of whether delivered in person, by mail, by courier, by facsimile or by email in portable document format (PDF)) made in its respective name as if it were a manual signature delivered in person, agrees that it shall not assert that any such signature or delivery is not adequate to bind such Party to the same extent as if it were signed manually and delivered in person.

Section 4.04 Disputes and Governing Law.

(a) Any Dispute shall be resolved in accordance with the procedures set forth in Article VII of the Separation and Distribution Agreement, which shall be the sole and exclusive procedures for the resolution of any such Dispute unless otherwise specified in this Agreement or in Article VII of the Separation and Distribution Agreement.

(b) This Agreement (and any claims or disputes arising out of or related hereto or to the transactions contemplated hereby or to the inducement of any Party to enter herein, whether for breach of contract, tortious conduct or otherwise and whether predicated on common law, statute or otherwise) shall be governed by and construed and interpreted in accordance with the Laws of the State of Delaware, irrespective of the choice of laws principles of the State of Delaware, including all matters of validity, construction, effect, enforceability, performance and remedies.

(c) THE PARTIES EXPRESSLY WAIVE AND FOREGO ANY RIGHT TO TRIAL BY JURY.

Section 4.05 Successors, Assigns and Transferees.

(a) The provisions of this Agreement and the obligations and rights hereunder shall be binding upon, inure to the benefit of and be enforceable by (and against) the Parties and their respective successors and permitted assigns. SpinCo may assign this Agreement at any time in connection with a Sale or acquisition of SpinCo, whether by merger, consolidation, sale of all or substantially all of SpinCo's assets, or similar transaction, without the consent of the Holders; provided that the successor or acquiring Person agrees in writing to assume all of SpinCo's rights and obligations under this Agreement. Parent may assign this Agreement to any member of the Parent Group or at any time in connection with a Sale or acquisition of Parent, whether by merger, consolidation, sale of all or substantially all of Parent's assets, or similar transaction, without the consent of SpinCo.

(b) In connection with the Sale of Registrable Securities, Parent may assign its Registration-related rights and obligations under this Agreement relating to such Registrable Securities to the following transferees in such Sale: (i) a member of the Parent Group to which Registrable Securities are Sold, (ii) one or more Participating Banks to which Registrable Securities are Sold, (iii) any other transferee to which Registrable Securities are Sold, if SpinCo provides prior written consent to the transfer of such Registration-related rights and obligations along with the Sale of Registrable Securities or (iv) any other transferee that acquires at least five percent (5%) of the number of Registrable Securities beneficially owned by Parent immediately following the completion of the Distribution; provided, that in the case of clauses (i), (ii), (iii) or (iv), (x) SpinCo is given written notice prior to or at the time of such Sale stating the name and address of the transferee and identifying the securities with respect to which the Registration-related rights and obligations are being Sold and (y) the transferee executes a counterpart in the form attached hereto as Exhibit A and delivers the same to SpinCo (any such transferee in such Sale, a "Transferee"). In connection with the Sale of Registrable Securities, a Transferee or Subsequent Transferee (as defined below) may assign its Registration-related rights and obligations under this Agreement relating to such Registrable Securities to the following subsequent transferees: (A) an Affiliate of such Transferee to which Registrable Securities are Sold, (B) any subsequent transferee to which Registrable Securities are Sold, if SpinCo provides prior written consent to the transfer of such Registration-related rights and obligations along with the Sale of Registrable Securities or (C) any other subsequent transferee that acquires at least five percent (5%) of the number of Registrable Securities beneficially owned by Parent immediately following the completion of the Distribution; provided, that in the case of clauses (A), (B) or (C), (x) SpinCo is given written notice prior to or at the time of such Sale stating the name and address of the subsequent transferee and identifying the securities with respect to which the Registration-related rights and obligations are being assigned and (y) the subsequent transferee executes a counterpart in the form attached hereto as Exhibit A and delivers the same to SpinCo (any such subsequent transferee, a "Subsequent Transferee").

Section 4.06 Third-Party Beneficiaries.

Except for any Person expressly entitled to indemnification rights under this Agreement, (a) the provisions of this Agreement are solely for the benefit of the Parties hereto and parties thereto, respectively, and are not intended to confer upon any other Person any rights or remedies hereunder, and (b) there are no third-party beneficiaries of this Agreement and this Agreement shall not provide any third Person with any remedy, claim, liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement.

Section 4.07 Notices.

All notices, requests, claims, demands or other communications under this Agreement shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service, by certified mail, return receipt requested, or electronic mail ("e-mail"), so long as confirmation of receipt of such e-mail is requested and received, to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 4.07):

If to Parent, to:

Zimmer Biomet Holdings, Inc.
345 East Main Street
Warsaw, Indiana 46580
Attention: General Counsel
E-mail: legal.americas@zimmerbiomet.com

with a copy to:

White & Case LLP
1221 Avenue of the Americas
New York, New York 10020-1095
Attention: Morton A. Pierce, Esq.
Michelle B. Rutta, Esq.
Robert Chung, Esq.
E-mail: morton.pierce@whitecase.com
michelle.rutta@whitecase.com
robert.chung@whitecase.com

If to SpinCo, to:

ZimVie Inc.
10225 Westmoor Drive
Westminster, Colorado 80021
Attention: General Counsel
E-mail: heather.kidwell@zimvie.com

with a copy to:

White & Case LLP
1221 Avenue of the Americas
New York, New York 10020-1095
Attention: Morton A. Pierce, Esq.
Michelle B. Rutta, Esq.
Robert Chung, Esq.
E-mail: morton.pierce@whitecase.com
michelle.rutta@whitecase.com
robert.chung@whitecase.com

A Party may, by written notice to the other Party, change the address to which any such notices are to be given.

Section 4.08 Severability.

If any provision of this Agreement or the application hereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. Upon such determination, the Parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the Parties.

Section 4.09 Headings.

The article, section and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 4.10 Waiver of Default.

Waiver by a Party of any default by the other Party of any provision of this Agreement must be in writing and shall not be deemed a waiver by the waiving Party of any subsequent or other default, nor shall it prejudice the rights of the other Party. No failure or delay by a Party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall a single or partial exercise thereof prejudice any other or further exercise thereof or the exercise of any other right, power or privilege.

Section 4.11 Amendments.

No provisions of this Agreement shall be deemed waived, amended, supplemented or modified by a Party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the Party against whom it is sought to enforce such waiver, amendment, supplement or modification, or the Holders of a majority of the Registrable Securities, if such waiver, amendment, supplement or modification is sought to be enforced against a Holder.

Section 4.12 Interpretation.

In this Agreement, (a) words in the singular shall be deemed to include the plural and vice versa and words of one gender shall be deemed to include the other genders as the context requires, (b) the terms “hereof,” “herein,” and “herewith” and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole (including all of the Schedules, Exhibits and Appendices hereto) and not to any particular provision of this Agreement, (c) Article, Section, Schedule, Exhibit and Appendix references are to the Articles, Sections, Schedules, Exhibits and Appendices to this Agreement unless otherwise specified, (d) unless otherwise stated, all references to any agreement (including this Agreement, the Separation and Distribution Agreement and each other Ancillary Agreement) shall be deemed to include the exhibits, schedules and annexes to such agreement, (e) the word “including” and words of similar import when used in this Agreement shall mean “including, without limitation,” unless otherwise specified, (f) the word “or” shall not be exclusive, (g) unless otherwise specified in a particular case, the word “days” refers to calendar days, (h) references to “business day” shall mean any day other than a Saturday, a Sunday or a day on which banking institutions are generally authorized or required by law to close in New York, New York, (i) references herein to this Agreement or any other agreement contemplated herein shall be deemed to refer to this Agreement or such other agreement as of the date on which it is executed and as it may be amended, modified or supplemented thereafter, unless otherwise specified; (j) the word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply “if”; and (k) unless expressly stated to the contrary in this Agreement, all references to “the date hereof,” “the date of this Agreement,” “hereby” and “hereupon” and words of similar import shall all be references to March 1, 2022.

Section 4.13 Performance.

Parent shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth in this Agreement to be performed by any member of the Parent Group. SpinCo shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth in this Agreement to be performed by any member of the SpinCo Group. Each Party (including its permitted successors and assigns) further agrees that it shall (a) give timely notice of the terms, conditions and continuing obligations contained in this Agreement to all of the other members of its Group and (b) cause all of the other members of its Group not to take any action or fail to take any such action inconsistent with such Party’s obligations under this Agreement or the transactions contemplated hereby.

Section 4.14 Registrations, Exchanges, etc.

Notwithstanding anything to the contrary that may be contained in this Agreement, the provisions of this Agreement shall apply to the full extent set forth herein with respect to (a) any SpinCo Shares, now or hereafter authorized to be issued, (b) any and all securities of SpinCo into which SpinCo Shares are converted, exchanged or substituted in any recapitalization or other capital reorganization by SpinCo and (c) any and all securities of any kind whatsoever of SpinCo or any successor or permitted assign of SpinCo (whether by merger, consolidation, sale of assets or otherwise) which may be issued on or after the date hereof in respect of, in conversion of, in exchange for or in substitution of, SpinCo Shares, and shall be appropriately adjusted for any stock dividends, or other distributions, stock splits or reverse stock splits, combinations, recapitalizations, mergers, consolidations, exchange offers or other reorganizations occurring after the date hereof.

Section 4.15 Mutual Drafting.

This Agreement shall be deemed to be the joint work product of the Parties, and any rule of construction that a document shall be interpreted or construed against a drafter of such document shall not be applicable.

[The remainder of this page has been left blank intentionally.]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

ZIMMER BIOMET HOLDINGS, INC.

By: /s/ Chad F. Phipps
Name: Chad F. Phipps
Title: Senior Vice President, General Counsel and Secretary

ZIMVIE INC.

By: /s/ Vafa Jamali
Name: Vafa Jamali
Title: President and Chief Executive Officer

[Signature Page to Stockholder and Registration Rights Agreement]

Exhibit 10.6

TRANSITION MANUFACTURING AND SUPPLY AGREEMENT

dated as of March 1, 2022

by and between

ZIMMER, INC.

and

ZIMVIE INC.

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TRANSITION MANUFACTURING AND SUPPLY AGREEMENT

THIS TRANSITION MANUFACTURING AND SUPPLY AGREEMENT (including, except as the context otherwise requires, the Quality Agreement, this "Agreement"), dated as of March 1, 2022 (the "Effective Date"), is by and between Zimmer, Inc., a Delaware corporation ("Producer"), and ZimVie Inc., a Delaware corporation ("Purchaser").

RECITALS

WHEREAS, pursuant to that certain Separation and Distribution Agreement, dated as of the date hereof (the "Separation Agreement"), by and between Zimmer Biomet Holdings, Inc., a Delaware corporation ("Parent"), and Purchaser, Parent will (i) transfer the SpinCo Assets (as defined in the Separation Agreement) to Purchaser or a member of the SpinCo Group (as defined in the Separation Agreement) and (ii) make a distribution, on a pro rata basis, to the holders of Parent Shares on the Record Date of at least 80% of the outstanding SpinCo Shares (the "Distribution"), resulting in Purchaser ceasing to be a wholly owned subsidiary of Parent, as more fully described in the Separation Agreement.

WHEREAS, in connection with the Separation Agreement, Producer and Purchaser or their respective Affiliates have agreed to enter into this Agreement pursuant to which Producer shall manufacture, or cause to be manufactured, for Purchaser the Purchaser Products (as defined below) and supply, or cause to be supplied, for Purchaser the Producer Products (as defined below) for a limited time.

AGREEMENT

In consideration of the mutual undertakings contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Producer and Purchaser agree as follows:

ARTICLE I
DEFINITIONS; RULES OF CONSTRUCTION

1.1 Definitions. Capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to such terms in the Separation Agreement (and any capitalized terms used within those defined terms in the Separation Agreement shall also have the meanings given to such terms in the Separation Agreement if not otherwise defined in this Agreement). As used in this Agreement the following terms shall have the meanings set forth below:

"Act" shall mean the Federal Food, Drug and Cosmetics Act, 21 U.S.C. §§301-397.

"Annual Supplied Product Quantity" shall have the meaning provided in Section 6.2.

"Certificate of Compliance" shall mean a written certification signed by Producer and delivered to Purchaser stating that the applicable Supplied Products were processed in accordance with the agreed upon Specifications.

"Certification Body" shall mean any recognized organization the primary responsibility of which is the assessment of objective evidence regarding the compliance of medical products or medical devices, and their associated safety, effectiveness, manufacture, and quality systems or governance to applicable regulations and recognized standards.

"cGMP" shall mean the then-current good manufacturing practices and/or quality system regulations (QSR) promulgated by the FDA or other corresponding regulations promulgated by any other Medical Regulatory Authority under Law in effect from time to time.

"Contract Year" shall mean (i) the period commencing on the date hereof and ending on December 31, 2022 and (ii) each subsequent calendar year (or portion thereof) until this Agreement is terminated as provided in Article IX.

"Dedicated Equipment" shall mean all equipment used by Producer exclusively for the production of the Purchaser Products, including any equipment identified by the Parties as Dedicated Equipment from time to time.

"Due Date" has the meaning provided in Section 7.2.

"FDA" shall mean the United States Food and Drug Administration, or any successor Governmental Authority.

"Final Net Book Value" has the meaning provided in Section 2.15(c).

"Force Majeure" shall mean, with respect to a Party, an event beyond the reasonable control of such Party (or any Person acting on its behalf), which event (a) does not arise or result from the fault or negligence of such Party (or any Person acting on its behalf) and (b) by its nature would not reasonably have been foreseen by such Party (or such Person), or, if it would reasonably have been foreseen, was unavoidable, and includes acts of God, acts of civil or military authority, embargoes, epidemics, pandemics, war, riots, insurrections, fires, explosions, earthquakes and floods. Notwithstanding the foregoing, the receipt by a Party of an unsolicited takeover offer or other acquisition proposal, even if unforeseen or unavoidable, and such Party's response thereto shall not be deemed an event of Force Majeure.

"Group" shall mean, with respect to a Party, each Person that is a Subsidiary of such Party.

"Indemnifying Party" shall have the meaning provided in Section 10.3.

"Indemnitee" shall mean, with respect to a Party, (i) such Party's Affiliates, (ii) such Party's and its Affiliates' past, present and future directors, officers, employees or agents (in their capacity as such in each case) and (iii) each of the heirs, executors, administrators, successors and assigns of any of the foregoing.

"Indemnity Payment" shall have the meaning provided in Section 10.3.

"Initial Term" shall have the meaning provided in Section 5.1.

"Insolvent Party" shall have the meaning provided in Section 9.2.

"Mark-Up Percentage" shall mean 10%.

"Medical Regulatory Authority" shall mean any Governmental Authority the primary responsibility of which is to review the safety, effectiveness, reliability, manufacture, sale or marketing of medical products or medical devices for compliance with applicable regulatory requirements.

"Minimum Volume" shall have the meaning provided in Section 2.2.

"Non-Complying Products" shall have the meaning provided in Section 8.3.

"Parties" shall mean Producer and Purchaser.

"Permitted Marks" shall mean the trademarks, service marks, trade names, and related trade dress and logos set forth in Exhibit B.

"Producer Intellectual Property" shall have the meaning provided in Section 4.1(b).

"Producer Products" shall mean those Supplied Products that the Parties agree are Producer Products from time to time, including as set forth on Exhibit A.

"Production Cost" shall mean Producer's costs of manufacturing the Supplied Product, as determined and adjusted in accordance with Exhibit A, and as used to determine the Unit Production Cost.

"Production Cost Price Adjustment" shall have the meaning provided in Section 6.2.

"Production Facility" shall have the meaning provided in Section 2.5.

"Purchaser Intellectual Property" shall have the meaning provided in Section 4.1(a).

"Purchaser Intellectual Property" has the meaning provided in Section 4.1(a).

"Purchaser Products" shall mean the Supplied Products that the Parties have not otherwise agreed from time to time are Producer Products.

"Purchaser Supplied Components" shall mean the finished goods, raw materials, components, sub-assemblies and other products and parts indicated as Purchaser Supplied Components on Exhibit A.

"Quality Agreement" shall mean the Quality Agreement executed by the Parties with respect to this Agreement.

"Receiving Site" shall have the meaning provided in Section 9.3.

"Renewal Term" shall have the meaning provided in Section 5.2.

"Restricted Information" shall have the meaning provided in Section 6.5.

"Specifications" with respect to any Supplied Product shall mean the product specifications with respect to such Supplied Product maintained in Producer's or its applicable Affiliate's document management system at the Effective Date, as such specifications may be subsequently changed as provided in Section 2.4.

"Subcontractor Facility" shall have the meaning provided in Section 2.5.

"Supplied Products" shall mean the products (including raw materials, components, sub-assemblies, finished goods and other products and parts) described on Exhibit A and as more fully described in the Specifications for such product(s).

"Technical Support" shall have the meaning provided in Section 9.3.

"Term" shall mean the period commencing on the Effective Date and continuing until the termination or expiration of this Agreement as provided in Section 5.2.

"Territory" shall have the meaning provided in Section 4.2(a).

"Transfer" shall mean any assignment, transfer, sale or other disposition to a Person that is not an Affiliate of the transferor, including any transfer by way of merger or consolidation or otherwise by operation of law.

"Unit Production Cost" of any Supplied Product for each calendar year shall be the amount as determined in accordance with Exhibit A; provided that the Parties may agree in writing to use a different Unit Production Cost if they reasonably determine in good faith that the Unit Production Cost to be used for a given year does not accurately reflect the expected per unit cost to produce such Supplied Product.

"Waste" shall mean all reject or waste materials relating to the manufacturing of the Supplied Products, including chemical wastes, and excess or unusable products or materials.

1.2 Other Terms. Terms defined in other Sections will have the meanings therein provided.

1.3 Rules of Construction. In this Agreement, unless a clear, contrary intention appears, Section 10.16 of the Separation Agreement shall be incorporated by reference herein as though included in this Agreement (but for this purpose, only to the extent applicable to this Agreement, and not to the Separation Agreement). References to Producer or Purchaser shall be deemed to include the respective Affiliates of Producer or Purchaser through whom Producer or Purchaser, as the case may be, are acting in their performance hereunder.

ARTICLE II
MANUFACTURING

2.1 General. During the Term, Producer shall (a) manufacture, or cause to be manufactured, for Purchaser the Purchaser Products and (b) supply, or cause to be supplied, for Purchaser the Producer Products pursuant to the terms of this Agreement.

2.2 Purchase Obligation. During each Contract Year, Purchaser shall purchase from Producer no less than 85% of the Annual Supplied Product Quantity (defined below), with amounts pro-rated for the Contract Year in which this Agreement is expired or terminated (as applicable in each case, the "Minimum Annual Volume"). For purposes of this Section 2.2, a Supplied Product shall be deemed purchased as of the time Producer receives the Firm Order associated with such Supplied Product in accordance herewith.

2.3 Volume Limitation; Capacity; Projects.

(a) Producer shall have no obligation to supply any Supplied Product to Purchaser in monthly volumes exceeding the respective maximum monthly volumes, if any, set forth in Exhibit A with respect to such Supplied Product. Producer shall use commercially reasonable efforts to devote adequate manufacturing capacity to be capable of manufacturing and supplying Supplied Product to Purchaser in accordance with the provisions of this Agreement; provided, however, that Producer shall not be required to purchase any new equipment, install any equipment purchased or requested by Purchaser or add (or, for clarity, allocate or dedicate) any additional manufacturing or storage capacity for the manufacturing and other activities to be carried out by Producer hereunder. Producer shall store materials and finished goods for the production of Supplied Products in a manner and volume consistent with the ordinary course of Producer's business; provided that, to the extent additional storage capacity is needed, such excess may be stored at a Third-Party facility at Purchaser's sole liability, cost, and expense.

(b) Producer will consider written requests by Purchaser to increase the maximum monthly volumes on a case-by-case basis. Subject to the other terms herein, Producer shall use good faith commercially reasonable efforts to cooperate with Purchaser to accommodate increased volume requirements, and Purchaser shall use good faith commercially reasonable efforts to provide adequate lead-time and notice of any material changes that it may expect from time to time in its historic or previously forecasted order quantities. Any such increase shall not in any material respect interrupt or divert resources from Producer's operation of its other businesses. Purchaser shall be fully responsible for all costs and expenses incurred by Producer resulting from any increase in capacity required to satisfy such increased maximum monthly volume, including any costs associated with the write-off of abandoned assets related to the project; provided that the Parties shall first agree to any such costs (or the project that will result in any such costs) prior to Producer incurring such expenses for which Purchaser will be responsible.

2.4 Product Improvements, Line Extensions and Additional Supplied Products. Except as otherwise provided on Schedule 2.4, Producer shall have no obligation, express or implied, to develop or produce replacement products, product line extensions, product improvements or changes (including packaging and labeling), or new or other products in addition to the Supplied Products, nor shall Producer have any responsibility to procure any regulatory approvals required in connection with the development, testing, manufacture, marketing or sale of any such additional products. Notwithstanding the foregoing, within a reasonable period of time (to be determined by the Transition Committee) following receipt by Producer of a written request from Purchaser, Producer shall use commercially reasonable efforts (without unreasonably disrupting or diverting resources from Producer's other ongoing business operations) to develop and produce product improvements or changes and product line extensions as reasonably requested by Purchaser that are required by Law or are necessary to ensure the safety of Supplied Products; provided that all costs and expenses (including with respect to licensing and other regulatory requirements) incurred in connection with any such proposed improvement, change or product line extension shall be paid by Purchaser (including costs of capital equipment and process upgrades and of obsolescence of materials, goods-in-process, and finished goods not suitable for use in the business or operations of Producer or any of its Affiliates to the extent such levels of inventory are consistent with the most recent Forecast); provided further that, if any changes made pursuant to this Section 2.4 are required by Law and such changes apply generally to other products produced by Producer at such Production Facility, then Purchaser shall pay a pro rata amount of the cost of such regulatory changes based upon the proportion of time that such Production Facility is dedicated to the production of Supplied Products relative to the production of such other products similarly affected by the regulatory requirement. The Parties shall enter into an amendment or supplement to this Agreement to reflect any increase in Production Costs resulting from any such replacement products, product line extensions, product improvements or other changes, and any modification to the applicable Specifications resulting from any improvement, change or product line extension implemented as provided in this Section 2.4. With respect to any proposed improvements, changes or product line extensions not required by Law or necessary to ensure the safety of Supplied Products, Producer shall, in good faith, consider the implementation of any such other proposed improvements, changes or product line extensions and cooperate to implement such changes at Purchaser's cost to the extent commercially reasonable and not an unreasonable disruption or diversion of resources from Producer's other ongoing business operations. In addition, at such time or times, if any, as the Parties mutually agree in writing to add additional products to (and make changes to) the Supplied Products to be supplied by Producer pursuant to this Agreement, the Parties shall enter into any amendment or supplement determined to be desirable by the Parties to reflect the terms and conditions, including any modification to the applicable Specifications, mutually agreed upon by the Parties with respect to such additional Supplied Products.

2.5 Production Facilities. The manufacturing operations shall be carried out at the facilities of Producer or its Affiliates in the respective locations set forth on Exhibit A, at such other locations as permitted in accordance with this Section 2.5 (each, a "Production Facility") or at the applicable facilities of one or more permitted Subcontractors (each such Subcontractor facility, a "Subcontractor Facility"). Notwithstanding anything to the contrary contained herein, Producer may (at its cost unless otherwise agreed) move its manufacturing operations from any Production Facility or Subcontractor Facility to another location in its sole discretion; provided that (a) any such new Production Facility or Subcontractor Facility shall manufacture the applicable Supplied Product(s) in conformity with cGMP and the Specifications and (b) to the extent that any such change in location (or the use of any Subcontractor Facility if such Subcontractor Facility is not indicated in Exhibit A for any such Supplied Product) results in an increase in the Production Cost of any Supplied Product, Producer may not charge such increase to Purchaser. In the event of any such change in location, Exhibit A shall be amended appropriately.

2.6 Subcontracting. Producer shall be entitled to hire or engage, or cause to be hired or engaged, any subcontractor or other Third Party (each, a "Subcontractor") to perform any or all of its obligations under this Agreement; provided that (a) such Subcontractor is qualified to provide the subcontracted service, (b) such Subcontractor's performance is in conformity with cGMP, (c) the Subcontractor Facility has all applicable Government Authority clearances and licenses required by Law, (d) such Subcontractor agrees to comply with the obligations of this Agreement as if it were the Producer hereunder for the Supplied Products such Subcontractor provides, and (e) Producer remains primarily responsible for its obligations under this Agreement.

2.7 Purchaser's Responsibilities. In order to facilitate the manufacture of Supplied Products by Producer, Purchaser shall:

(a) Provide to Producer copies of the Specifications pertaining to the Purchaser Products in quantities sufficient to permit Producer to carry out its obligations hereunder.

(b) Provide, at Purchaser's cost and expense, Purchaser Supplied Components to Producer at the Production Facility or Subcontractor Facility, or such other location, in each case as indicated on Exhibit A. Purchaser shall deliver such Purchaser Supplied Components to Producer in quantities and at the times as Producer shall reasonably request and as shall be reasonably required by Producer to plan for and meet the Forecasts provided by Purchaser as provided in Section 2.8. Notwithstanding the foregoing, Purchaser shall be entitled to reasonable advance notice of the quantities of Purchaser Supplied Components required by Producer. All Purchaser Supplied Components delivered to Producer as provided in this Section 2.8 shall conform to the Specifications therefor identified by Producer and Purchaser at the Effective Date or as later agreed in writing between Purchaser and Producer. Title and risk of loss to the Purchaser Supplied Components shall remain with Purchaser, except to the extent any damage, destruction or other loss was directly caused by the gross negligence or willful misconduct of Producer.

(c) Grant Producer and its employees reasonable access to Purchaser's employees as reasonably required to assist Producer in the production of Supplied Products.

2.8 Forecasts and Firm Orders.

(a) With respect to each Supplied Product, at least seven calendar days prior to the beginning of each calendar month during the Term, Purchaser shall give Producer a rolling forecast (each a "Forecast") of the orders Purchaser expects to place with Producer for such Supplied Product for each month during the rolling forecast period specified in Exhibit A, which Forecast shall satisfy all of the requirements of the master scheduling system employed from time to time by Producer. The Forecast for the binding period specified in Exhibit A shall contain specific dates for shipment (and Producer and Purchaser shall cooperate to cause shipments to occur promptly after release at the Production Facility, and in any case in a reasonable manner to avoid unreasonable or undue burden on Producer's other businesses and operations at such Production Facility) and shall be binding on both Producer and Purchaser regarding such Supplied Product to be purchased or supplied by the respective Parties (a "Firm Order"), subject to Section 2.8(b). The quantities of Supplied Products (or any components thereof, if applicable and different from the binding period for Supplied Products generally) for the final month of the applicable binding forecast period subject to a Firm Order may not vary by more than 15% from the forecasted quantities contained in the immediately preceding Forecast for such month prior to its inclusion in a Firm Order. Forecasts relating to each Supplied Product beginning on the date of this Agreement were delivered to Producer by Purchaser at the time of signing this Agreement. Without limiting Section 2.2, minimum per order quantities for each Supplied Product, if any, shall be set forth in Exhibit A.

(b) Each Firm Order shall give rise to a binding obligation of Purchaser to purchase, accept and pay for the quantities of Supplied Products referred to therein. Notwithstanding the foregoing or Section 2.8(a), Producer shall use commercially reasonable efforts to meet Purchaser's requested quantities and shipment dates for increased orders in excess of the permitted amounts if such amounts can be reasonably accommodated (at Purchaser's expense) without unreasonably interrupting, or otherwise diverting resources from, Producer's other businesses. Producer shall be deemed to have accepted and shall be bound by any Firm Order submitted to Producer, as such Firm Order may be changed as provided in the preceding sentence, and Purchaser shall be required to pay for the quantity of Supplied Products included in the applicable Firm Order and available for delivery, as such Firm Order may be modified by Purchaser pursuant to the preceding sentence, if applicable. Purchaser acknowledges that Supplied Products in excess of the quantities set forth in a Firm Order may be realized as a result of Producer's reasonable efforts hereunder, including due to production efficiencies achieved by Producer. Purchaser agrees to purchase and pay for all such excess Supplied Products that are Purchaser Products on the same terms as are applicable to the purchase of all other Supplied Product but shall have no obligation to pay for any such excess Supplied Products that are Producer Products. Firm Orders shall be governed by the terms of this Agreement and in the event of an inconsistency between any other documentation related to a Firm Order and this Agreement, this Agreement shall apply.

(c) At all times during the Term, Producer shall use commercially reasonable efforts to meet the shipment dates set forth in each Firm Order but shall have no obligation to maintain materials necessary to meet any Firm Orders prior to any order becoming a Firm Order. In the event Producer will not be able to fulfill any Firm Order in accordance with the terms herein, Producer shall notify Purchaser in writing promptly upon becoming aware of such inability and in any event at least five calendar days prior to the delivery date required in such Firm Order, and the Parties will discuss alternate delivery dates in good faith with a view to reaching agreement thereto, such agreement not to be unreasonably withheld by either Party.

(d) If, due to its fault or error, Producer fails to deliver Supplied Products in the quantities specified in the applicable Firm Order and Purchaser notifies Producer in reasonable detail that such failure will result in a material negative economic impact on Purchaser's business, Producer shall pay air freight or other extraordinary shipping costs reasonably necessary to deliver delayed Supplied Products to Purchaser or Purchaser's customers.

(e) The Parties shall cooperate in good faith in providing other, longer-range forecasts which shall be useful in budget planning by the Parties, but such longer-range forecasts shall not constitute a commitment by either Party to purchase or supply.

2.9 Obsolescence.

(a) In the event that any Third-Party supplier of any raw materials, components, labeling, packaging or other inventories used by Producer to manufacture any of the Supplied Products shall discontinue production of any such raw material, component, labeling, packaging or other inventories, which discontinuance shall result in Producer incurring any additional costs or expenses, (i) if the discontinued raw materials, components, labeling, packaging or other inventories relate solely to Purchaser Products, Purchaser shall reimburse Producer for all such additional costs and expenses and (ii) if the discontinued raw materials, components, labeling, packaging or other inventories relate to Purchaser Products as well as to other Supplied Products or other products of the Producer, Purchaser shall reimburse Producer for Purchaser's allocable portion of such additional costs and expenses based upon the unit volumes of the affected Supplied Products and other products produced for Producer and its Affiliates, on the one hand, and for Purchaser and its Affiliates, on the other hand. Such costs and expenses shall include all additional direct and indirect internal costs and out-of-pocket expenditures, whether capitalized or expensed, resulting from such discontinuance, including all such additional costs and expenses relating to or arising out of any modification to Producer's procedures or processes, acquisition of property, equipment or other assets, relocation, regulatory compliance, including associated regulatory fees, write-off or disposal of materials (including strategic materials purchases), equipment and other assets rendered unusable by virtue of such discontinuance and all related changes. In addition, Purchaser shall reasonably cooperate with Producer in connection with any strategic materials purchases resulting from or responsive to any such discontinuance.

2.10 Storage and Handling. Producer shall store and handle the Supplied Products in accordance with the Specifications. Raw materials utilized by Producer in connection with the manufacturing, processing and packaging of the Supplied Products shall not be used by Producer beyond the shelf life designated in the Specifications unless otherwise specified in writing by Purchaser. Producer shall handle, control and store, treat or dispose of any Waste generated in performing its obligations under this Agreement.

2.11 Shipments; Title. Producer shall ship each Firm Order Free Carrier (FCA) from applicable Production Facility (or Subcontractor Facility) to Purchaser or Purchaser's designee in accordance with Law. Freight, insurance and loading costs shall be for the account of Purchaser (in each case, for the avoidance of doubt, in addition to the applicable purchase price), except that any increased freight cost resulting from the shipment occurring from a facility other than the Production Facility (or Subcontractor Facility) listed on Exhibit A with respect to any Supplied Product shall be for the account of Producer. Title and the risk of loss, delay or damage in transit

shall be passed to Purchaser upon delivery to Purchaser's or Purchaser's designee's designated carrier; provided that Producer shall be responsible for the loading of the Supplied Products on departure and shall bear the risk of loss incurred in such loading; provided further that if Purchaser fails to send such shipping authorization within 30 calendar days after Producer has notified Purchaser that the Supplied Products are available for pick-up at the applicable facility, Producer shall be entitled to ship and invoice such Supplied Products without any such shipping authorization. Producer shall package the Supplied Product for shipment in accordance with its customary practices therefor, unless otherwise specified in writing by Purchaser, in which event any extra cost incurred by Producer on account of changes requested by Purchaser shall be reimbursed by Purchaser. Producer shall include the following for each shipment of Supplied Product: (i) the Firm Order reference number; (ii) the lot numbers; (iii) the quantity of Supplied Product; and (iv) a Certificate of Compliance with the applicable Specifications. Freight carriers shall be designated by Purchaser in the applicable Firm Order. Purchaser shall procure, at its cost, insurance covering damage or loss to the Supplied Products during shipping.

2.12 Customs. For purposes of exporting Supplied Products out of the applicable country of origin, Purchaser shall be the exporter of record and shall be responsible for complying with all customs requirements and export laws of the applicable jurisdiction(s). For purposes of importing the Supplied Product into the applicable country of destination, Purchaser shall be the importer of record for the Supplied Product and shall be responsible for complying with all customs requirements and import laws of the applicable country.

2.13 Labeling of Supplied Product.

(a) All Purchaser Products supplied hereunder shall be labeled and packaged in accordance with the applicable Specifications. Purchaser shall control the content and type of all product labeling and packaging for Purchaser Products, and shall have the responsibility, at Purchaser's expense, for any changes or supplements thereto, including the expense of securing any approvals required by the FDA or other applicable Medical Regulatory Authorities or Certification Bodies for any such changes or supplements. Producer shall be responsible for obtaining such labels (and any changes or supplements thereto) in accordance with the content specified by Purchaser at Purchaser's sole cost and expense.

(b) All Producer Products supplied hereunder shall be labeled and packaged in accordance with the applicable Specifications. Producer shall control the content and type of all product labeling and packaging for Producer Products, and shall have the responsibility, at Producer's expense, for any changes or supplements thereto, including the expense of securing any approvals required by the FDA or other applicable Medical Regulatory Authorities or Certification Bodies for any such changes or supplements. Producer shall be responsible for obtaining such labels (and any changes or supplements thereto) at Producer's sole cost and expense.

(c) Except where otherwise required by Law or to address an actual or potential safety issue, in which case Purchaser and Producer will use commercially reasonable efforts to implement such change as promptly as practicable, any changes to the labeling and packaging for Purchaser Products shall be communicated to Producer as far in advance as reasonably practicable together with the required documentation specifying the content to be included in the labeling and

packaging. Where a labeling or packaging change is required by Law, Producer shall be obligated to devote comparable priority to implementing such change as it shall devote to other business units of Producer. Where a labeling or packaging change is requested by Purchaser that is not required by Law, Purchaser and Producer will use commercially reasonable efforts to implement such change as promptly as practicable, subject to Producer's discretion to reasonably determine the appropriate resources to be allocated to any such request in order to avoid interruption to the operation of its other businesses. Purchaser shall reimburse Producer for the costs of any change to the labeling or packaging for Purchaser Products, including costs of capital equipment and process upgrades and of obsolescence of any materials or inventory; provided that Purchaser's liability for such reimbursement of materials and inventory shall be limited to levels of inventory that are consistent with the binding portion of the most recent Forecast prior to agreement to make such change.

2.14 Services. Each Party shall cooperate with the other Parties to accomplish the transactions contemplated hereby and shall, at the request of the other Parties, use commercially reasonable efforts to promptly take any and all actions necessary or desirable to effect such transactions; provided, however, that to the extent of any services or projects related to the manufacturing and supply of the Supplied Products (including capacity and yield improvement projects, as well as projects related to product development) in connection with this Agreement that are specified by the applicable Parties in writing from time to time, Purchaser will pay the price in respect of such services in amounts agreed by such Parties from time to time or (if such Parties do otherwise agree to such specific costs for such services or projects) shall bear all direct and indirect costs incurred by Producer in connection with such services or projects, plus the Mark-Up Percentage. Producer shall use commercially reasonable efforts to assist Purchaser with the completion of the projects that such Purchaser and Producer have agreed in writing from time to time to be accomplished in accordance with this Agreement to the extent of the resource commitments and on the timeline that such Purchaser and Producer may agree upon in writing from time to time; provided that, with respect to any projects for which expected resource requirements or expected timelines for performance are not specifically agreed by Purchaser and Producer, Producer's efforts hereunder shall not be required to unreasonably disrupt or unreasonably divert resources from its other business operations, and the Transition Committee (as defined in the Separation Agreement) shall, in good faith, cooperate to determine the appropriate allocation of resources and timeline for such projects and any similar types of projects requested by Producer after the Effective Date. The timing of payments in respect of providing services necessary to comply with this Section 2.14 shall generally occur in a manner consistent with the timing of payments for services that are or were provided under the Transition Services Agreement during its term (such that any project-related payments for costs and expenses incurred by Producer or its Affiliates shall be promptly reimbursed by Purchaser based on monthly invoices, and not deferred until completion of the project or until incorporated into price adjustments to Supplied Products).

2.15 Obligations Regarding Dedicated Equipment.

(a) Producer will use the Dedicated Equipment for the sole purpose of producing Supplied Products for sale to Purchaser as provided in this Agreement. Producer shall be responsible for qualifying the Dedicated Equipment, and for maintaining the Dedicated Equipment consistent with its practices as in effect from time to time with respect to manufacturing equipment serving its other business units.

(b) Purchaser shall reimburse Producer for all out-of-pocket costs and expenses, such as the cost of parts and third-party labor, incurred by Producer in connection with such qualification, maintenance and repairs to the extent that such costs and expenses are not already included in Producer's calculation of the Production Cost; provided that Producer shall provide Purchaser with advance written notice (as soon as reasonably practicable after becoming aware of such requirement of any individual qualification, maintenance or repair that is expected to result in a charge to Purchaser pursuant to this sentence that exceeds US $100,000, it being understood that failure to provide such notice shall not relieve Purchaser of its obligations related thereto except to the extent Purchaser is prejudiced by the failure to provide such notice. Notwithstanding the foregoing, Producer shall (i) be solely responsible for any damage to the Dedicated Equipment caused by Producer's failure to maintain the Dedicated Equipment in material accordance with applicable manufacturer's maintenance specifications and any damage caused by the gross negligence or willful misconduct of Producer or its employees or agents with respect to the Dedicated Equipment, (ii) promptly notify Purchaser of any such damage caused by such action or inaction of Producer or its employees or agents, and (iii) cause any damage for which it is responsible pursuant to clause (i) to be repaired (or if necessary such damaged Dedicated Equipment to be replaced) promptly at Producer's sole cost and expense. Dedicated Equipment shall at all times remain personal property, notwithstanding that such equipment, or any part thereof, may be affixed or attached to real property or any improvements thereon.

(c) Upon termination of this Agreement, Purchaser shall be responsible for paying to Producer the final net book value of the Dedicated Equipment the ("Final Net Book Value"). Within 30 days after the termination of this Agreement, Producer shall send its calculation of the Final Net Book Value to Purchaser. Purchaser will pay or cause its Affiliates to pay all amounts due pursuant to this Section 2.15(c) within 30 days after the date of delivery of the Final Net Book Value calculation. The calculation of the Final Net Book Value will be determined solely by the Producer.

ARTICLE III
RECEIPT AND REJECTION OF PRODUCT

3.1 General. Purchaser shall have the right to reject all or any portion of a shipment of Supplied Products (a) that does not comply in any material respect with any of the covenants and agreements set forth in Section 8.1(a) or 8.1(b); or (b) which due to the fault or error of Producer, are not delivered in material compliance with the timeframes set forth herein and, as a result of such delay, Purchaser, after making reasonable efforts, is unable to use such Supplied Products; provided that Purchaser shall notify Producer within 60 days (with respect to rejections pursuant to clause (a)) or 10 days (with respect to rejections pursuant to clause (b)) after receipt of such shipment if it is rejecting a shipment (or portion thereof). Concurrently with the delivery of a notice of rejection (or as soon as practicable thereafter) of Supplied Product pursuant to Section 3.1, Purchaser shall send to Producer the Non-Complying Product or a representative sample of the Non-Complying Product (or a picture thereof if Producer and Purchaser agree that a picture is sufficient for purposes of the initial review). Producer shall notify Purchaser promptly, but in no event later than 30 days after receipt of a notice of rejection by Purchaser, whether it accepts Purchaser's rejection of such Supplied Products.

3.2 Replacement of Supplied Products. Whether or not Producer accepts Purchaser's rejection of Supplied Products in accordance with Section 3.1, promptly upon receipt of a notice of rejection, unless otherwise specified by Purchaser, Producer shall use commercially reasonable efforts to provide replacement Supplied Product for those rejected by Purchaser in the original shipment. If the Supplied Product rejected by Purchaser from the original shipment ultimately is found to be a Non-Complying Product due to a failure to comply in any material respect with any of the covenants and agreements set forth in Section 8.1(a) or 8.1(b), Purchaser shall be entitled to the remedies specified in Section 8.3. If it is determined subsequently that such Supplied Product was in fact conforming, then Purchaser shall be responsible not only for the purchase price of the allegedly Non-Complying Product (including all transportation charges) but also the purchase price of the replacement Supplied Product together with any special or extraordinary costs or expenses incurred by Producer in the manufacture of the replacement Supplied Product. In the event that Producer bears replacement costs or transportation charges hereunder due to its provision of Non-Complying Products, such costs shall not be incorporated into the calculation of Production Cost.

3.3 Independent Testing. In the event the Producer and Purchaser cannot agree as to whether any shipment of Supplied Product conforms with the Specifications, Producer and Purchaser shall engage a mutually agreed independent testing organization to evaluate the rejected Supplied Product and determine whether or not it is a Non-Complying Product, such determination to be final and binding on the Parties. Costs and expenses of such independent testing organization shall be borne by the Producer, if the Supplied Product is determined to be a Non-Complying Product, or by the Purchaser, if the Supplied Product conforms with the Specifications.

ARTICLE IV
INTELLECTUAL PROPERTY

4.1 Intellectual Property.

(a) All Intellectual Property, together with all materials, data, writings and other property in any form whatsoever, related to the Supplied Products, in each case, owned or controlled by Purchaser and/or its respective Affiliates (including pursuant to the Separation Agreement immediately after the Closing (as defined in the Separation Agreement) or otherwise during the Term), shall remain, between the Parties, owned or controlled by Purchaser (the "Purchaser Intellectual Property"). Purchaser hereby grants to Producer (including, for the avoidance of doubt, Affiliates of Producer and any permitted Subcontractors hereunder) a non-exclusive worldwide license during the Term to use or practice any Purchaser Intellectual Property solely in connection with Producer performing its obligations hereunder (including for clarity, to manufacture or cause to be manufactured the Supplied Products), and Producer hereby grants to Purchaser (including, for the avoidance of doubt, Affiliates of Purchaser) a license to market, distribute and sell Supplied Products (or, to the extent that Supplied Products have historically been used only as a material or component of other Purchaser products, only such products and not the Supplied Product itself as a standalone material or component) supplied to Purchaser hereunder in the ordinary course of Purchaser's business. Producer shall not acquire any other right, title or interest in or to the Purchaser Intellectual Property as a result of this Agreement or its performance hereunder, and Purchaser shall not acquire any other right, title or interest in or to any Producer Intellectual Property as a result of this Agreement or its performance hereunder or of the Purchaser's receipt of Supplied Products hereunder.

(b) All Intellectual Property, together with all materials, data, writings and other property in any form whatsoever, owned or controlled by Producer and/or its respective Affiliates immediately after the Closing (as defined in the Separation Agreement) or otherwise during the Term, shall remain, as between the Parties, owned or controlled by Producer (the "Producer Intellectual Property"). Purchaser shall not acquire any right, title or interest in or to the Producer Intellectual Property as a result of this Agreement, and Purchaser shall not acquire any right, title or interest in or to the Producer Products as a result of this Agreement or its receipt of Producer Products hereunder, except as necessary for the marketing and sale of such Producer Products by Purchaser in its ordinary course of business.

4.2 Trademark License and Permission Grant.

(a) Subject to the terms of this Agreement and limitations listed in Exhibit A, Producer hereby grants to Purchaser a limited, fully paid-up, non-exclusive, non-transferable and non-sublicensable license during the Term to use the Permitted Marks in any country or jurisdiction in which (i) Producer has a registered trademark or other similar rights with respect to the applicable Permitted Mark and (ii) the Purchaser Products were sold or offered for sale as of the Closing Date under the respective trademarks ("Territory") as required for the marketing and sale of the Purchaser Products. Purchaser shall use the Permitted Marks solely in accordance with Producer's trademark usage guidelines and quality control standards issued from time to time. If Producer notifies Purchaser that any use does not so comply, Purchaser shall immediately remedy such non-compliance to the satisfaction of Producer or terminate such use. All uses of the Permitted Marks, and all goodwill associated therewith, shall inure solely to the benefit of Producer.

(b) For clarity, except as permitted by the Transitional Trademark License Agreement, the Purchaser and their divisions and affiliated entities shall not at any time own, use or register, authorize the registration of, or maintain any trademark or domain name consisting of the trademarks licensed under the Transitional Trademark License Agreement.

(c) On the termination or expiration of this Agreement for any reason, all licenses under this Agreement with respect to the Permitted Marks are immediately terminated and no rights under the Permitted Marks shall survive the termination of the Agreement in any way.

(d) On the termination or expiration of a product supply obligation for a product listed on Exhibit A to which a Permitted Mark relates, all licenses under this Agreement with respect to such Permitted Mark is immediately terminated and no rights under such Permitted Mark shall survive the termination of the Agreement in any way.

4.3 Limited Right to Use. Subject to the provisions of Sections 4.1 through 4.2, nothing set forth in this Agreement shall be construed to grant to any Party any title, right or interest in or to any Intellectual Property owned or controlled by any other Party or any of its Affiliates. Except as otherwise expressly set forth in any other Ancillary Agreement (or any other agreement between the Parties), use by Producer of any Purchaser Intellectual Property shall be limited exclusively to its performance of this Agreement. Use by Purchaser of any Producer Products (or any Intellectual Property included therein other than the Purchaser Supplied Components), except to the extent expressly provided in Section 4.2(a) or as necessary for the marketing and sale of the Producer Products in the ordinary course of business, shall be prohibited except with the prior written consent of Producer in each instance.

ARTICLE V
INITIAL TERM AND RENEWAL

5.1 Initial Term. The initial term of this Agreement (the "Initial Term") shall commence on the Effective Date and, subject to each Party's termination rights under Article IX, shall expire at the end of the day on the initial termination date set forth on Exhibit A with respect to each Supplied Product, unless extended as provided in Section 5.2.

5.2 Alternative Sourcing; Renewal. This Agreement may only be extended (each such extension with respect to any Supplied Product, a "Renewal Term," and, collectively with the Initial Term, the "Term") with respect to any Supplied Product if and to the extent expressly set forth on Exhibit A or as otherwise expressly agreed in writing by the Parties. Purchaser shall use commercially reasonable efforts during the Initial Term and any Renewal Term to secure a reasonably satisfactory alternative source of each Supplied Product (whether from a third party or developed internally) as soon as reasonably practicable after the Effective Date.

5.3 Maximum Term. Notwithstanding anything to the contrary herein or in Exhibit A, no Initial Term may extend beyond the second anniversary of the Distribution Date (as defined in the Separation Agreement), and no Renewal Term may extend beyond the third anniversary of the Distribution Date (as defined in the Separation Agreement).

ARTICLE VI
PRICES

6.1 General. The initial unit price for each Supplied Product sold by Producer to Purchaser shall be the Unit Production Cost as agreed upon by Producer and Purchaser (plus the Mark-Up Percentage), subject to the adjustment or additions set forth in Sections 6.2, 6.3 or 6.4. Such prices do not include the charges provided for in Sections 6.3 or 6.4, which shall be additional charges over and above the charges contemplated by this Section 6.1, as adjusted in accordance with Section 6.2.

6.2 Price Adjustments. In connection with Producer's planning and budgeting process, and as part of the required review to determine the following year's Production Cost Price Adjustment, Purchaser shall provide an annual operating plan (including unit volumes for each Supplied Product, by month and by code, based on agreed-upon target yield) with respect to the expected demand for each Supplied Product at each facility subject to this Agreement not later than July 31 of each Contract Year, with such annual operating plan covering the immediately following Contract Year (the "Annual Supplied Product Quantity"). Based on such annual operating plan and using information available for the current year's preliminary and estimated Production Costs, Producer shall provide Purchaser with an updated Unit Production Cost for each Supplied Product for the following Contract Year not later than October 31 of the year in which such annual operating plan is delivered. Purchaser and Producer shall cooperate with each other to review the annual operating plan data and assumptions, as well as the production cost data and estimates, in each case as are used to determine the updated Unit Production Cost, with good faith efforts used to resolve any open questions or issues related thereto in a timely fashion. If Purchaser disagrees with any updated Unit Production Cost, it shall provide written notice to Producer that it disputes such amount within 30 days after receiving notice thereof, and the absence of any such notice of dispute shall be deemed to be agreement with such change; provided that, regardless of any dispute, the amount of the updated Unit Production Cost shall become effective as if the amount had not been disputed until such time as the dispute is finally resolved. Any such increase or decrease in the Unit Production Cost shall take effect as of the first day of the Contract Year immediately following the Purchaser's required delivery of the annual operating plan in accordance with this Section 6.2, with the new price for each Supplied Product to equal the Unit Production Cost of such Supplied Product for such Contract Year, plus the Mark-Up Percentage (such adjustment to price, a "Production Cost Price Adjustment"). Producer shall use commercially reasonable efforts, consistent with its efforts with respect to its other business units, to mitigate any increase in the Unit Production Cost, subject to the limitations contained in this section.

6.3 Taxes. Unless otherwise indicated on Exhibit A, any prices and other charges set forth in Exhibit A do not, and any adjusted prices pursuant to Section 6.2 shall not, include sales, use, excise, occupation, privilege, value-added or similar taxes. Purchaser shall pay, or reimburse Producer for (in each case, for the avoidance of doubt, in addition to the applicable purchase price), the gross amount of any present or future sales, use, excise, occupation, privilege, value-added or other similar tax (excluding any tax on net income, corporate franchise tax or fee or any similar tax or fee) applicable to the sale or furnishing of any Supplied Products to Purchaser. Purchaser shall be responsible for the payment of all duties, tariffs, value-added taxes, and other taxes and charges payable on the exportation or importation of the Supplied Products.

6.4 Pass-Through Expenses. The Parties agree to cooperate and use commercially reasonable efforts to obtain any necessary consents required under any existing Contract with a Third Party to allow Producer to perform its obligations hereunder; provided that Producer and its Affiliates shall not be required to pay any fee or other amount in respect of any such consent. Any costs and expenses incurred by any Party in connection with obtaining any such consent that is required to allow Producer to perform its obligations hereunder shall be borne by Purchaser; provided that no such costs or expenses shall be payable by Purchaser unless approved in advance in writing by Purchaser.

6.5 Audit. In the event of any Production Cost Price Adjustment pursuant to Section 6.2 with respect to any Supplied Product, Purchaser may perform an audit of Producer's records directly associated with such Production Cost Price Adjustment or other increase or credit, if notice of such audit is provided within three months after the Production Cost Price Adjustment or other increase has become effective (or, in the case of quarterly payments or credit based on variance from Unit Production Cost, within three months after notice of such increase or credit is delivered to Purchaser). Purchaser may use independent auditors, who may participate fully in such audit. If an audit is proposed with respect to information which Producer wishes not to

disclose to Purchaser ("Restricted Information"), then on the written demand of Producer, the individuals conducting the audit with respect to Restricted Information will be limited to the independent auditors of Purchaser. Such independent auditors shall enter into an agreement with the Parties under which such independent auditors shall agree to maintain the confidentiality of the information obtained during the course of such audit (including an agreement to not share such information with Purchaser) and establishing what information such auditors will be permitted to disclose to report the results of any audit of Restricted Information to the Party requesting the audit. Any such audit shall be conducted during regular business hours and in a manner that does not interfere unreasonably with Producer's operations. Each audit shall begin upon the date specified in a Notice given by Purchaser to Producer a minimum of 30 days prior to the commencement of the audit; provided that, if the date so specified shall conflict with a regulatory inspection or audit, plant shutdown or other similar event, the Parties shall cooperate to establish a mutually agreeable commencement date. Such audit shall be performed diligently and in good faith and shall be completed within 30 days of the commencement thereof; provided that, to the extent that Purchaser's compliance with such timeframe for completion is not feasible due to Producer's failure to provide timely access to documentation reasonably requested by Purchaser in connection with such audit, such 30-day period shall be extended as reasonably necessary. Any undisputed overpayment or underpayment of amounts due under this Agreement determined by this Section 6.5 shall be due and payable to the other Party by the Party owing such amount within 30 days after notice of such audit finding. Purchaser shall bear the full cost of such audit unless in the event that any audit performed hereunder results in a decrease of 10% or more in any amount due Producer hereunder, then Producer shall be obligated to pay the out-of-pocket audit costs paid to any Third Party auditor engaged to conduct such audit up to a maximum amount of the lesser of the amount of such adjustment and $100,000; provided that any such Third Party auditor's fees shall have been on an hourly or flat fee basis without a contingency or other performance or bonus fee. In the event Producer bears any audit costs hereunder, such costs shall not be incorporated into the calculations for the Production Cost.

ARTICLE VII
INVOICING AND PAYMENTS

7.1 Invoicing. Producer will submit or cause to be submitted to Purchaser for payment invoices of amounts due under this Agreement. At Producer's option, separate invoices may be submitted (on different periodic schedules) by its separate divisions or Affiliates or with respect to individual Production Facilities, or Producer may combine the invoices of one or more of such divisions, Affiliates or Production Facilities. The invoices will specify the Supplied Products provided and will contain or be followed by such other supporting detail as Purchaser may from time to time reasonably request. Within 30 days of the final date of delivery of Supplied Products by Producer hereunder, Producer shall submit a final invoice to Purchaser, which shall include the cost of any raw materials or work in progress related to the Supplied Products and which shall be subject to the payment terms set forth herein.

7.2 Payment. Purchaser will pay or cause its Affiliates receiving the Supplied Products to pay all amounts due pursuant to this Agreement within 30 days after the date of delivery of each such payment invoice of amounts due hereunder (the "Due Date").

7.3 Overdue Payments. If any amounts due hereunder have not been received by the Due Date, such overdue amounts shall bear interest from the Due Date at the rate of 5% per year (or the highest amount permitted by Law, if lower), or portion thereof, until received. Such interest shall be calculated on the basis of the actual number of days elapsed from the Due Date up to and including the actual date of payment, without compounding.

7.4 Applicable Currency. All invoices issued pursuant to this Agreement shall be expressed in terms of, and payments made pursuant to this Agreement shall be made in, U.S. dollars (USD).

7.5 No Acknowledgement. Neither payments made by Purchaser nor the acceptance of payments by Producer in an amount less than the amount shown on any invoice from Producer shall be construed as an acceptance or agreement with the amount so stated or the amount received. Either Party may recover from the other the amount of any overpayment or underpayment. Without limiting the generality of the foregoing, Producer may supplement any invoice it renders to Purchaser hereunder for less than the full amount to which it is entitled.

ARTICLE VIII
WARRANTIES; REMEDIES; LIMITATION ON LIABILITY

8.1 Producer Warranties.

(a) Producer covenants and agrees that each Supplied Product delivered to Purchaser hereunder will at the time of delivery (i) materially conform with the Specifications applicable to such Supplied Product (except to the extent any Purchaser Supplied Components result in such Supplied Product not conforming with Specifications) and (ii) have been manufactured, processed, labeled, packaged, stored and held in material compliance with cGMP and in accordance with the Quality Agreement.

(b) Producer covenants and agrees that (i) all equipment, tooling and molds utilized in the manufacture and supply of Supplied Products hereunder by Producer, during the Term, be maintained in good operating condition and shall be maintained and operated in material accordance with all applicable Laws, including cGMPs and (ii) Producer shall perform all of its obligations under this Agreement in material compliance with all applicable Laws. Producer covenants and agrees that it shall hold during the Term all material licenses, permits and similar authorizations required by any Governmental Authority for Producer to perform its obligations under this Agreement.

(c) Producer represents and warrants that it (i) is duly organized, validly existing and in good standing under the laws of its applicable jurisdiction of organization, (ii) has power and authority necessary to conduct its business as currently being conducted and as contemplated herein, (iii) has power and authority to make, deliver and perform its obligations under this Agreement and has taken all necessary action to authorize the execution, delivery and performance of this Agreement, (iv) has duly executed and delivered this Agreement, and such Agreement constitutes the legal, valid and binding obligation of it and is enforceable in accordance with its terms and does not require the consent of, authorization of, filing with or other act by or in respect of, any Governmental Authority or any other Person in connection with the execution, delivery, performance, validity or enforceability of this Agreement.

8.2 Disclaimer. The covenants, agreements, representations and warranties of Producer and Purchaser set forth in this Article VIII shall be continuing and shall be binding upon each of them and their successors and assigns and shall inure to the benefit of the other Parties and their successors and assigns. The covenants, agreements, representations and warranties provided by this Article VIII shall not apply to any defect or non-conformity with Specifications caused by the abuse, alteration or modification of the Supplied Products by the Purchaser or any Third Party. THE COVENANTS, AGREEMENTS, REPRESENTATIONS AND WARRANTIES EXPRESSLY AND SPECIFICALLY PROVIDED BY PRODUCER AND ITS AFFILIATES IN THIS AGREEMENT ARE THE SOLE COVENANTS, AGREEMENTS, REPRESENTATIONS AND WARRANTIES OF PRODUCER AND ITS AFFILIATES WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT. NO OTHER COVENANTS, AGREEMENTS, REPRESENTATIONS OR WARRANTIES ARE PROVIDED WITH RESPECT TO THE SUPPLIED PRODUCTS AND THE COVENANTS, AGREEMENTS, REPRESENTATIONS AND WARRANTIES EXPRESSLY AND SPECIFICALLY MADE IN THIS AGREEMENT ARE MADE IN LIEU OF ANY AND ALL OTHER COVENANTS, AGREEMENTS, WARRANTIES, REPRESENTATIONS AND GUARANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES AS TO QUALITY, PERFORMANCE, MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE; PROVIDED, HOWEVER, THAT THE LIMITATIONS SET FORTH IN THIS SECTION 8.2 SHALL NOT NEGATE OR OTHERWISE AFFECT ANY COVENANT, AGREEMENT, REPRESENTATION OR WARRANTY THAT ANY PARTY MAY HAVE EXPRESSLY AND SPECIFICALLY MADE UNDER THE SEPARATION AGREEMENT OR ANY OTHER ANCILLARY AGREEMENT.

8.3 Remedy For Breach. In the event of any failure to comply with Sections 8.1(a) or 8.1(b) (any Supplied Products provided in breach of such Sections, "Non-Complying Products"), the sole and exclusive remedy (subject to Section 12.1, if applicable) of Purchaser or any other Indemnitee shall be to, at Purchaser's option, either (a) require Producer to, at its option, promptly repair or replace the Non-Complying Products with Supplied Products that comply with such warranties at no additional cost to Purchaser (in which case Producer shall bear the cost of all associated transportation and/or disposal charges) or (b) receive a full credit for the purchase price of all Non-Complying Products against current invoices payable by Purchaser to Producer under this Agreement (if no invoices are currently payable by Purchaser to Producer, Producer promptly shall issue a refund to Purchaser of the amount of any such credit by wire transfer of immediately available funds to a bank account as specified by Purchaser). Notwithstanding anything to the contrary in this Agreement (including any limitations on liability), Producer shall also be obligated for all transportation and disposal costs associated with any Non-Complying Products; provided that obligations in respect of recalls, withdrawals or field corrections of any Purchaser Supplied Components shall continue to be limited as set forth in Section 12.1 and this Section 8.3 shall in no way be deemed to increase the liability of Producer, its Affiliates or any Indemnifying Party with respect to the matters described in Section 12.1.

8.4 Limitation on Liability. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT WILL (A) ANY PARTY OR ANY OTHER INDEMNIFYING PARTY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, COLLATERAL, CONSEQUENTIAL, EXEMPLARY, REMOTE, SPECULATIVE, PUNITIVE OR SIMILAR DAMAGES OR LOST PROFITS SUFFERED BY AN INDEMNITEE, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, IN CONNECTION WITH ANY DAMAGES ARISING HEREUNDER AND (B) PRODUCER'S TOTAL LIABILITY ARISING UNDER THIS AGREEMENT EXCEED, ON A PRODUCT-BY-PRODUCT BASIS, THE TOTAL PRICE PAID BY OR ON BEHALF OF PURCHASER TO PRODUCER OR ITS AFFILIATES IN THE IMMEDIATELY PRECEDING 12 MONTHS FOR SUCH SUPPLIED PRODUCT HEREUNDER; PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION 8.4 SHALL LIMIT OR EXCLUDE ANY DAMAGES OR CLAIMS TO THE EXTENT ARISING OUT OF A BREACH OF SECTION 15.1 OF THIS AGREEMENT.

8.5 Purchaser Warranties.

(a) Purchaser covenants and agrees that the Purchaser Supplied Components, as furnished to Producer under this Agreement, shall be used, handled or stored in material accordance with the Specifications, all applicable Laws, and the Quality Agreement and shall materially conform to the applicable specifications for such Purchaser Supplied Components.

(b) Purchaser covenants and agrees that the use of any Purchaser Supplied Components or Purchaser Intellectual property by Producer in completing its obligations hereunder will materially comply with all applicable Laws and will not (excluding any Producer Products) infringe or otherwise violate the Intellectual Property of any Person.

(c) Purchaser represents and warrants that it (i) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, (ii) has power and authority necessary to conduct its business as currently being conducted and as contemplated herein, (iii) has power and authority to make, deliver and perform its obligations under this Agreement and has taken all necessary action to authorize the execution, delivery and performance of this Agreement, (iv) has duly executed and delivered this Agreement, and such Agreement constitutes the legal, valid and binding obligation of it and is enforceable in accordance with its terms and does not require the consent of, authorization of, filing with or other act by or in respect of, any Governmental Authority or any other Person in connection with the execution, delivery, performance, validity or enforceability of this Agreement.

ARTICLE IX
TERMINATION

9.1 Normal Termination of Agreement. This Agreement shall terminate when the Initial Term and any other Renewal Terms for each Supplied Product covered thereby shall have expired without renewal.

9.2 Other Terminations; Consequences of Termination

(a) In the event that either Party (the "Insolvent Party"): (i) becomes insolvent, or institutes or has instituted against it a petition for bankruptcy or is adjudicated bankrupt, (ii) executes a bill of sale, deed of trust, or a general assignment for the benefit of creditors, (iii) is dissolved or transfers a substantial portion of its assets to a Third Party or (iv) has a receiver appointed for the benefit of its creditors, or has a receiver appointed on account of insolvency, then the Insolvent Party shall immediately notify the other of such event and such other Party shall be entitled to: (A) terminate this Agreement for cause immediately upon written notice to the Insolvent Party or (B) request that the Insolvent Party or its successor provide adequate assurances of continued and future performance in form and substance acceptable to such other Party, which shall be provided by the Insolvent Party within 10 calendar days of such request, and the other Party may terminate this Agreement for cause immediately upon written notice to the Insolvent Party in the event that the Insolvent Party fails to provide such assurances acceptable to the other Party within such 10-day period.

(b) Either Party may terminate this Agreement for cause immediately upon written notice to the other in the event that such other Party fails to perform or comply with any material obligation or requirement under this Agreement, through no fault of the Party initiating such termination, that remains uncured for 30 calendar days following written notice to such Party of such breach.

(c) Producer may terminate this Agreement (i) at any time upon 30 days' written notice to Purchaser if Purchaser fails to purchase the Minimum Annual Volume or (ii) without cause at any time with at least 6 months' written notice to Purchaser; provided that no such termination pursuant to this Section 9.2(c)(ii) shall be effective prior to the second anniversary of the date of this Agreement.

(d) Purchaser may terminate this Agreement in whole or with respect to any Supplied Product at any time upon 9 months' written notice to Producer.

(e) Upon the termination or expiration of this Agreement (or of the requirement to provide any Supplied Product pursuant to this Agreement), Purchaser will purchase at cost all raw materials, components, labeling or packaging or other inventories held by Producer in the ordinary course of manufacturing or supplying the Supplied Products, including any unique materials used to support production for Purchaser, and any works in progress related to any Supplied Products; provided that Producer uses commercially reasonable efforts to reduce or exhaust existing stocks of all such materials or inventories prior to the date of expiration or termination. All delivery, removal and transportation costs incurred in connection with this Section 9.2(d) shall be borne by Purchaser except in the event Purchaser terminates this Agreement pursuant to Sections 9.2(a) or 9.2(b), in which case all such reasonable costs shall be borne by Producer to the extent such costs are in excess of the amount that would have been incurred for similar delivery, removal or transportation had this Agreement expired at the end of the then-current Term.

9.3 Transitional Support.

(a) Upon or within a mutually agreed time period prior to the expiration or termination of the Term (or such earlier time as may be requested by Purchaser), with respect to each family of Purchaser Products provided pursuant to this Agreement, Producer shall use commercially reasonable efforts to provide reasonable technical support to Purchaser, as set forth in this Section 9.3, to assist Purchaser in the technology transfer of production of such Purchaser Products to either one facility of Purchaser or one facility of an alternative source of supply as

designated by Purchaser ("Technical Support," and such facility, the "Receiving Site"); provided that this Section 9.3 shall not be deemed to require Producer to transfer any rights with respect to Intellectual Property; provided further that, to the extent any written agreement between Producer and Purchaser with respect to this Agreement sets forth a number of hours of Producer's time or other requirements (or limitations) with respect to the Technical Support obligations described herein, such requirements or limitations shall supersede any more general requirements described in this Section 9.3 with respect to the same subject matter.

(b) Purchaser or such designated alternative source supplier shall be responsible for providing leadership of any technology transfer from Producer. For the avoidance of doubt, Purchaser or such designated alternative source supplier shall be solely responsible (subject in any case to the limitations described herein, including in Section 9.3(a), with respect to the scope of the Technical Support) for identifying any and all Technical Support that is required from Producer to assure such technology transfer is successful.

(c) The Parties shall reasonably cooperate and mutually agree to facilitate the provision of any additional reasonable Technical Support with respect to the applicable Purchaser Product to Purchaser or such designated alternative source supplier, including assistance through the transfer process, Producer personnel visits to the Receiving Site, and training and troubleshooting during the Receiving Site's first production run of the Purchaser Product, in each case as and to the extent agreed by Producer in each instance (and subject to Section 9.3(f)).

(d) Producer shall have the right to prioritize its own projects and activities over any Technical Support hereunder with respect to staffing, production activities and other resources or obligations. In addition, Producer shall have no obligation to hire or retain any individuals or make any capital expenditures in connection with the Technical Support, and Producer's obligation to provide Technical Support is contingent upon the continued employment by Producer of those individuals capable of providing such Technical Support. If any Producer personnel involved in providing the Technical Support to Purchaser hereunder is hired by Purchaser or any of its Affiliates, Producer's obligation to provide any portion of the Technical Support under this Agreement that was previously provided by such Producer personnel shall terminate and be of no further force or effect.

(e) Purchaser shall be solely responsible for any and all regulatory or other Governmental Authority requirements, activities and related costs and expenses that arise in conjunction with any Technical Support, technology transfer of production or production of each Purchaser Product to or at the Receiving Site. These activities may also include creation of additional data or technical information, analytical method modifications or other work of a technical nature required to support regulatory queries or contemporary standards and guidelines driven by the manufacturing transfer.

(f) Purchaser shall be responsible for and shall promptly reimburse Producer upon Producer's written request for, any and all out-of-pocket costs and expenses incurred by or on behalf of Producer in connection with any Technical Support under this Agreement, as well as Producer's time (charged at then-current staff rates).

(g) Notwithstanding anything to the contrary herein, Producer's obligations pursuant to this Section 9.3 shall only apply if (i) Producer has terminated this Agreement pursuant to Section 9.2(c)(ii) and (ii) both at the time of Producer providing notice of termination pursuant to Section 9.2(c) (ii) and at any time between the date of such notice and the termination date, Producer has no other termination right. For the avoidance of doubt, Purchaser shall have no rights to any continuing supply of the Supplied Products or any technology or processes related to the production of such Supplied Products if this Agreement expires or terminates other than pursuant to Section 9.2(c) (ii). If Producer is required to provide the transitional support described in this Section 9.3, in no case shall such obligation required Producer to disclose, license or otherwise provide confidential or proprietary information of Producer for any purpose other than continued production of the Supplied Products with respect to the Business or any Third Party, in connection with this Agreement or any Technical Support or technology transfer therein.

(h) Any and all Intellectual Property (including Specifications, know-how or other information related to the manufacture of the Supplied Products) owned by the Producer as of the Effective Date shall remain owned, as between the Parties, solely by Producer or its applicable Affiliates. If Producer has terminated this Agreement solely pursuant to Section 9.2(c) (ii) (and for clarity, Producer had no other termination right as of the termination notice date or any other time between such notice date and termination), Producer hereby grants to Purchaser (effective only as of the time of such termination) a non-exclusive, perpetual, irrevocable, non-transferable, royalty-free (except for any pass-through royalties or other payments owed to a Third Party therefor), non-sublicensable license to use or practice any Producer Intellectual Property that was used by Producer in manufacturing the Purchaser Products hereunder, in each case, solely to the extent necessary for Purchaser or an alternative source of supply designated by Purchaser to continue manufacturing such Purchaser Products or line extensions of such Purchaser Products or combinations of such Purchaser Products other Products of Purchaser, in each case, for use solely in the Business.

ARTICLE X
INDEMNITY

10.1 Producer's Obligation. Producer agrees to indemnify and hold harmless Purchaser's Indemnitees from and against, and in respect of, any and all Liabilities to Third Parties incurred by any of Purchaser's Indemnitees that arise out of, relate to, or result from:

(a) any material failure by it or any of its Affiliates to comply in any respect with any of the covenants, agreements, representations or warranties set forth in Section 8.1;

(b) any actual or alleged infringement, misappropriation or violation of the patent, copyright, trademark or other proprietary rights or Intellectual Property of any Third Party by the Producer Products (other than with respect to any Purchaser Supplied Components); or

(c) any material breach by it of its obligations under this Agreement.

provided, however, that this Section 10.1 shall not apply to any Liabilities to the extent that the Liability is within the scope of the indemnity obligations set forth in Section 10.2 below. Expenses shall be reimbursed or advanced when and as incurred promptly upon submission of statements by any Indemnitee to Producer.

10.2 Purchaser's Obligation. Purchaser agrees to indemnify and hold harmless Producer's Indemnitees from and against, and in respect of, any and all Liabilities to Third Parties asserted against or incurred by any of Producer's Indemnitees that arise out of, relate to or result from:

(a) any actual or alleged infringement, misappropriation or violation of the patent, copyright, trademark or other proprietary rights or Intellectual Property of any Third Party, arising out of the use by Producer of Purchaser Products or Purchaser Supplied Components in accordance with the Specifications;

(b) any actual or alleged infringement, misappropriation or violation of the patent, copyright, trademark or other proprietary rights or Intellectual Property of any Third Party by the Purchaser Products or Purchaser Supplied Components;

(c) the development, manufacture, storage, promotion, marketing, distribution, sale or use of any Supplied Product;

(d) any failure of the Purchaser Supplied Components to comply in any material respect with the specifications therefor; or

(e) any material breach by it of its obligations under this Agreement;

provided, however, that this Section 10.2 shall not apply to any Liabilities to the extent that the Liability is within the scope of the indemnity obligations set forth in Section 10.1 above; and provided, further, that clause (c) shall not include the manufacture or storage by or on behalf of Producer of Supplied Products in material breach of the warranties contained in Section 8.1. Expenses shall be reimbursed or advanced when and as incurred promptly upon submission of statements by any Indemnitee to Purchaser.

10.3 Indemnification Obligations Net of Insurance Proceeds and Other Amounts.

(a) The Parties intend that any Liability subject to indemnification, contribution or reimbursement pursuant to this Agreement will be net of Insurance Proceeds or other amounts actually recovered (net of any out-of-pocket costs or expenses incurred in the collection thereof) from any Person by or on behalf of the Indemnitee in respect of any indemnifiable Liability. Accordingly, the amount that either Party (an "Indemnifying Party") is required to pay to the Indemnitee shall be reduced by any Insurance Proceeds or other amounts actually recovered (net of any out-of-pocket costs or expenses incurred in the collection thereof) from any Person by or on behalf of the Indemnitee in respect of the related Liability. If an Indemnitee receives a payment (an "Indemnity Payment") required by this Agreement from an Indemnifying Party in respect of any Liability and subsequently receives Insurance Proceeds or any other amounts in respect of such Liability, then within 30 days of receiving such payment, the Indemnitee shall pay to the Indemnifying Party an amount equal to the excess of the Indemnity Payment received over the amount of the Indemnity Payment that would have been due if the Insurance Proceeds or such other amounts (net of any out-of-pocket costs or expenses incurred in the collection thereof) had been received, realized or recovered before the Indemnity Payment was made.

(b) The Parties agree that an insurer that would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto or, solely by virtue of any provision contained in this Agreement, have any subrogation rights with respect thereto, it being understood that no insurer shall be entitled to a "windfall" (*i.e.*, a benefit they would not be entitled to receive in the absence of the indemnification provisions) by virtue of the indemnification and contribution provisions in Article X hereof. Each Party shall, and shall cause the members of its Group to, use commercially reasonable efforts (taking into account the probability of success on the merits and the cost of expending such efforts, including attorneys' fees and expenses) to collect or recover any Insurance Proceeds that may be collectible or recoverable respecting the Liabilities for which indemnification or contribution may be available under this Agreement. Notwithstanding the foregoing, an Indemnifying Party may not delay making any indemnification or contribution payment required, or otherwise satisfying any indemnification or contribution obligation, under the terms of this Agreement pending the outcome of any Action to collect or recover Insurance Proceeds, and an Indemnitee need not attempt to collect any Insurance Proceeds prior to making a claim for indemnification or contribution or receiving any Indemnity Payment otherwise owed to it under this Agreement.

10.4 Procedures for Indemnification of Third-Party Claims.

(a) *Notice of Claims*. If, at or following the Effective Date, an Indemnitee shall receive notice or otherwise learn of the assertion by a Person (including any Governmental Authority) who is not a member of the Parent Group or the SpinCo Group of any claim or of the commencement by any such Person of any Action (collectively, a "Third-Party Claim") with respect to which an Indemnifying Party may be obligated to provide indemnification to such Indemnitee pursuant to this Agreement, such Indemnitee shall give such Indemnifying Party written notice thereof as soon as practicable, but in any event within 30 days (or sooner if the nature of the Third-Party Claim so requires) after becoming aware of such Third-Party Claim. Any such notice shall describe the Third-Party Claim in reasonable detail, including the facts and circumstances giving rise to such claim for indemnification, and include copies of all notices and documents (including court papers) received by the Indemnitee relating to the Third-Party Claim. Notwithstanding the foregoing, the failure of an Indemnitee to provide notice in accordance with this Agreement shall not relieve an Indemnifying Party of its indemnification obligations under this Agreement, except to the extent to which the Indemnifying Party is actually prejudiced by the Indemnitee's failure to provide notice in accordance with this Section 10.4.

(b) *Control of Defense*. An Indemnifying Party shall defend (and seek to settle or compromise), at its own expense and with its own counsel, any Third-Party Claim; provided, that, prior to the Indemnifying Party assuming and controlling the defense of such Third-Party Claim, it shall first confirm to the Indemnitee in writing that, assuming the facts presented to the Indemnifying Party by the Indemnitee are true, the Indemnifying Party shall indemnify the Indemnitee for any such damages to the extent resulting from, or arising out of, such Third-Party-Claim. Notwithstanding the foregoing, if in the course of defending such Third-Party Claim, (i) the Indemnifying Party discovers that the facts presented at the time the Indemnifying Party acknowledged its indemnification obligation in respect of such Third-Party Claim were not true in all material respects and (ii) such untruth provides a reasonable basis for asserting that the

Indemnifying Party does not have an indemnification obligation in respect of such Third-Party Claim, then (A) the Indemnifying Party shall promptly thereafter provide the Indemnitee written notice of its assertion that it does not have an indemnification obligation in respect of such Third-Party Claim and (B) the Indemnitee shall assume the defense of such Third-Party Claim, provided, however, that the Indemnifying Party shall not assume the defense of any Third-Party Claim to the extent such Third-Party Claim (x) is an Action by a Government Authority, (y) involves an allegation of a criminal violation or (z) seeks injunctive relief against the Indemnitee.

(c) *Allocation of Defense Costs*. An Indemnifying Party shall be solely liable for all fees and expenses incurred by it in connection with the defense of a Third-Party Claim and shall not be entitled to seek any indemnification or reimbursement from the Indemnitee for any such fees or expenses incurred by the Indemnifying Party during the course of the defense of such Third-Party Claim by such Indemnifying Party, regardless of any subsequent decision by the Indemnifying Party to reject or otherwise abandon its assumption of such defense.

(d) *Right to Monitor and Participate*. An Indemnitee shall have the right to employ separate counsel (including local counsel as necessary) of its own choosing to monitor and participate in (but not control) the defense of any Third-Party Claim for which it is a potential Indemnitee, but the fees and expenses of such counsel shall be at the expense of such Indemnitee, and the provisions of this Section 10.4(c) shall not apply to such fees and expenses. Notwithstanding the foregoing, but subject to this Agreement, the Indemnitee shall cooperate with the Indemnifying Party in the defense of any Third-Party Claim and make available to the Indemnifying Party, at the Indemnitee's expense, all witnesses, information and materials in the Indemnitee's possession or under the Indemnitee's control relating thereto as are reasonably required by the Indemnifying Party. In addition to the foregoing, if any Indemnitee reasonably determines in good faith that such Indemnitee and the Indemnifying Party have actual or potential differing defenses or conflicts of interest between them that make joint representation inappropriate, then the Indemnitee shall have the right to employ separate counsel (including local counsel) and to participate in (but not control) the defense, compromise, or settlement thereof, and in such case the Indemnifying Party shall bear the reasonable fees and expenses of such counsel for all Indemnitees.

(e) *No Settlement*. Neither any member of the Parent Group, nor any member of the SpinCo Group, may settle or compromise any Third-Party Claim for which a SpinCo Indemnitee or a Parent Indemnitee, respectively, is seeking or is reasonably expected to seek to be indemnified hereunder without the prior written consent of SpinCo or Parent, respectively, which consent may not be unreasonably withheld, unless such settlement or compromise is solely for monetary damages that are fully payable by the settling or compromising Party, does not involve any admission, finding or determination of wrongdoing or violation of Law by any SpinCo Indemnitee or any Parent Indemnitee, respectively, provides for a full, unconditional and irrevocable release of each SpinCo Indemnitee or each Parent Indemnitee, respectively, from all Liability in connection with the Third-Party Claim. The Parties hereby agree that if a Party delivers the other Party a written notice containing a proposal to settle or compromise a Third-Party Claim for which an Indemnitee is seeking to be indemnified hereunder and the Party receiving such proposal does not respond in any manner to the Party presenting such proposal within 10 business days or such longer period, not to exceed 20 days, as may be agreed by the Parties, (or within any such shorter time period that may be required by applicable Law or court order) of receipt of such proposal, then the Party receiving such proposal shall be deemed to have consented to the terms of such proposal.

(f) *Allocation of Proceeding Liabilities*. The Parties acknowledge that Liabilities for Actions (regardless of the parties to the applicable Action) may be partly Parent Liabilities and partly SpinCo Liabilities. If the Parties cannot agree on an allocation of any such Liabilities for Actions, they shall resolve the matter pursuant to the procedures set forth in this Agreement. Neither Party shall, nor shall either Party permit its Subsidiaries to, file Third Party claims or cross-claims against the other Party or its Subsidiaries in an Action in which a Third Party Claim is being resolved.

(g) *Cooperation as to Removal*. Each of the Parties agrees that at all times from and after the Effective Date, if an Action is commenced by a Third Party naming two or more Parties (or any Affiliates of such Parties) as defendants and with respect to which one or more named Parties (or any Affiliates of such Parties) is a nominal defendant and/or such Action is related solely to an Asset or Liability that the other Party has been allocated under this Agreement, then the other Party or Parties shall use commercially reasonable efforts to cause such nominal defendant to be removed from such Action, as soon as reasonably practicable.

10.5 Additional Matters.

(a) *Timing of Payments*. Indemnification or contribution payments in respect of any Liabilities for which an Indemnitee is entitled to indemnification or contribution under this Agreement shall be paid reasonably promptly (but in any event within 30 days of the final determination of the amount that the Indemnitee is entitled to indemnification or contribution under this Agreement) by the Indemnifying Party to the Indemnitee as such Liabilities are incurred upon demand by the Indemnitee, including reasonably satisfactory documentation setting forth the basis for the amount of such indemnification or contribution payment, including documentation with respect to calculations made and consideration of any Insurance Proceeds that actually reduce the amount of such Liabilities. The indemnity and contribution provisions contained in this Agreement shall remain operative and in full force and effect, regardless of (i) any investigation made by or on behalf of any Indemnitee, and (ii) the knowledge by the Indemnitee of Liabilities for which it might be entitled to indemnification hereunder.

(b) *Notice of Direct Claims*. Any claim for indemnification or contribution under this Agreement that does not result from a Third-Party Claim shall be asserted by written notice given by the Indemnitee to the applicable Indemnifying Party within 30 days of such determination that such matter has given, or will likely give rise to, a right of indemnification under this Agreement; provided that the failure by an Indemnitee to so assert any such claim shall not prejudice the ability of the Indemnitee to do so at a later time, except to the extent (if any) that the Indemnifying Party is actually prejudiced thereby. Such Indemnifying Party shall have a period of 30 days after the receipt of such notice within which to respond thereto. If such Indemnifying Party does not respond within such 30-day period, such specified claim shall be conclusively deemed a Liability of the Indemnifying Party under Section 10.4 or this Section 10.5 or, in the case of any written notice in which the amount of the claim (or any portion thereof) is estimated, on such later date when the amount of the claim (or such portion thereof) becomes finally determined. If such Indemnifying Party does not respond within such 30-day period or rejects such claim in whole or in part, such Indemnitee shall, subject to the provisions of this Agreement, be free to pursue such remedies as may be available to such Party as contemplated by this Agreement, as applicable, without prejudice to its continuing rights to pursue indemnification or contribution hereunder.

(c) *Pursuit of Claims Against Third Parties*. If (i) a Party incurs any Liability arising out of this Agreement; (ii) an adequate legal or equitable remedy is not available for any reason against the other Party to satisfy the Liability incurred by the incurring Party; and (iii) a legal or equitable remedy may be available to the other Party against a Third Party for such Liability, then the other Party shall use commercially reasonable efforts to cooperate with the incurring Party, at the incurring Party's expense, to permit the incurring Party to obtain the benefits of such legal or equitable remedy against such Third Party.

(d) *Subrogation*. In the event of payment by or on behalf of any Indemnifying Party to any Indemnitee in connection with any Third-Party Claim, such Indemnifying Party shall be subrogated to and shall stand in the place of such Indemnitee as to any events or circumstances in respect of which such Indemnitee may have any right, defense or claim relating to such Third-Party Claim against any claimant or plaintiff asserting such Third-Party Claim or against any other Person. Such Indemnitee shall cooperate with such Indemnifying Party in a reasonable manner, and at the cost and expense of such Indemnifying Party, in prosecuting any subrogated right, defense or claim.

(e) *Limitations on Subrogation Rights and Pursuit of Claims*. Notwithstanding Sections 10.5(c) and 10.5(d), without the prior written consent of the Indemnitee (which shall not be unreasonably withheld), no Indemnifying Party shall have the right to pursue claims not directly available to it, or otherwise cause any Indemnitee to pursue any such claims, against Third Parties (other than insurance providers) with whom any Indemnitee (or Affiliate thereof) has a material commercial relationship, if such Indemnitee (or Affiliate thereof) determines in good faith that the pursuit of such claim would reasonably be expected to materially disrupt or diminish the commercial relationship with such Third Party.

(f) *Substitution.* In the event of an Action in which the Indemnifying Party is not a named defendant, if either the Indemnitee or Indemnifying Party shall so request, the Parties shall endeavor to substitute the Indemnifying Party for the named defendant. If such substitution or addition cannot be achieved for any reason or is not requested, the named defendant shall allow the Indemnifying Party to manage the Action as set forth in Section 10.4 and this Section 10.5, and the Indemnifying Party shall fully indemnify the named defendant against all reasonable costs of defending the Action (including court costs, sanctions imposed by a court, attorneys' fees, experts fees and all other external expenses), the costs of any judgment or settlement and the cost of any interest or penalties relating to any judgment or settlement.

(g) *Tax Matters Agreement Coordination*. The provisions of Section 10.5(a)-(f) shall not apply to Taxes to the extent specifically addressed in the Tax Matters Agreement, subject to the terms thereof. It is understood and agreed that Taxes and Tax matters, including the control of Tax-related proceedings, shall be governed by the Tax Matters Agreement to the extent specifically addressed in the Tax Matters Agreement, subject to the terms thereof. In the case of any conflict or inconsistency between this Agreement and the Tax Matters Agreement in relation to any matters addressed by the Tax Matters Agreement, the Tax Matters Agreement shall prevail.

10.6 Right of Contribution. If any right of indemnification contained in Section 10.1 or 10.2 is held unenforceable or is unavailable for any reason, or is insufficient to hold harmless an Indemnitee in respect of any Liability for which such Indemnitee is entitled to indemnification hereunder, then the Indemnifying Party shall contribute to the amounts paid or payable by the Indemnitees as a result of such Liability (or actions in respect thereof) in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and the members of its Group, on the one hand, and the Indemnitees entitled to contribution, on the other hand, as well as any other relevant equitable considerations.

10.7 Sole Monetary Remedy. The remedies provided in this Article X, together with any other monetary remedy, obligation or reimbursement expressly and specifically contemplated by this Agreement (including as set forth in Article VI, and Sections 8.3 and 12.1(b)), shall be the sole monetary remedies available in respect of this Agreement.

10.8 Survival of Indemnities. The rights and obligations of each of the Parties and their respective Indemnitees under this Article X shall survive (a) the sale or other transfer by either Party or any member of its Group of any assets or businesses or the assignment by it of any Liabilities; or (b) any merger, consolidation, business combination, sale of all or substantially all of its Assets, restructuring, recapitalization, reorganization or similar transaction involving either Party or any of the members of its respective Group.

ARTICLE XI
REGULATORY MATTERS

11.1 Producer's Regulatory Responsibilities Regarding Supplied Products. At all times during the Term, Producer shall be solely responsible for maintaining the Production Facilities, equipment and processes used in producing the Supplied Products and in performing Producer's other obligations under this Agreement. For the products which Producer remains Legal Manufacturer (as identified on Exhibit A), Producer shall maintain registrations in good standing with the support of the Purchaser, as further described in the Quality Agreements; provided, however, for purposes of clarify this does not include recertifications.

11.2 Purchaser's Regulatory Responsibilities Regarding Purchaser Products. Except as specifically stated otherwise in this Agreement, Purchaser shall be responsible for all regulatory matters relating to or involving any Purchaser Product, including all decisions and actions with respect thereto. Producer shall reasonably cooperate with Purchaser in connection with Purchaser's responsibilities under this Section 11.2. Purchaser shall, with respect to any such regulatory matters: (a) act as liaison with the FDA or other Medical Regulatory Authority or Certification Body; (b) collect appropriate data and information from Producer and then prepare and make all Purchaser-required submissions to the appropriate Medical Regulatory Authorities or Certification Bodies (e.g., the annual reports, medical device reporting, notifications, renewals, etc.); (c) monitor all studies pertinent to regulatory matters; and (d) obtain all required regulatory approvals. In particular, Purchaser shall:

(a) Prepare and obtain approval of and hold all 510(k) notifications and other new product submissions as required by the FDA and the Act, or any other relevant Medical Regulatory Authority or Certification Body, relating to the Purchaser Products for which Purchaser owns the regulatory filing for;

(b) List the Purchaser Products pursuant to Section 510 of the Act or other similar requirements of Law;

(c) Comply with 21 CFR §820.30, if applicable, and other similar design control provisions of Regulations issued by the FDA or other relevant Medical Regulatory Authority or Certification Body;

(d) Provide Producer with copy for labeling to physically accompany Purchaser Products (not including promotional labeling) to the extent required to comply with the Act or other relevant Medical Regulatory Authority or Certification Body;

(e) Report to the FDA or other relevant Medical Regulatory Authority or Certification Body;

(f) Administer all requisite field corrective actions, product holds, recalls, withdrawals or quarantines relating solely to Purchaser Products; and

(g) Prepare, obtain approval and hold all product technical files, Notifications and other new product dossiers required by Law, including any applicable Medical Regulatory Authority or Certification Body relating to the Purchaser Products for which Purchaser owns the product technical Files for.

11.3 Reference Filings. Upon the reasonable request of Purchaser, Producer will grant Purchaser the right to cross-reference filings held in Producer's name with applicable Medical Regulatory Authorities to the extent reasonably necessary in connection with Purchaser's obtaining and maintaining marketing approval for any Supplied Product and to the extent such grant will not violate applicable confidentiality obligations.

11.4 No Debarred Service Provider. Producer has not and will not use the services of employees or Subcontractors who have been debarred by the FDA or any other Medical Regulatory Authority or Certification Body and, at Purchaser's reasonable written request, will not use the services of any particular employees or Subcontractors identified by Purchaser in connection with the manufacture of Supplied Products pursuant to this Agreement. If Producer becomes aware that an employee, Subcontractor or employee of Subcontractor has been debarred and said person performed, in any capacity, services in connection with a Supplied Product, Producer shall promptly notify Purchaser of such person's debarment.

11.5 Quality Agreement. In the event of any conflict or inconsistency between this Agreement and the Quality Agreement, this Agreement shall govern except with respect to quality and regulatory matters, which shall be governed by the Quality Agreement.

ARTICLE XII
PRODUCT RECALLS

12.1 Investigation; Recall; Voluntary Withdrawal.

(a) Purchaser shall have the responsibility for investigating, evaluating and making all determinations with respect to recalls, withdrawals or field corrections of any Purchaser Product. In the event that (i) Purchaser reasonably determines that any such Purchaser Product should be recalled, withdrawn or subject to a field correction for any reason, (ii) a Medical Regulatory Authority in any country shall allege or prove that any such Purchaser Product does not comply with Laws in such country and should be recalled, withdrawn or subject to a field correction, or (iii) a court of competent jurisdiction or other Governmental Authority orders such a recall, withdrawal or field correction, Purchaser shall promptly notify Producer and both Parties shall cooperate fully regarding the investigation and disposition of any such matter.

(b) Producer shall have the responsibility for investigating, evaluating and making all determinations with respect to recalls, withdrawals or field corrections of any Producer Product to the extent of any manufacturing defects. In the event that (i) Producer reasonably determines that any such Producer Product should be recalled, withdrawn or subject to a field correction for any reason, (ii) a Medical Regulatory Authority in any country shall allege or prove that any such Producer Product does not comply with Laws in such country and should be recalled, withdrawn or subject to a field corrective action, or (iii) a court of competent jurisdiction or other Governmental Authority orders such a recall, withdrawal or field correction, Producer shall promptly notify Purchaser and both Parties shall cooperate fully regarding the investigation and disposition of any such matter.

(c) To the extent that any recall, withdrawal or field correction is due to the failure of Producer (and/or any of its Affiliates or any Person acting on behalf of Producer or any of its Affiliates) to deliver Supplied Products that materially comply with any of the covenants or agreements contained in Sections 8.1(a) or 8.1(b), Producer shall: (i) promptly replace, at no cost or expense to Purchaser, the recalled, withdrawn or field corrected Supplied Product with Supplied Product which conforms to the covenants and agreements contained in Sections 8.1(a) and 8.1(b), and (ii) bear all costs of conducting the recall, withdrawal or field correction in accordance with the recall guidelines of the applicable Medical Regulatory Authority, provided that such costs shall not exceed the amount of fees paid by Purchaser to Producer hereunder with respect to such Products over the prior 12 months. If each of Producer and Purchaser contributes to the cause for a recall, withdrawal or field correction, the limitations set forth in Section 12.1(c)(ii) will be reduced to a percentage of such amount representing Producer's relative fault. Any costs incurred by Producer under this Section 12.1 will not be included in the calculation of the Production Cost. If such recall, withdrawal or field correction of any Purchaser Products results from any other reason, Purchaser shall bear all costs of conducting the recall, withdrawal or field correction in accordance with the recall guidelines of the applicable Medical Regulatory Authority, including expenses of such recall, withdrawal or field correction. For purposes of this Agreement, the expenses of any recall, withdrawal or field correction shall be all expenses relating to or arising out of compliance with an order of any Governmental Authority, Medical Regulatory Authority or Certification Body and all internal and out-of-pocket expenses incurred by either Party relative to notification, shipping, disposal and return of the recalled or withdrawn Supplied Product and the notification and correction of any Supplied Product subject to a field corrective action. Notwithstanding anything to the contrary contained herein, Purchaser shall have the final decision-making authority with respect to any recall, withdrawal or field correction of any Purchaser Products and conducting any such recall, withdrawal or field correction. Purchaser shall be responsible for coordinating, tracking and monitoring any such recall, withdrawal or field correction activities with the FDA and any other Medical Regulatory Authority, as well as its customers or otherwise at a Purchaser designated site, and Producer shall reasonably cooperate with Purchaser at Purchaser's expense in this regard.

(d) Each Party shall promptly send to the other Party any reports relating to such inspections, recalls or violations or potential violations of Law applicable to the Purchaser Products; provided that such Party may reasonably redact any such reports to protect its confidential information (including information regarding products not sold to or systems not used to manufacture products for the other Party). In the event that any Governmental Authority requests from Producer, but does not seize, any Purchaser Product in connection with any inspection, Producer (i) shall promptly notify Purchaser of such request, (ii) if permitted by Law, shall satisfy such request only after receiving Purchaser's approval, such approval not to be unreasonably withheld or delayed, (iii) shall follow any reasonable procedures instructed by Purchaser in responding to such request and (iv) shall promptly send any Purchaser Product requested by the Governmental Authority to Purchaser. Producer shall not initiate any recall of a Purchaser Product except as provided in the Quality Agreement without the prior written agreement by Purchaser. Producer shall cooperate with the representatives of any Governmental Authority in connection with any of the foregoing.

ARTICLE XIII
INSURANCE

13.1 Insurance. Purchaser shall maintain (or have maintained by any Party that is an Affiliate of Purchaser for Purchaser's benefit) the following minimum types and amounts of Third Party insurance coverage: (a) commercial general liability insurance providing coverage on an occurrence basis with a bodily injury limit of not less than $25,000,000 per occurrence; (b) property damage insurance with a combined, $20,000,000 general aggregate limit; and (c) $25,000,000 of coverage or products liability and completed operations. Purchaser shall provide Producer with evidence of such coverages in the form of a certificate of insurance, which shall confirm that such insurance coverages shall be renewed and may not be cancelled unless the insurer provides written notice to Producer at least 30 days prior to the effective date of such cancellation or nonrenewal. Each Party shall be responsible for insuring its and its Affiliates' own employees and representatives for injuries received in locations that are owned or controlled by any other Party.

ARTICLE XIV
FORCE MAJEURE

14.1 Force Majeure. No Party shall be deemed in default of this Agreement for any delay or failure to fulfill any obligation (other than a payment obligation) hereunder so long as and to the extent to which any delay or failure in the fulfillment of such obligation is prevented, frustrated, hindered or delayed as a consequence of circumstances of Force Majeure. In the event of any such excused delay, the time for performance of such obligations (other than a payment obligation) shall be extended for a period equal to the time lost by reason of the delay unless this Agreement has previously been terminated under Article IX. A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of any such event, (a) provide written notice to the other Party of the nature and extent of any such Force Majeure condition; and (b) use commercially reasonable efforts to remove any such causes and resume performance under this Agreement as soon as reasonably practicable.

ARTICLE XV
CONFIDENTIALITY

15.1 Confidentiality/Protective Arrangements.

(a) *Confidentiality*. Subject to Section 15.2, from and after the Effective Date until the third anniversary of the Effective Date, and in the case of trade secrets, until the relevant trade secret no longer retains its status or qualifies as trade secrets under applicable Laws (other than due to any act or omission of the receiving Party in breach of its obligations hereunder), each of the Parties, on behalf of itself and each member of its respective Group, agrees to hold, and to cause its respective Representatives to hold, in strict confidence, with at least the same degree of care that applies to Parent's confidential, personal and proprietary information pursuant to policies in effect as of the Effective Date, all confidential, personal and proprietary information concerning the other Party or any member of the other Party's Group or their respective businesses that is either in its possession (including confidential, personal and proprietary information in its possession prior to the date hereof) or furnished by any such other Party or any member of such other Party's Group or their respective Representatives at any time pursuant to this Agreement or otherwise, and shall not use any such confidential, personal and proprietary information other than for such purposes as shall be expressly permitted hereunder or thereunder, except, in each case, to the extent that such confidential and proprietary information has been (i) in the public domain or generally available to the public, other than as a result of a disclosure by such Party or any member of such Party's Group or any of their respective Representatives in violation of this Agreement, (ii) later lawfully acquired from other sources by such Party (or any member of such Party's Group), which sources are not themselves bound by a confidentiality obligation or other contractual, legal or fiduciary obligation of confidentiality with respect to such confidential and proprietary information or (iii) independently developed or generated without reference to or use of any proprietary or confidential information of such other Party or any member of such other Party's Group. If any confidential, personal and proprietary information of one Party or any member of its Group is disclosed to the other Party or any member of such other Party's Group in connection with providing services to such first Party or any member of such first Party's Group under this Agreement or any Ancillary Agreement, then such disclosed confidential, personal and proprietary information shall be used only as required to perform such services.

(b) *No Release; Return or Destruction*. Each Party agrees not to release or disclose, or permit to be released or disclosed, any information addressed in Section 15.1(a) to any other Person, except its Representatives who need to know such information in their capacities as such (who shall be advised of their obligations hereunder with respect to such information), and except in compliance with Section 15.2. Without limiting the foregoing, when any such information is no longer needed for the purposes contemplated by this Agreement or any Ancillary Agreement, and is no longer subject to any legal hold or other document preservation obligation, each Party shall promptly, at the request of the other Party, either return to the other Party all such information in a tangible form (including all copies thereof and all notes, extracts or summaries based thereon) or notify the other Party in writing that it has destroyed such information (and such copies thereof and such notes, extracts or summaries based thereon); provided, that the Parties

may retain electronic backup versions of such information maintained on routine computer system backup tapes, disks or other backup storage devices; provided further, that any such information so retained shall remain subject to the confidentiality provisions of this Agreement. Each Party agrees to comply with all applicable privacy, data protection, data security or other applicable Laws, policies and contracts with regard to the collection, maintenance, disclosure, retention or destruction the personal information in its possession, custody or control.

(c) *Third-Party Information; Privacy or Data Protection Laws*. Each Party acknowledges that it and members of its Group may presently have and, following the Effective Date, may gain access to or possession of confidential or proprietary information of, personal information relating to, Third Parties (i) that was received under privacy policies and/or confidentiality or non-disclosure agreements entered into between such Third Parties, on the one hand, and the other Party or members of such other Party's Group, on the other hand, prior to the Effective Date; or (ii) that, as between the two Parties, was originally collected by the other Party or members of such other Party's Group and that may be subject to and protected by privacy policies, as well as privacy, data protection, data security or other applicable Laws. Each Party agrees that it shall hold, protect and use, and shall cause the members of its Group and its and their respective Representatives to hold, protect and use, in strict confidence the confidential and proprietary information of, or personal information relating to, Third Parties in accordance with privacy policies and privacy, data protection or other applicable Laws and the terms of any agreements that were either entered into before the Effective Date or affirmative commitments or representations that were made before the Effective Date by, between or among the other Party or members of the other Party's Group, on the one hand, and such Third Parties, on the other hand.

15.2 Protective Arrangements. In the event that a Party or any member of its Group either determines on the advice of its counsel that it is required to disclose any information pursuant to applicable Law or receives any request or demand under lawful process or from any Governmental Authority to disclose or provide information of the other Party (or any member of the other Party's Group) that is subject to the confidentiality provisions hereof, such Party shall notify the other Party (to the extent legally permitted) as promptly as practicable under the circumstances prior to disclosing or providing such information and shall cooperate, at the expense of the other Party, in seeking any appropriate protective order requested by the other Party. In the event that such other Party fails to receive such appropriate protective order in a timely manner and the Party receiving the request or demand reasonably determines that its failure to disclose or provide such information shall actually prejudice the Party receiving the request or demand, then the Party that received such request or demand may thereafter disclose or provide information to the extent required by such Law (as so advised by its counsel) or by lawful process or such Governmental Authority, and the disclosing Party shall promptly provide the other Party with a copy of the information so disclosed, in the same form and format so disclosed, together with a list of all Persons to whom such information was disclosed, in each case to the extent legally permitted.

ARTICLE XVI
DISPUTE RESOLUTION

16.1 General.

(a) In the event of a dispute concerning this Agreement, the Parties agree to engage in a good faith effort and negotiation in an attempt to resolve the dispute. In the event that this initial negotiation is not successful, the Parties agree to elevate the dispute to an Authorized Representative of each Party, and the Authorized Representative of each Party will negotiate in good faith and attempt to arrive at a mutual resolution of such dispute. In the event that the dispute remains unresolved 30 days after the date on which one Party notified the other in writing of the dispute, either Party may then seek to enforce this Agreement in accordance with Article VII of the Separation Agreement which shall govern all disputed matters under this Agreement (as though the Agreement referenced therein were this Agreement). Parent designates SVP of Operations and SpinCo designates SVP of Operations for purposes of Section 7.1(a) of the Separation Agreement. Each Party may replace its designee upon written notice to the other Party.

(b) Any waiver (including pursuant to Section 18.12), consent (including pursuant to Sections 18.12), amendment (including pursuant to Section 18.12), or agreement executed by a Party in connection with this Agreement, including with respect to any Supplied Product, will be effective only if such waiver, consent, amendment or agreement is executed by the Senior Vice President of Strategy or Senior Vice President of Business Development, as applicable, of such Party or his or her respective designee (each, an "Authorized Representative").

ARTICLE XVII
ASSIGNMENT

17.1 General. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns; provided, however, that, except as provided below, neither Party may Transfer its interest or any of its rights or obligations in the Agreement, including Transfers by operation of law such as by way of merger or consolidation, without the prior written consent of the other Party, which consent may not be unreasonably withheld. Notwithstanding any assignment or other Transfer, references to the Parties and their Affiliates in this Agreement shall continue to apply to the original Parties (or any later successors, transferees or assignees) and their Affiliates.

17.2 Transfers by Producer. Notwithstanding the foregoing provisions of this Article XVII, Producer may Transfer substantially all of its rights and obligations hereunder (or any portion thereof with respect to any applicable Supplied Product) to any Person to which Producer shall Transfer substantially all of its business and assets related to the manufacture or provision of such Supplied Product hereunder; provided that (a) any such acquiring Person shall assume in writing the portion of Producer's obligations hereunder relating to the Supplied Products so Transferred, and shall deliver a signed copy of such assumption instrument to Purchaser, (b) any such acquiring Person is capable of adhering to these obligations consistent with all applicable regulatory requirements, including cGMP/Quality System Regulations and governmental filings/clearance, and (c) and Producer shall give Purchaser at least 60 days' Notice prior to such Transfer.

17.3 Transfers by Purchaser. Notwithstanding the foregoing provisions of this Article XVII, Purchaser may Transfer its rights and obligations hereunder to any Person to which Purchaser shall Transfer substantially all of its business and assets; provided that any such acquiring Person shall assume in writing the Purchaser's obligations hereunder and shall deliver a signed copy of such assumption instrument to Producer. Purchaser shall remain liable for all of its obligations under this Agreement notwithstanding any such Transfer.

ARTICLE XVIII
MISCELLANEOUS PROVISIONS

18.1 Counterparts; Entire Agreement; Corporate Power; Signatures and Delivery.

(a) This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the Parties hereto and delivered to the other Party hereto.

(b) This Agreement and the Exhibits, Schedules and appendices hereto contain the entire agreement between the Parties with respect to the subject matter hereof, supersede all previous agreements, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter, and there are no agreements or understandings between the Parties other than those set forth or referred to herein or therein. This Agreement, the Separation Agreement, and the Ancillary Agreements together govern the arrangements in connection with the Separation and the Distribution and would not have been entered into independently. Notwithstanding anything in this Agreement to the contrary, the Parties acknowledge and agree that SpinCo will not be charged more than once for the same service, activity, function or expense that is performed or incurred by Parent or its Affiliates or Third Parties pursuant to this Agreement to the extent that SpinCo or its Affiliates are bearing the charges for such service, activity, function or expense pursuant to another Ancillary Agreement.

(c) Parent represents on behalf of itself and each other member of the Parent Group, and SpinCo represents on behalf of itself and each other member of the SpinCo Group, as follows:

(i) each such Person has the requisite corporate or other power and authority and has taken all corporate or other action necessary in order to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby; and

(ii) this Agreement has been duly executed and delivered by it and constitutes a valid and binding agreement of it enforceable in accordance with the terms hereof.

(d) Each Party acknowledges that it and each other Party may execute this Agreement by facsimile, stamp or mechanical signature, and that delivery of an executed counterpart of a signature page to this Agreement (whether executed by manual, stamp or mechanical signature) by facsimile or by e-mail in portable document format (.pdf) shall be effective as delivery of such executed counterpart of this Agreement. Each Party expressly adopts and confirms each such facsimile, stamp or mechanical signature (regardless of whether delivered in person, by mail, by courier, by facsimile or by e-mail in portable document format (.pdf)) made in its respective name as if it were a manual signature delivered in person, agrees that it shall not assert that any such signature or delivery is not adequate to bind such Party to the same extent as if it were signed manually and delivered in person and agrees that, at the reasonable request of the other Party at any time, it shall as promptly as reasonably practicable cause this Agreement to be manually executed (any such execution to be as of the date of the initial date thereof) and delivered in person, by mail or by courier.

18.2 Governing Law.

(a) This Agreement and any claims or disputes arising out of or related hereto or to the transactions contemplated hereby or to the inducement of any party to enter herein, whether for breach of contract, tortious conduct or otherwise and whether predicated on common law, statute or otherwise shall be governed by and construed and interpreted in accordance with the Laws of the State of Delaware irrespective of the choice of laws principles of the State of Delaware, including all matters of validity, construction, effect, enforceability, performance and remedies.

(b) Subject to the provisions of Article XVI, each of the Parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Court of Chancery of the State of Delaware, or, if (and only if) such court finds it lacks subject matter jurisdiction, the Federal court of the United States of America sitting in Delaware, and appellate courts thereof, or, if (and only if) such court finds it lacks jurisdiction, another state court in the State of Delaware, in any action or proceeding arising out of or relating to this Agreement for recognition or enforcement of any judgment or award relating hereto, and each of the Parties hereby irrevocably and unconditionally (i) agrees not to commence any such action or proceeding except in the Court of Chancery of the State of Delaware, or, if (and only if) such court finds it lacks subject matter jurisdiction, the Federal court of the United States of America sitting in Delaware, and appellate courts thereof, or, if (and only if) such court finds it lacks jurisdiction, another state court in the State of Delaware, (ii) agrees that any claim in respect of any such action or proceeding may be heard and determined in the Court of Chancery of the State of Delaware, or, if (and only if) such court finds it lacks subject matter jurisdiction, the Federal court of the United States of America sitting in Delaware, and appellate courts thereof, or, if (and only if) such court finds it lacks jurisdiction, another state court in the State of Delaware, (iii) waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any such action or proceeding in such courts and (iv) waives, to the fullest extent permitted by applicable Law, the defense of an inconvenient forum to the maintenance of such action or proceeding in such courts.

18.3 Assignability. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns; provided, however, that neither Party may assign its rights or delegate its obligations under this Agreement without the express prior written consent of the other Party hereto. Notwithstanding the foregoing, no such consent shall be required for the assignment of a Party's rights and obligations under this Agreement in connection with a Change of Control of a Party so long as the resulting, surviving or transferee Person assumes all the obligations of the relevant Party thereto by operation of Law or pursuant to an agreement in form and substance reasonably satisfactory to the other Party.

18.4 Third-Party Beneficiaries. Except for any Indemnitee (in their respective capacities as such) expressly entitled to indemnification rights under this Agreement, (a) the provisions of this Agreement are solely for the benefit of the Parties hereto and are not intended to confer upon any other Person any rights or remedies hereunder, and (b) there are no third-party beneficiaries of this Agreement and this Agreement shall not provide any Third Party with any remedy, claim, Liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement.

18.5 Notices. All notices, requests, claims, demands or other communications under this Agreement shall be in writing and shall be given or made (and except as provided herein, shall be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service, by certified mail, return receipt requested, or by electronic mail ("e-mail"), so long as confirmation of receipt of such e-mail is requested and received, to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 18.5):

If to Producer, to:

c/o Zimmer Biomet Holdings, Inc.
345 East Main Street
Warsaw, Indiana 46580
Attention: General Counsel
E-mail: legal.americas@zimmerbiomet.com

with copies (which shall not constitute notice), to:

White & Case LLP
1221 Avenue of the Americas
New York, New York 10020-1095
Attention: Morton A. Pierce, Esq.
Michelle B. Rutta, Esq.
Robert Chung, Esq.
E-mail: morton.pierce@whitecase.com
michelle.rutta@whitecase.com
robert.chung@whitecase.com

and

Faegre Drinker Biddle & Reath
600 E. 96th Street, Suite 600
Indianapolis, IN 46240
Attention: Trevor J. Belden
E-mail: trevor.belden@faegredrinker.com

If to Purchaser (prior to the Effective Date), to:

ZimVie Inc.
10225 Westmoor Dr.
Westminster, CO 80021
Attention: Heather Kidwell, General Counsel
E-mail: heather.kidwell@zimvie.com

with copies (which shall not constitute notice), to:

White & Case LLP
1221 Avenue of the Americas
New York, New York 10020-1095
Attention: Morton A. Pierce, Esq.
Michelle B. Rutta, Esq.
Robert Chung, Esq.
E-mail: morton.pierce@whitecase.com
michelle.rutta@whitecase.com
robert.chung@whitecase.com

and

Faegre Drinker Biddle & Reath
600 E. 96th Street, Suite 600
Indianapolis, IN 46240
Attention: Trevor J. Belden
E-mail: trevor.belden@faegredrinker.com

A Party may, by notice to the other Party, change the address to which such notices are to be given or made.

18.6 Severability. If any provision of this Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof or thereof, or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. Upon such determination, the Parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the Parties.

18.7 No Set-Off. Except as mutually agreed to in writing by the Parties, neither Party nor any member of such Party's Group shall have any right of set-off or other similar rights with respect to (a) any amounts received pursuant to this Agreement; or (b) any other amounts claimed to be owed to the other Party or any member of its Group arising out of this Agreement.

18.8 Publicity. From and after the Effective Date, Producer and Purchaser shall consult with each other before issuing, and give each other the opportunity to review and comment upon, that portion of any press release or other public statements that relates to the transactions contemplated by this Agreement, and shall not issue any such press release or make any such public statement prior to such consultation, except (i) as may be required by applicable Law, court process or by obligations pursuant to any listing agreement with any national securities exchange or national securities quotation system (in which case such Party shall promptly notify the other Party and allow the other Party a reasonable time and opportunity to oppose such process before making such disclosure), (ii) ordinary course communications with investors and analysts, and (iii) press releases or other public statements that are substantially consistent with prior disclosures made in accordance with this Agreement.

18.9 Expenses. Except as otherwise expressly set forth in this Agreement or as otherwise agreed to in writing by the Parties, all fees, costs and expenses incurred on or prior to the Effective Date in connection with the preparation, execution, delivery and implementation of this Agreement will be borne by the Party or its applicable Subsidiary incurring such fees, costs or expenses. The Parties agree that certain specified costs and expenses shall be allocated between the Parties as set forth on Schedule 10.10 to the Separation Agreement.

18.10 Headings. The article, section and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

18.11 Survival of Covenants. Except as expressly set forth in this Agreement, the covenants, representations and warranties contained in this Agreement, and Liability for the breach of any obligations contained herein, shall survive the Separation and the Distribution and shall remain in full force and effect.

18.12 Waivers of Default. Waiver by a Party of any default by the other Party of any provision of this Agreement must be in writing and shall not be deemed a waiver by the waiving Party of any subsequent or other default, nor shall it prejudice the rights of the other Party. No failure or delay by a Party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall a single or partial exercise thereof prejudice any other or further exercise thereof or the exercise of any other right, power or privilege.

18.13 Specific Performance. Subject to the provisions of Article XVI, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the Parties hereto who are, or are to be, thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief in respect of their respective rights under this Agreement in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative. The Parties agree that the remedies at law for any breach or threatened breach, including monetary damages, are inadequate compensation for any loss and that any defense in any Action for specific performance that a remedy at law would be adequate is waived. Any requirements for the securing or posting of any bond with such remedy are waived by each of the Parties.

18.14 Amendments. No provisions of this Agreement shall be deemed waived, amended, supplemented or modified by a Party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the Party against whom it is sought to enforce such waiver, amendment, supplement or modification.

18.15 Performance. Each Party (including its permitted successors and assigns) further agrees that it shall (a) give timely notice of the terms, conditions and continuing obligations contained in this Agreement to all of the other members of its Group and (b) cause all of the other members of its Group not to take any action or fail to take any such action inconsistent with such Party's obligations under this Agreement or the transactions contemplated hereby or thereby.

18.16 Mutual Drafting. This Agreement shall be deemed to be the joint work product of the Parties and any rule of construction that a document shall be interpreted or construed against a drafter of such document shall not be applicable.

[signature page follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their authorized representatives as of the Effective Date.

ZIMMER, INC.

By: /s/ Chad F. Phipps
Name: Chad F. Phipps
Title: Senior Vice President, General Counsel and Secretary

ZIMVIE INC.

By: /s/ Vafa Jamali
Name: Vafa Jamali
Title: President and Chief Executive Officer

Exhibit 10.7

REVERSE TRANSITION MANUFACTURING AND SUPPLY AGREEMENT

dated as of March 1, 2022

by and between

ZIMVIE INC.

and

ZIMMER, INC.

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REVERSE TRANSITION MANUFACTURING AND SUPPLY AGREEMENT

THIS REVERSE TRANSITION MANUFACTURING AND SUPPLY AGREEMENT (including, except as the context otherwise requires, the Quality Agreement, this "Agreement"), dated as of March 1, 2022 (the "Effective Date"), is by and between ZimVie Inc., a Delaware corporation ("Producer"), and Zimmer, Inc., a Delaware corporation ("Purchaser").

RECITALS

WHEREAS, pursuant to that certain Separation and Distribution Agreement, dated as of the date hereof (the "Separation Agreement"), by and between Zimmer Biomet Holdings, Inc., a Delaware corporation ("Parent"), and Producer, Parent will (i) transfer the SpinCo Assets (as defined in the Separation Agreement) to Producer or a member of the SpinCo Group (as defined in the Separation Agreement) and (ii) make a distribution, on a pro rata basis, to the holders of Parent Shares on the Record Date of at least 80% of the outstanding SpinCo Shares (the "Distribution"), resulting in Producer ceasing to be a wholly owned subsidiary of Parent, as more fully described in the Separation Agreement.

WHEREAS, in connection with the Separation Agreement, Producer and Purchaser or their respective Affiliates have agreed to enter into this Agreement pursuant to which Producer shall manufacture, or cause to be manufactured, for Purchaser the Purchaser Products (as defined below).

AGREEMENT

In consideration of the mutual undertakings contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Producer and Purchaser agree as follows:

ARTICLE I
DEFINITIONS; RULES OF CONSTRUCTION

1.1 Definitions. Capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to such terms in the Separation Agreement (and any capitalized terms used within those defined terms in the Separation Agreement shall also have the meanings given to such terms in the Separation Agreement if not otherwise defined in this Agreement). As used in this Agreement the following terms shall have the meanings set forth below:

"Act" shall mean the Federal Food, Drug and Cosmetics Act, 21 U.S.C. §§301-397.

"Annual Supplied Product Quantity" shall have the meaning provided in Section 6.2.

"Certificate of Compliance" shall mean a written certification signed by Producer and delivered to Purchaser stating that the applicable Supplied Products were processed in accordance with the agreed upon Specifications.

"Certification Body" shall mean any recognized organization the primary responsibility of which is the assessment of objective evidence regarding the compliance of medical products or medical devices, and their associated safety, effectiveness, manufacture, and quality systems or governance to applicable regulations and recognized standards.

"cGMP" shall mean the then-current good manufacturing practices and/or quality system regulations (QSR) promulgated by the FDA or other corresponding regulations promulgated by any other Medical Regulatory Authority under Law in effect from time to time.

"Contract Year" shall mean (i) the period commencing on the date hereof and ending on December 31, 2022 and (ii) each subsequent calendar year (or portion thereof) until this Agreement is terminated as provided in Article IX.

"Dedicated Equipment" shall mean all equipment used by Producer exclusively for the production of the Purchaser Products, including any equipment identified by the Parties as Dedicated Equipment from time to time.

"Due Date" has the meaning provided in Section 7.2.

"FDA" shall mean the United States Food and Drug Administration, or any successor Governmental Authority.

"Final Net Book Value" has the meaning provided in Section 2.15(c).

"Force Majeure" shall mean, with respect to a Party, an event beyond the reasonable control of such Party (or any Person acting on its behalf), which event (a) does not arise or result from the fault or negligence of such Party (or any Person acting on its behalf) and (b) by its nature would not reasonably have been foreseen by such Party (or such Person), or, if it would reasonably have been foreseen, was unavoidable, and includes acts of God, acts of civil or military authority, embargoes, epidemics, pandemics, war, riots, insurrections, fires, explosions, earthquakes and floods. Notwithstanding the foregoing, the receipt by a Party of an unsolicited takeover offer or other acquisition proposal, even if unforeseen or unavoidable, and such Party's response thereto shall not be deemed an event of Force Majeure.

"Group" shall mean, with respect to a Party, each Person that is a Subsidiary of such Party.

"Indemnifying Party" shall have the meaning provided in Section 10.3.

"Indemnitee" shall mean, with respect to a Party, (i) such Party's Affiliates, (ii) such Party's and its Affiliates' past, present and future directors, officers, employees or agents (in their capacity as such in each case) and (iii) each of the heirs, executors, administrators, successors and assigns of any of the foregoing.

"Indemnity Payment" shall have the meaning provided in Section 10.3.

"Initial Term" shall have the meaning provided in Section 5.1.

"Insolvent Party" shall have the meaning provided in Section 9.2.

"Mark-Up Percentage" shall mean 10%.

"Medical Regulatory Authority" shall mean any Governmental Authority the primary responsibility of which is to review the safety, effectiveness, reliability, manufacture, sale or marketing of medical products or medical devices for compliance with applicable regulatory requirements.

"Minimum Volume" shall have the meaning provided in Section 2.2.

"Non-Complying Products" shall have the meaning provided in Section 8.3.

"Parties" shall mean Producer and Purchaser.

"Production Cost" shall mean Producer's costs of manufacturing the Supplied Product, as determined and adjusted in accordance with Exhibit A, and as used to determine the Unit Production Cost.

"Production Cost Price Adjustment" shall have the meaning provided in Section 6.2.

"Production Facility" shall have the meaning provided in Section 2.5.

"Purchaser Intellectual Property" shall have the meaning provided in Section 4.1(a).

"Purchaser Permitted Marks" shall mean the trademarks, service marks, trade names, and related trade dress and logos of Purchaser set forth in Exhibit B.

"Purchaser Products" shall mean the Supplied Products listed in Exhibit A as Purchaser Products.

"Purchaser Supplied Components" shall mean the finished goods, raw materials, components, sub-assemblies and other products and parts indicated as Purchaser Supplied Components on Exhibit A.

"Quality Agreement" shall mean the Quality Agreement executed by the Parties with respect to this Agreement.

"Receiving Site" shall have the meaning provided in Section 9.3.

"Renewal Term" shall have the meaning provided in Section 5.2.

"Restricted Information" shall have the meaning provided in Section 6.5.

"Specifications" with respect to any Supplied Product shall mean the product specifications with respect to such Supplied Product maintained in Producer's or its applicable Affiliate's document management system at the Effective Date, as such specifications may be subsequently changed as provided in Section 2.4.

"Subcontractor Facility" shall have the meaning provided in Section 2.5.

"Supplied Products" shall mean the products (including raw materials, components, sub-assemblies, finished goods and other products and parts) described on Exhibit A and as more fully described in the Specifications for such product(s).

"Technical Support" shall have the meaning provided in Section 9.3.

"Term" shall mean the period commencing on the Effective Date and continuing until the termination or expiration of this Agreement as provided in Section 5.2

"Transfer" shall mean any assignment, transfer, sale or other disposition to a Person that is not an Affiliate of the transferor, including any transfer by way of merger or consolidation or otherwise by operation of law.

"Unit Production Cost" of any Supplied Product for each calendar year shall be the amount as determined in accordance with Exhibit A; provided that the Parties may agree in writing to use a different Unit Production Cost if they reasonably determine in good faith that the Unit Production Cost to be used for a given year does not accurately reflect the expected per unit cost to produce such Supplied Product.

"Waste" shall mean all reject or waste materials relating to the manufacturing of the Supplied Products, including chemical wastes, and excess or unusable products or materials.

1.2 Other Terms. Terms defined in other Sections will have the meanings therein provided.

1.3 Rules of Construction. In this Agreement, unless a clear, contrary intention appears, Section 10.16 of the Separation Agreement shall be incorporated by reference herein as though included in this Agreement (but for this purpose, only to the extent applicable to this Agreement, and not to the Separation Agreement). References to Producer or Purchaser shall be deemed to include the respective Affiliates of Producer or Purchaser through whom Producer or Purchaser, as the case may be, are acting in their performance hereunder.

ARTICLE II
MANUFACTURING

2.1 General. During the Term, Producer shall manufacture or cause to be manufactured for Purchaser the Purchaser Products pursuant to the terms of this Agreement.

2.2 Purchase Obligation. During each Contract Year, Purchaser shall purchase from Producer no less than 85% of the Annual Supplied Product Quantity (defined below), with amounts pro-rated for the Contract Year in which this Agreement is expired or terminated (as applicable in each case, the "Minimum Annual Volume"). For purposes of this Section 2.2, a Supplied Product shall be deemed purchased as of the time Producer receives the Firm Order associated with such Supplied Product in accordance herewith.

2.3 Volume Limitation; Capacity; Projects.

(a) Producer shall have no obligation to supply any Supplied Product to Purchaser in monthly volumes exceeding the respective maximum monthly volumes, if any, set forth in Exhibit A with respect to such Supplied Product. Producer shall use commercially reasonable efforts to devote adequate manufacturing capacity to be capable of manufacturing and supplying Supplied Product to Purchaser in accordance with the provisions of this Agreement; provided, however, that Producer shall not be required to purchase any new equipment, install any equipment purchased or requested by Purchaser or add (or, for clarity, allocate or dedicate) any additional manufacturing or storage capacity for the manufacturing and other activities to be carried out by Producer hereunder. Producer shall store materials and finished goods for the production of Supplied Products in a manner and volume consistent with the ordinary course of Producer's business; provided that, to the extent additional storage capacity is needed, such excess may be stored at a Third-Party facility at Purchaser's sole liability, cost, and expense.

(b) Producer will consider written requests by Purchaser to increase the maximum monthly volumes on a case-by-case basis. Subject to the other terms herein, Producer shall use good faith commercially reasonable efforts to cooperate with Purchaser to accommodate increased volume requirements, and Purchaser shall use good faith commercially reasonable efforts to provide adequate lead-time and notice of any material changes that it may expect from time to time in its historic or previously forecasted order quantities. Any such increase shall not in any material respect interrupt or divert resources from Producer's operation of its other businesses. Purchaser shall be fully responsible for all costs and expenses incurred by Producer resulting from any increase in capacity required to satisfy such increased maximum monthly volume, including any costs associated with the write-off of abandoned assets related to the project; provided that the Parties shall first agree to any such costs (or the project that will result in any such costs) prior to Producer incurring such expenses for which Purchaser will be responsible.

2.4 Product Improvements, Line Extensions and Additional Supplied Products. Producer shall have no obligation, express or implied, to develop or produce replacement products, product line extensions, product improvements or changes (including packaging and labeling), or new or other products in addition to the Supplied Products, nor shall Producer have any responsibility to procure any regulatory approvals required in connection with the development, testing, manufacture, marketing or sale of any such additional products. Notwithstanding the foregoing, within a reasonable period of time (to be determined by the Transition Committee) following receipt by Producer of a written request from Purchaser, Producer shall use commercially reasonable efforts (without unreasonably disrupting or diverting resources from Producer's other ongoing business operations) to develop and produce product improvements or changes and product line extensions as reasonably requested by Purchaser that are required by Law or are necessary to ensure the safety of Supplied Products; provided that all costs and expenses (including with respect to licensing and other regulatory requirements) incurred in connection with any such proposed improvement, change or product line extension shall be paid by Purchaser (including costs of capital equipment and process upgrades and of obsolescence of materials, goods-in-process, and finished goods not suitable for use in the business or operations of Producer or any of its Affiliates to the extent such levels of inventory are consistent with the most recent Forecast); provided further that, if any changes made pursuant to this Section 2.4 are required by Law and such changes apply generally to other products produced by Producer at such

Production Facility, then Purchaser shall pay a pro rata amount of the cost of such regulatory changes based upon the proportion of time that such Production Facility is dedicated to the production of Supplied Products relative to the production of such other products similarly affected by the regulatory requirement. The Parties shall enter into an amendment or supplement to this Agreement to reflect any increase in Production Costs resulting from any such replacement products, product line extensions, product improvements or other changes, and any modification to the applicable Specifications resulting from any improvement, change or product line extension implemented as provided in this Section 2.4. With respect to any proposed improvements, changes or product line extensions not required by Law or necessary to ensure the safety of Supplied Products, Producer shall, in good faith, consider the implementation of any such other proposed improvements, changes or product line extensions and cooperate to implement such changes at Purchaser's cost to the extent commercially reasonable and not an unreasonable disruption or diversion of resources from Producer's other ongoing business operations. In addition, at such time or times, if any, as the Parties mutually agree in writing to add additional products to (and make changes to) the Supplied Products to be supplied by Producer pursuant to this Agreement, the Parties shall enter into any amendment or supplement determined to be desirable by the Parties to reflect the terms and conditions, including any modification to the applicable Specifications, mutually agreed upon by the Parties with respect to such additional Supplied Products.

2.5 Production Facilities. The manufacturing operations shall be carried out at the facilities of Producer or its Affiliates in the respective locations set forth on Exhibit A, at such other locations as permitted in accordance with this Section 2.5 (each, a "Production Facility") or at the applicable facilities of one or more permitted Subcontractors (each such Subcontractor facility, a "Subcontractor Facility"). Notwithstanding anything to the contrary contained herein, Producer may (at its cost unless otherwise agreed) move its manufacturing operations from any Production Facility or Subcontractor Facility to another location in its sole discretion; provided that (a) any such new Production Facility or Subcontractor Facility shall manufacture the applicable Supplied Product(s) in conformity with cGMP and the Specifications and (b) to the extent that any such change in location (or the use of any Subcontractor Facility if such Subcontractor Facility is not indicated in Exhibit A for any such Supplied Product) results in an increase in the Production Cost of any Supplied Product, Producer may not charge such increase to Purchaser. In the event of any such change in location, Exhibit A shall be amended appropriately.

2.6 Subcontracting. Producer shall be entitled to hire or engage, or cause to be hired or engaged, any subcontractor or other Third Party (each, a "Subcontractor") to perform any or all of its obligations under this Agreement; provided that (a) such Subcontractor is qualified to provide the subcontracted service, (b) such Subcontractor's performance is in conformity with cGMP, (c) the Subcontractor Facility has all applicable Government Authority clearances and licenses required by Law, (d) such Subcontractor agrees to comply with the obligations of this Agreement as if it were the Producer hereunder for the Supplied Products such Subcontractor provides, and (e) Producer remains primarily responsible for its obligations under this Agreement.

2.7 Purchaser's Responsibilities. In order to facilitate the manufacture of Supplied Products by Producer, Purchaser shall:

(a) Provide to Producer copies of the Specifications pertaining to the Purchaser Products in quantities sufficient to permit Producer to carry out its obligations hereunder.

(b) Provide, at Purchaser's cost and expense, Purchaser Supplied Components to Producer at the Production Facility or Subcontractor Facility, or such other location, in each case as indicated on Exhibit A. Purchaser shall deliver such Purchaser Supplied Components to Producer in quantities and at the times as Producer shall reasonably request and as shall be reasonably required by Producer to plan for and meet the Forecasts provided by Purchaser as provided in Section 2.8. Notwithstanding the foregoing, Purchaser shall be entitled to reasonable advance notice of the quantities of Purchaser Supplied Components required by Producer. All Purchaser Supplied Components delivered to Producer as provided in this Section 2.8 shall conform to the Specifications therefor identified by Producer and Purchaser at the Effective Date or as later agreed in writing between Purchaser and Producer. Title and risk of loss to the Purchaser Supplied Components shall remain with Purchaser, except to the extent any damage, destruction or other loss was directly caused by the gross negligence or willful misconduct of Producer.

(c) Grant Producer and its employees reasonable access to Purchaser's employees as reasonably required to assist Producer in the production of Supplied Products.

2.8 Forecasts and Firm Orders.

(a) With respect to each Supplied Product, at least seven calendar days prior to the beginning of each calendar month during the Term, Purchaser shall give Producer a rolling forecast (each a "Forecast") of the orders Purchaser expects to place with Producer for such Supplied Product for each month during the rolling forecast period specified in Exhibit A, which Forecast shall satisfy all of the requirements of the master scheduling system employed from time to time by Producer. The Forecast for the binding period specified in Exhibit A shall contain specific dates for shipment (and Producer and Purchaser shall cooperate to cause shipments to occur promptly after release at the Production Facility, and in any case in a reasonable manner to avoid unreasonable or undue burden on Producer's other businesses and operations at such Production Facility) and shall be binding on both Producer and Purchaser regarding such Supplied Product to be purchased or supplied by the respective Parties (a "Firm Order"), subject to Section 2.8(b). The quantities of Supplied Products (or any components thereof, if applicable and different from the binding period for Supplied Products generally) for the final month of the applicable binding forecast period subject to a Firm Order may not vary by more than 15% from the forecasted quantities contained in the immediately preceding Forecast for such month prior to its inclusion in a Firm Order. Forecasts relating to each Supplied Product beginning on the date of this Agreement were delivered to Producer by Purchaser at the time of signing this Agreement. Without limiting Section 2.2, minimum per order quantities for each Supplied Product, if any, shall be set forth in Exhibit A.

(b) Each Firm Order shall give rise to a binding obligation of Purchaser to purchase, accept and pay for the quantities of Supplied Products referred to therein. Notwithstanding the foregoing or Section 2.8(a), Producer shall use commercially reasonable efforts to meet Purchaser's requested quantities and shipment dates for increased orders in excess of the permitted amounts if such amounts can be reasonably accommodated (at Purchaser's expense) without unreasonably interrupting, or otherwise diverting resources from, Producer's

other businesses. Producer shall be deemed to have accepted and shall be bound by any Firm Order submitted to Producer, as such Firm Order may be changed as provided in the preceding sentence, and Purchaser shall be required to pay for the quantity of Supplied Products included in the applicable Firm Order and available for delivery, as such Firm Order may be modified by Purchaser pursuant to the preceding sentence, if applicable. Purchaser acknowledges that Supplied Products in excess of the quantities set forth in a Firm Order may be realized as a result of Producer's reasonable efforts hereunder, including due to production efficiencies achieved by Producer. Purchaser agrees to purchase and pay for all such excess Supplied Products that are Purchaser Products on the same terms as are applicable to the purchase of all other Supplied Product. Firm Orders shall be governed by the terms of this Agreement and in the event of an inconsistency between any other documentation related to a Firm Order and this Agreement, this Agreement shall apply.

(c) At all times during the Term, Producer shall use commercially reasonable efforts to meet the shipment dates set forth in each Firm Order but shall have no obligation to maintain materials necessary to meet any Firm Orders prior to any order becoming a Firm Order. In the event Producer will not be able to fulfill any Firm Order in accordance with the terms herein, Producer shall notify Purchaser in writing promptly upon becoming aware of such inability and in any event at least five calendar days prior to the delivery date required in such Firm Order, and the Parties will discuss alternate delivery dates in good faith with a view to reaching agreement thereto, such agreement not to be unreasonably withheld by either Party.

(d) If, due to its fault or error, Producer fails to deliver Supplied Products in the quantities specified in the applicable Firm Order and Purchaser notifies Producer in reasonable detail that such failure will result in a material negative economic impact on Purchaser's business, Producer shall pay air freight or other extraordinary shipping costs reasonably necessary to deliver delayed Supplied Products to Purchaser or Purchaser's customers.

(e) The Parties shall cooperate in good faith in providing other, longer-range forecasts which shall be useful in budget planning by the Parties, but such longer-range forecasts shall not constitute a commitment by either Party to purchase or supply.

2.9 Obsolescence.

(a) In the event that any Third-Party supplier of any raw materials, components, labeling, packaging or other inventories used by Producer to manufacture any of the Supplied Products shall discontinue production of any such raw material, component, labeling, packaging or other inventories, which discontinuance shall result in Producer incurring any additional costs or expenses, (i) if the discontinued raw materials, components, labeling, packaging or other inventories relate solely to Purchaser Products, Purchaser shall reimburse Producer for all such additional costs and expenses and (ii) if the discontinued raw materials, components, labeling, packaging or other inventories relate to Purchaser Products as well as to other Supplied Products or other products of the Producer, Purchaser shall reimburse Producer for Purchaser's allocable portion of such additional costs and expenses based upon the unit volumes of the affected Supplied Products and other products produced for Producer and its Affiliates, on the one hand, and for Purchaser and its Affiliates, on the other hand. Such costs and expenses shall include all additional direct and indirect internal costs and out-of-pocket expenditures, whether capitalized or expensed,

resulting from such discontinuance, including all such additional costs and expenses relating to or arising out of any modification to Producer's procedures or processes, acquisition of property, equipment or other assets, relocation, regulatory compliance, including associated regulatory fees, write-off or disposal of materials (including strategic materials purchases), equipment and other assets rendered unusable by virtue of such discontinuance and all related changes. In addition, Purchaser shall reasonably cooperate with Producer in connection with any strategic materials purchases resulting from or responsive to any such discontinuance.

2.10 Storage and Handling. Producer shall store and handle the Supplied Products in accordance with the Specifications. Raw materials utilized by Producer in connection with the manufacturing, processing and packaging of the Supplied Products shall not be used by Producer beyond the shelf life designated in the Specifications unless otherwise specified in writing by Purchaser. Producer shall handle, control and store, treat or dispose of any Waste generated in performing its obligations under this Agreement.

2.11 Shipments; Title. Producer shall ship each Firm Order Free Carrier (FCA) from applicable Production Facility (or Subcontractor Facility) to Purchaser or Purchaser's designee in accordance with Law. Freight, insurance and loading costs shall be for the account of Purchaser (in each case, for the avoidance of doubt, in addition to the applicable purchase price), except that any increased freight cost resulting from the shipment occurring from a facility other than the Production Facility (or Subcontractor Facility) listed on Exhibit A with respect to any Supplied Product shall be for the account of Producer. Title and the risk of loss, delay or damage in transit shall be passed to Purchaser upon delivery to Purchaser's or Purchaser's designee's designated carrier; provided that Producer shall be responsible for the loading of the Supplied Products on departure and shall bear the risk of loss incurred in such loading; provided further that if Purchaser fails to send such shipping authorization within 30 calendar days after Producer has notified Purchaser that the Supplied Products are available for pick-up at the applicable facility, Producer shall be entitled to ship and invoice such Supplied Products without any such shipping authorization. Producer shall package the Supplied Product for shipment in accordance with its customary practices therefor, unless otherwise specified in writing by Purchaser, in which event any extra cost incurred by Producer on account of changes requested by Purchaser shall be reimbursed by Purchaser. Producer shall include the following for each shipment of Supplied Product: (i) the Firm Order reference number; (ii) the lot numbers; (iii) the quantity of Supplied Product; and (iv) a Certificate of Compliance with the applicable Specifications. Freight carriers shall be designated by Purchaser in the applicable Firm Order. Purchaser shall procure, at its cost, insurance covering damage or loss to the Supplied Products during shipping.

2.12 Customs. For purposes of exporting Supplied Products out of the applicable country of origin, Purchaser shall be the exporter of record and shall be responsible for complying with all customs requirements and export laws of the applicable jurisdiction(s). For purposes of importing the Supplied Product into the applicable country of destination, Purchaser shall be the importer of record for the Supplied Product and shall be responsible for complying with all customs requirements and import laws of the applicable country.

2.13 Labeling of Supplied Product.

(a) All Purchaser Products supplied hereunder shall be labeled and packaged in accordance with the applicable Specifications. Purchaser shall control the content and type of all product labeling and packaging for Purchaser Products, and shall have the responsibility, at Purchaser's expense, for any changes or supplements thereto, including the expense of securing any approvals required by the FDA or other applicable Medical Regulatory Authorities or Certification Bodies for any such changes or supplements. Producer shall be responsible for obtaining such labels (and any changes or supplements thereto) in accordance with the content specified by Purchaser at Purchaser's sole cost and expense.

(b) Except where otherwise required by Law or to address an actual or potential safety issue, in which case Purchaser and Producer will use commercially reasonable efforts to implement such change as promptly as practicable, any changes to the labeling and packaging for Purchaser Products shall be communicated to Producer as far in advance as reasonably practicable together with the required documentation specifying the content to be included in the labeling and packaging. Where a labeling or packaging change is required by Law, Producer shall be obligated to devote comparable priority to implementing such change as it shall devote to other business units of Producer. Where a labeling or packaging change is requested, Purchaser and Producer will use commercially reasonable efforts to implement such change as promptly as practicable, subject to Producer's discretion to reasonably determine the appropriate resources to be allocated to any such request in order to avoid interruption to the operation of its other businesses. Purchaser shall reimburse Producer for the costs of any change to the labeling or packaging for Purchaser Products, including costs of capital equipment and process upgrades and of obsolescence of any materials or inventory; provided that Purchaser's liability for such reimbursement of materials and inventory shall be limited to levels of inventory that are consistent with the binding portion of the most recent Forecast prior to agreement to make such change.

2.14 Services. Each Party shall cooperate with the other Parties to accomplish the transactions contemplated hereby and shall, at the request of the other Parties, use commercially reasonable efforts to promptly take any and all actions necessary or desirable to effect such transactions; provided, however, that to the extent of any services or projects related to the manufacturing and supply of the Supplied Products (including capacity and yield improvement projects, as well as projects related to product development) in connection with this Agreement that are specified by the applicable Parties in writing from time to time, Purchaser will pay the price in respect of such services in amounts agreed by such Parties from time to time or (if such Parties do otherwise agree to such specific costs for such services or projects) shall bear all direct and indirect costs incurred by Producer in connection with such services or projects, plus the Mark-Up Percentage. Producer shall use commercially reasonable efforts to assist Purchaser with the completion of the projects that such Purchaser and Producer have agreed in writing from time to time to be accomplished in accordance with this Agreement to the extent of the resource commitments and on the timeline that such Purchaser and Producer may agree upon in writing from time to time; provided that, with respect to any projects for which expected resource requirements or expected timelines for performance are not specifically agreed by Purchaser and Producer, Producer's efforts hereunder shall not be required to unreasonably disrupt or unreasonably divert resources from its other business operations, and the Transition Committee (as defined in the Separation Agreement) shall, in good faith, cooperate to determine the

appropriate allocation of resources and timeline for such projects and any similar types of projects requested by Producer after the Effective Date. The timing of payments in respect of providing services necessary to comply with this Section 2.14 shall generally occur in a manner consistent with the timing of payments for services that are or were provided under the Transition Services Agreement during its term (such that any project-related payments for costs and expenses incurred by Producer or its Affiliates shall be promptly reimbursed by Purchaser based on monthly invoices, and not deferred until completion of the project or until incorporated into price adjustments to Supplied Products).

2.15 Obligations Regarding Dedicated Equipment.

(a) Producer will use the Dedicated Equipment for the sole purpose of producing Supplied Products for sale to Purchaser as provided in this Agreement. Producer shall be responsible for qualifying the Dedicated Equipment, and for maintaining the Dedicated Equipment consistent with its practices as in effect from time to time with respect to manufacturing equipment serving its other business units.

(b) Purchaser shall reimburse Producer for all out-of-pocket costs and expenses, such as the cost of parts and third-party labor, incurred by Producer in connection with such qualification, maintenance and repairs to the extent that such costs and expenses are not already included in Producer's calculation of the Production Cost; provided that Producer shall provide Purchaser with advance written notice (as soon as reasonably practicable after becoming aware of such requirement of any individual qualification, maintenance or repair that is expected to result in a charge to Purchaser pursuant to this sentence that exceeds US $100,000, it being understood that failure to provide such notice shall not relieve Purchaser of its obligations related thereto except to the extent Purchaser is prejudiced by the failure to provide such notice. Notwithstanding the foregoing, Producer shall (i) be solely responsible for any damage to the Dedicated Equipment caused by Producer's failure to maintain the Dedicated Equipment in material accordance with applicable manufacturer's maintenance specifications and any damage caused by the gross negligence or willful misconduct of Producer or its employees or agents with respect to the Dedicated Equipment, (ii) promptly notify Purchaser of any such damage caused by such action or inaction of Producer or its employees or agents, and (iii) cause any damage for which it is responsible pursuant to clause (i) to be repaired (or if necessary such damaged Dedicated Equipment to be replaced) promptly at Producer's sole cost and expense. Dedicated Equipment shall at all times remain personal property, notwithstanding that such equipment, or any part thereof, may be affixed or attached to real property or any improvements thereon.

(c) Upon termination of this Agreement, Purchaser shall be responsible for paying to Producer the final net book value of the Dedicated Equipment the ("Final Net Book Value"). Within 30 days after the termination of this Agreement, Producer shall send its calculation of the Final Net Book Value to Purchaser. Purchaser will pay or cause its Affiliates to pay all amounts due pursuant to this Section 2.15(c) within 30 days after the date of delivery of the Final Net Book Value calculation. The calculation of the Final Net Book Value will be determined solely by the Producer.

ARTICLE III
RECEIPT AND REJECTION OF PRODUCT

3.1 General. Purchaser shall have the right to reject all or any portion of a shipment of Supplied Products (a) that does not comply in any material respect with any of the covenants and agreements set forth in Section 8.1(a) or 8.1(b); or (b) which due to the fault or error of Producer, are not delivered in material compliance with the timeframes set forth herein and, as a result of such delay, Purchaser, after making reasonable efforts, is unable to use such Supplied Products; provided that Purchaser shall notify Producer within 60 days (with respect to rejections pursuant to clause (a)) or 10 days (with respect to rejections pursuant to clause (b)) after receipt of such shipment if it is rejecting a shipment (or portion thereof). Concurrently with the delivery of a notice of rejection (or as soon as practicable thereafter) of Supplied Product pursuant to Section 3.1, Purchaser shall send to Producer the Non-Complying Product or a representative sample of the Non-Complying Product (or a picture thereof if Producer and Purchaser agree that a picture is sufficient for purposes of the initial review). Producer shall notify Purchaser promptly, but in no event later than 30 days after receipt of a notice of rejection by Purchaser, whether it accepts Purchaser's rejection of such Supplied Products.

3.2 Replacement of Supplied Products. Whether or not Producer accepts Purchaser's rejection of Supplied Products in accordance with Section 3.1, promptly upon receipt of a notice of rejection, unless otherwise specified by Purchaser, Producer shall use commercially reasonable efforts to provide replacement Supplied Product for those rejected by Purchaser in the original shipment. If the Supplied Product rejected by Purchaser from the original shipment ultimately is found to be a Non-Complying Product due to a failure to comply in any material respect with any of the covenants and agreements set forth in Section 8.1(a) or 8.1(b), Purchaser shall be entitled to the remedies specified in Section 8.3. If it is determined subsequently that such Supplied Product was in fact conforming, then Purchaser shall be responsible not only for the purchase price of the allegedly Non-Complying Product (including all transportation charges) but also the purchase price of the replacement Supplied Product together with any special or extraordinary costs or expenses incurred by Producer in the manufacture of the replacement Supplied Product. In the event that Producer bears replacement costs or transportation charges hereunder due to its provision of Non-Complying Products, such costs shall not be incorporated into the calculation of Production Cost.

3.3 Independent Testing. In the event the Producer and Purchaser cannot agree as to whether any shipment of Supplied Product conforms with the Specifications, Producer and Purchaser shall engage a mutually agreed independent testing organization to evaluate the rejected Supplied Product and determine whether or not it is a Non-Complying Product, such determination to be final and binding on the Parties. Costs and expenses of such independent testing organization shall be borne by the Producer, if the Supplied Product is determined to be a Non-Complying Product, or by the Purchaser, if the Supplied Product conforms with the Specifications.

ARTICLE IV
INTELLECTUAL PROPERTY

4.1 Intellectual Property.

(a) All Intellectual Property, together with all materials, data, writings and other property in any form whatsoever, related to the Supplied Products, in each case, owned or controlled by Purchaser and/or its respective Affiliates (including pursuant to the Separation Agreement immediately after the Closing (as defined in the Separation Agreement) or otherwise during the Term) (the "Purchaser Intellectual Property"), shall remain, as between the Parties, owned or controlled by Purchaser. For the purposes of clarity only, all Intellectual Property related to the Supplied Products is Purchaser Intellectual Property.

(b) For clarity, except as permitted by this Agreement and as may be permitted by the Transitional Trademark License Agreement, the Producer and its divisions and affiliated entities shall not at any time own, use or register, authorize the registration of, or maintain any trademark or domain name consisting of the trademarks licensed under the Transitional Trademark License Agreement.

4.2 Purchaser Trademark License and Permission Grant.

(a) Subject to the terms of this Agreement Purchaser hereby grants to Producer a limited, fully paid-up, non-exclusive, non-transferable and non-sublicensable license during the Term to the Purchaser Permitted Marks in any country or jurisdiction in which (i) Purchaser has a registered trademark or other similar rights with respect to the applicable Purchaser Permitted Mark and (ii) the Purchased Products were manufactured as of the Closing Date under the respective trademarks for purposes of providing the Supplied Product marked with a Purchaser Permitted Mark to Purchaser under this Agreement.

(b) On the termination or expiration of this Agreement for any reason, all licenses under this Agreement with respect to the Purchaser Permitted Marks are immediately terminated and no rights under the Purchaser Permitted Marks shall survive the termination of the Agreement in any way.

(c) On the termination or expiration of a product supply obligation for a product listed on Exhibit A to which a Purchaser Permitted Mark relates, all licenses under this Agreement with respect to such Purchaser Permitted Mark is immediately terminated and no rights under such Purchaser Permitted Mark shall survive the termination of the Agreement in any way.

4.3 Limited Right to Use. Subject to the provisions of Section 4.2, nothing set forth in this Agreement shall be construed to grant to any Party any title, right or interest in or to any Intellectual Property owned or controlled by any other Party or any of its Affiliates. Except as otherwise expressly set forth in any other Ancillary Agreement (or any other agreement between the Parties), use by Producer of any Purchaser Intellectual Property shall be limited exclusively to its performance of this Agreement.

ARTICLE V
INITIAL TERM AND RENEWAL

5.1 Initial Term. The initial term of this Agreement (the "Initial Term") shall commence on the Effective Date and, subject to each Party's termination rights under Article IX, shall expire at the end of the day on the initial termination date set forth on Exhibit A with respect to each Supplied Product, unless extended as provided in Section 5.2.

5.2 Alternative Sourcing; Renewal. This Agreement may only be extended (each such extension with respect to any Supplied Product, a "Renewal Term," and, collectively with the Initial Term, the "Term") with respect to any Supplied Product if and to the extent expressly set forth on Exhibit A or as otherwise expressly agreed in writing by the Parties. Purchaser shall use commercially reasonable efforts during the Initial Term and any Renewal Term to secure a reasonably satisfactory alternative source of each Supplied Product (whether from a third party or developed internally) as soon as reasonably practicable after the Effective Date.

5.3 Maximum Term. Notwithstanding anything to the contrary herein or in any Exhibit hereto, no Initial Term may extend beyond the two-year anniversary of the Distribution Date (as defined in the Separation Agreement), and no Renewal Term may extend beyond the third anniversary of the Distribution Date (as defined in the Separation Agreement).

ARTICLE VI
PRICES

6.1 General. The initial unit price for each Supplied Product sold by Producer to Purchaser shall be the Unit Production Cost as agreed upon by Producer and Purchaser (plus the Mark-Up Percentage), subject to the adjustment or additions set forth in Sections 6.2, 6.3 or 6.4. Such prices do not include the charges provided for in Sections 6.3 or 6.4, which shall be additional charges over and above the charges contemplated by this Section 6.1, as adjusted in accordance with Section 6.2.

6.2 Price Adjustments. In connection with Producer's planning and budgeting process, and as part of the required review to determine the following year's Production Cost Price Adjustment, Purchaser shall provide an annual operating plan (including unit volumes for each Supplied Product, by month and by code, based on agreed-upon target yield) with respect to the expected demand for each Supplied Product at each facility subject to this Agreement not later than July 31 of each Contract Year, with such annual operating plan covering the immediately following Contract Year (the "Annual Supplied Product Quantity"). Based on such annual operating plan and using information available for the current year's preliminary and estimated Production Costs, Producer shall provide Purchaser with an updated Unit Production Cost for each Supplied Product for the following Contract Year not later than October 31 of the year in which such annual operating plan is delivered. Purchaser and Producer shall cooperate with each other to review the annual operating plan data and assumptions, as well as the production cost data and estimates, in each case as are used to determine the updated Unit Production Cost, with good faith efforts used to resolve any open questions or issues related thereto in a timely fashion. If Purchaser disagrees with any updated Unit Production Cost, it shall provide written notice to Producer that it disputes such amount within 30 days after receiving notice thereof, and the absence of any such notice of dispute shall be deemed to be agreement with such change; provided that, regardless of any dispute, the amount of the updated Unit Production Cost shall become effective as if the amount had not been disputed until such time as the dispute is finally resolved. Any such increase or decrease in the Unit Production Cost shall take effect as of the first day of the Contract Year immediately following the Purchaser's required delivery of the annual operating plan in accordance with this Section 6.2, with the new price for each Supplied Product to equal the Unit Production Cost of such Supplied Product for such Contract Year, plus the Mark-Up Percentage (such adjustment to price, a "Production Cost Price Adjustment"). Producer shall use commercially reasonable efforts, consistent with its efforts with respect to its other business units, to mitigate any increase in the Unit Production Cost, subject to the limitations contained in this Section 6.2.

6.3 Taxes. Unless otherwise indicated on Exhibit A, any prices and other charges set forth in Exhibit A do not, and any adjusted prices pursuant to Section 6.2 shall not, include sales, use, excise, occupation, privilege, value-added or similar taxes. Purchaser shall pay, or reimburse Producer for (in each case, for the avoidance of doubt, in addition to the applicable purchase price), the gross amount of any present or future sales, use, excise, occupation, privilege, value-added or other similar tax (excluding any tax on net income, corporate franchise tax or fee or any similar tax or fee) applicable to the sale or furnishing of any Supplied Products to Purchaser. Purchaser shall be responsible for the payment of all duties, tariffs, value-added taxes, and other taxes and charges payable on the exportation or importation of the Supplied Products.

6.4 Pass-Through Expenses. The Parties agree to cooperate and use commercially reasonable efforts to obtain any necessary consents required under any existing Contract with a Third Party to allow Producer to perform its obligations hereunder; provided that Producer and its Affiliates shall not be required to pay any fee or other amount in respect of any such consent. Any costs and expenses incurred by any Party in connection with obtaining any such consent that is required to allow Producer to perform its obligations hereunder shall be borne by Purchaser; provided that no such costs or expenses shall be payable by Purchaser unless approved in advance in writing by Purchaser.

6.5 Audit. In the event of any Production Cost Price Adjustment pursuant to Section 6.2 with respect to any Supplied Product, Purchaser may perform an audit of Producer's records directly associated with such Production Cost Price Adjustment or other increase or credit, if notice of such audit is provided within three months after the Production Cost Price Adjustment or other increase has become effective (or, in the case of quarterly payments or credit based on variance from Unit Production Cost, within three months after notice of such increase or credit is delivered to Purchaser). Purchaser may use independent auditors, who may participate fully in such audit. If an audit is proposed with respect to information which Producer wishes not to disclose to Purchaser ("Restricted Information"), then on the written demand of Producer, the individuals conducting the audit with respect to Restricted Information will be limited to the independent auditors of Purchaser. Such independent auditors shall enter into an agreement with the Parties under which such independent auditors shall agree to maintain the confidentiality of the information obtained during the course of such audit (including an agreement to not share such information with Purchaser) and establishing what information such auditors will be permitted to disclose to report the results of any audit of Restricted Information to the Party requesting the audit. Any such audit shall be conducted during regular business hours and in a manner that does not interfere unreasonably with Producer's operations. Each audit shall begin upon the date specified in a Notice given by Purchaser to Producer a minimum of 30 days prior to the commencement of the audit; provided that, if the date so specified shall conflict with a regulatory inspection or audit, plant shutdown or other similar event, the Parties shall cooperate to establish a mutually agreeable commencement date. Such audit shall be performed diligently and in good faith and shall be completed within 30 days of the commencement thereof; provided that, to the extent that Purchaser's compliance with such timeframe for completion is not feasible due to Producer's failure to provide timely access to documentation reasonably requested

by Purchaser in connection with such audit, such 30-day period shall be extended as reasonably necessary. Any undisputed overpayment or underpayment of amounts due under this Agreement determined by this Section 6.5 shall be due and payable to the other Party by the Party owing such amount within 30 days after notice of such audit finding. Purchaser shall bear the full cost of such audit unless in the event that any audit performed hereunder results in a decrease of 10% or more in any amount due Producer hereunder, then Producer shall be obligated to pay the out-of-pocket audit costs paid to any Third Party auditor engaged to conduct such audit up to a maximum amount of the lesser of the amount of such adjustment and $100,000; provided that any such Third Party auditor's fees shall have been on an hourly or flat fee basis without a contingency or other performance or bonus fee. In the event Producer bears any audit costs hereunder, such costs shall not be incorporated into the calculations for the Production Cost.

ARTICLE VII
INVOICING AND PAYMENTS

7.1 Invoicing. Producer will submit or cause to be submitted to Purchaser for payment invoices of amounts due under this Agreement. At Producer's option, separate invoices may be submitted (on different periodic schedules) by its separate divisions or Affiliates or with respect to individual Production Facilities, or Producer may combine the invoices of one or more of such divisions, Affiliates or Production Facilities. The invoices will specify the Supplied Products provided and will contain or be followed by such other supporting detail as Purchaser may from time to time reasonably request. Within 30 days of the final date of delivery of Supplied Products by Producer hereunder, Producer shall submit a final invoice to Purchaser, which shall include the cost of any raw materials or work in progress related to the Supplied Products and which shall be subject to the payment terms set forth herein.

7.2 Payment. Purchaser will pay or cause its Affiliates receiving the Supplied Products to pay all amounts due pursuant to this Agreement within 30 days after the date of delivery of each such payment invoice of amounts due hereunder (the "Due Date").

7.3 Overdue Payments. If any amounts due hereunder have not been received by the Due Date, such overdue amounts shall bear interest from the Due Date at the rate of 5% per year (or the highest amount permitted by Law, if lower), or portion thereof, until received. Such interest shall be calculated on the basis of the actual number of days elapsed from the Due Date up to and including the actual date of payment, without compounding.

7.4 Applicable Currency. All invoices issued pursuant to this Agreement shall be expressed in terms of, and payments made pursuant to this Agreement shall be made in, U.S. dollars (USD).

7.5 No Acknowledgement. Neither payments made by Purchaser nor the acceptance of payments by Producer in an amount less than the amount shown on any invoice from Producer shall be construed as an acceptance or agreement with the amount so stated or the amount received. Either Party may recover from the other the amount of any overpayment or underpayment. Without limiting the generality of the foregoing, Producer may supplement any invoice it renders to Purchaser hereunder for less than the full amount to which it is entitled.

ARTICLE VIII
WARRANTIES; REMEDIES; LIMITATION ON LIABILITY

8.1 Producer Warranties.

(a) Producer covenants and agrees that each Supplied Product delivered to Purchaser hereunder will at the time of delivery (i) materially conform with the Specifications applicable to such Supplied Product (except to the extent any Purchaser Supplied Components result in such Supplied Product not conforming with Specifications) and (ii) have been manufactured, processed, labeled, packaged, stored and held in material compliance with cGMP and in accordance with the Quality Agreement.

(b) Producer covenants and agrees that (i) all equipment, tooling and molds utilized in the manufacture and supply of Supplied Products hereunder by Producer, during the Term, be maintained in good operating condition and shall be maintained and operated in material accordance with all applicable Laws, including cGMPs and (ii) Producer shall perform all of its obligations under this Agreement in material compliance with all applicable Laws. Producer covenants and agrees that it shall hold during the Term all material licenses, permits and similar authorizations required by any Governmental Authority for Producer to perform its obligations under this Agreement.

(c) Producer represents and warrants that it (i) is duly organized, validly existing and in good standing under the laws of its applicable jurisdiction of organization, (ii) has power and authority necessary to conduct its business as currently being conducted and as contemplated herein, (iii) has power and authority to make, deliver and perform its obligations under this Agreement and has taken all necessary action to authorize the execution, delivery and performance of this Agreement, (iv) has duly executed and delivered this Agreement, and such Agreement constitutes the legal, valid and binding obligation of it and is enforceable in accordance with its terms and does not require the consent of, authorization of, filing with or other act by or in respect of, any Governmental Authority or any other Person in connection with the execution, delivery, performance, validity or enforceability of this Agreement.

8.2 Disclaimer. The covenants, agreements, representations and warranties of Producer and Purchaser set forth in this Article VIII shall be continuing and shall be binding upon each of them and their successors and assigns and shall inure to the benefit of the other Parties and their successors and assigns. The covenants, agreements, representations and warranties provided by this Article VIII shall not apply to any defect or non-conformity with Specifications caused by the abuse, alteration or modification of the Supplied Products by the Purchaser or any Third Party. THE COVENANTS, AGREEMENTS, REPRESENTATIONS AND WARRANTIES EXPRESSLY AND SPECIFICALLY PROVIDED BY PRODUCER AND ITS AFFILIATES IN THIS AGREEMENT ARE THE SOLE COVENANTS, AGREEMENTS, REPRESENTATIONS AND WARRANTIES OF PRODUCER AND ITS AFFILIATES WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT. NO OTHER COVENANTS, AGREEMENTS, REPRESENTATIONS OR WARRANTIES ARE PROVIDED WITH RESPECT TO THE SUPPLIED PRODUCTS AND THE COVENANTS, AGREEMENTS, REPRESENTATIONS AND WARRANTIES EXPRESSLY AND SPECIFICALLY MADE IN THIS AGREEMENT ARE MADE IN LIEU OF ANY AND ALL OTHER COVENANTS, AGREEMENTS,

WARRANTIES, REPRESENTATIONS AND GUARANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES AS TO QUALITY, PERFORMANCE, MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE; PROVIDED, HOWEVER, THAT THE LIMITATIONS SET FORTH IN THIS SECTION 8.2 SHALL NOT NEGATE OR OTHERWISE AFFECT ANY COVENANT, AGREEMENT, REPRESENTATION OR WARRANTY THAT ANY PARTY MAY HAVE EXPRESSLY AND SPECIFICALLY MADE UNDER THE SEPARATION AGREEMENT OR ANY OTHER ANCILLARY AGREEMENT.

8.3 Remedy For Breach. In the event of any failure to comply with Sections 8.1(a) or 8.1(b) (any Supplied Products provided in breach of such Sections, "Non-Complying Products"), the sole and exclusive remedy (subject to Section 12.1, if applicable) of Purchaser or any other Indemnitee shall be to, at Purchaser's option, either (a) require Producer to, at its option, promptly repair or replace the Non-Complying Products with Supplied Products that comply with such warranties at no additional cost to Purchaser (in which case Producer shall bear the cost of all associated transportation and/or disposal charges) or (b) receive a full credit for the purchase price of all Non-Complying Products against current invoices payable by Purchaser to Producer under this Agreement (if no invoices are currently payable by Purchaser to Producer, Producer promptly shall issue a refund to Purchaser of the amount of any such credit by wire transfer of immediately available funds to a bank account as specified by Purchaser). Notwithstanding anything to the contrary in this Agreement (including any limitations on liability), Producer shall also be obligated for all transportation and disposal costs associated with any Non-Complying Products; provided that obligations in respect of recalls, withdrawals or field corrections of any Purchaser Supplied Components shall continue to be limited as set forth in Section 12.1 and this Section 8.3 shall in no way be deemed to increase the liability of Producer, its Affiliates or any Indemnifying Party with respect to the matters described in Section 12.1.

8.4 Limitation on Liability. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT WILL (A) ANY PARTY OR ANY OTHER INDEMNIFYING PARTY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, COLLATERAL, CONSEQUENTIAL, EXEMPLARY, REMOTE, SPECULATIVE, PUNITIVE OR SIMILAR DAMAGES OR LOST PROFITS SUFFERED BY AN INDEMNITEE, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, IN CONNECTION WITH ANY DAMAGES ARISING HEREUNDER AND (B) PRODUCER'S TOTAL LIABILITY ARISING UNDER THIS AGREEMENT EXCEED, ON A PRODUCT-BY-PRODUCT BASIS, THE TOTAL PRICE PAID BY OR ON BEHALF OF PURCHASER TO PRODUCER OR ITS AFFILIATES IN THE IMMEDIATELY PRECEDING 12 MONTHS FOR SUCH SUPPLIED PRODUCT HEREUNDER; PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION 8.4 SHALL LIMIT OR EXCLUDE ANY DAMAGES OR CLAIMS TO THE EXTENT ARISING OUT OF A BREACH OF SECTION 15.1 OF THIS AGREEMENT.

8.5 Purchaser Warranties.

(a) Purchaser covenants and agrees that the Purchaser Supplied Components, as furnished to Producer under this Agreement, shall be used, handled or stored in material accordance with the Specifications, all applicable Laws, and the Quality Agreement and shall materially conform to the applicable specifications for such Purchaser Supplied Components.

(b) Purchaser covenants and agrees that the use of any Purchaser Supplied Components or Purchaser Intellectual Property by Producer in completing its obligations hereunder will materially comply with all applicable Laws and will not infringe or otherwise violate the Intellectual Property of any Person.

(c) Purchaser represents and warrants that it (i) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, (ii) has power and authority necessary to conduct its business as currently being conducted and as contemplated herein, (iii) has power and authority to make, deliver and perform its obligations under this Agreement and has taken all necessary action to authorize the execution, delivery and performance of this Agreement, (iv) has duly executed and delivered this Agreement, and such Agreement constitutes the legal, valid and binding obligation of it and is enforceable in accordance with its terms and does not require the consent of, authorization of, filing with or other act by or in respect of, any Governmental Authority or any other Person in connection with the execution, delivery, performance, validity or enforceability of this Agreement.

ARTICLE IX
TERMINATION

9.1 Normal Termination of Agreement. This Agreement shall terminate when the Initial Term and any other Renewal Terms for each Supplied Product covered thereby shall have expired without renewal.

9.2 Other Terminations; Consequences of Termination

(a) In the event that either Party (the "Insolvent Party"): (i) becomes insolvent, or institutes or has instituted against it a petition for bankruptcy or is adjudicated bankrupt, (ii) executes a bill of sale, deed of trust, or a general assignment for the benefit of creditors, (iii) is dissolved or transfers a substantial portion of its assets to a Third Party or (iv) has a receiver appointed for the benefit of its creditors, or has a receiver appointed on account of insolvency, then the Insolvent Party shall immediately notify the other of such event and such other Party shall be entitled to: (A) terminate this Agreement for cause immediately upon written notice to the Insolvent Party or (B) request that the Insolvent Party or its successor provide adequate assurances of continued and future performance in form and substance acceptable to such other Party, which shall be provided by the Insolvent Party within 10 calendar days of such request, and the other Party may terminate this Agreement for cause immediately upon written notice to the Insolvent Party in the event that the Insolvent Party fails to provide such assurances acceptable to the other Party within such 10-day period.

(b) Either Party may terminate this Agreement for cause immediately upon written notice to the other in the event that such other Party fails to perform or comply with any material obligation or requirement under this Agreement, through no fault of the Party initiating such termination, that remains uncured for 30 calendar days following written notice to such Party of such breach.

(c) Producer may terminate this Agreement (i) at any time upon 30 days' written notice to Purchaser if Purchaser fails to purchase the Minimum Annual Volume or (ii) without cause at any time with at least 6 months' written notice to Purchaser; provided that no such termination pursuant to this Section 9.2(c)(ii) shall be effective prior to the second anniversary of the date of this Agreement.

(d) Purchaser may terminate this Agreement in whole or with respect to any Supplied Product at any time upon 9 months' written notice to Producer.

(e) Upon the termination or expiration of this Agreement (or of the requirement to provide any Supplied Product pursuant to this Agreement), Purchaser will purchase at cost all raw materials, components, labeling or packaging or other inventories held by Producer in the ordinary course of manufacturing or supplying the Supplied Products, including any unique materials used to support production for Purchaser, and any works in progress related to any Supplied Products; provided that Producer uses commercially reasonable efforts to reduce or exhaust existing stocks of all such materials or inventories prior to the date of expiration or termination. All delivery, removal and transportation costs incurred in connection with this Section 9.2(d) shall be borne by Purchaser except in the event Purchaser terminates this Agreement pursuant to Sections 9.2(a) or 9.2(b), in which case all such reasonable costs shall be borne by Producer to the extent such costs are in excess of the amount that would have been incurred for similar delivery, removal or transportation had this Agreement expired at the end of the then-current Term.

9.3 Transitional Support.

(a) Upon or within a mutually agreed time period prior to the expiration or termination of the Term (or such earlier time as may be requested by Purchaser), with respect to each family of Purchaser Products provided pursuant to this Agreement, Producer shall use commercially reasonable efforts to provide reasonable technical support to Purchaser, as set forth in this Section 9.3, to assist Purchaser in the technology transfer of production of such Purchaser Products to either one facility of Purchaser or one facility of an alternative source of supply as designated by Purchaser ("Technical Support," and such facility, the "Receiving Site"); provided that this Section 9.3 shall not be deemed to require Producer to transfer any rights with respect to Intellectual Property; provided further that, to the extent any written agreement between Producer and Purchaser with respect to this Agreement sets forth a number of hours of Producer's time or other requirements (or limitations) with respect to the Technical Support obligations described herein, such requirements or limitations shall supersede any more general requirements described in this Section 9.3 with respect to the same subject matter.

(b) Purchaser or such designated alternative source supplier shall be responsible for providing leadership of any technology transfer from Producer. For the avoidance of doubt, Purchaser or such designated alternative source supplier shall be solely responsible (subject in any case to the limitations described herein, including in Section 9.3(a), with respect to the scope of the Technical Support) for identifying any and all Technical Support that is required from Producer to assure such technology transfer is successful.

(c) The Parties shall reasonably cooperate and mutually agree to facilitate the provision of any additional reasonable Technical Support with respect to the applicable Purchaser Product to Purchaser or such designated alternative source supplier, including assistance through the transfer process, Producer personnel visits to the Receiving Site, and training and troubleshooting during the Receiving Site's first production run of the Purchaser Product, in each case as and to the extent agreed by Producer in each instance (and subject to Section 9.3(f)).

(d) Producer shall have the right to prioritize its own projects and activities over any Technical Support hereunder with respect to staffing, production activities and other resources or obligations. In addition, Producer shall have no obligation to hire or retain any individuals or make any capital expenditures in connection with the Technical Support, and Producer's obligation to provide Technical Support is contingent upon the continued employment by Producer of those individuals capable of providing such Technical Support. If any Producer personnel involved in providing the Technical Support to Purchaser hereunder is hired by Purchaser or any of its Affiliates, Producer's obligation to provide any portion of the Technical Support under this Agreement that was previously provided by such Producer personnel shall terminate and be of no further force or effect.

(e) Purchaser shall be solely responsible for any and all regulatory or other Governmental Authority requirements, activities and related costs and expenses that arise in conjunction with any Technical Support, technology transfer of production or production of each Purchaser Product to or at the Receiving Site. These activities may also include creation of additional data or technical information, analytical method modifications or other work of a technical nature required to support regulatory queries or contemporary standards and guidelines driven by the manufacturing transfer.

(f) Purchaser shall be responsible for and shall promptly reimburse Producer upon Producer's written request for, any and all out-of-pocket costs and expenses incurred by or on behalf of Producer in connection with any Technical Support under this Agreement, as well as Producer's time (charged at then-current staff rates).

(g) Notwithstanding anything to the contrary herein, Producer's obligations pursuant to this Section 9.3 shall only apply if (i) Producer has terminated this Agreement pursuant to Section 9.2(c)(ii) and (ii) both at the time of Producer providing notice of termination pursuant to Section 9.2(c) (ii) and at any time between the date of such notice and the termination date, Producer has no other termination right. For the avoidance of doubt, Purchaser shall have no rights to any continuing supply of the Supplied Products or any technology or processes related to the production of such Supplied Products if this Agreement expires or terminates other than pursuant to Section 9.2(c) (ii). If Producer is required to provide the transitional support described in this Section 9.3, in no case shall such obligation required Producer to disclose, license or otherwise provide confidential or proprietary information of Producer for any purpose other than continued production of the Supplied Products with respect to the Business or any Third Party, in connection with this Agreement or any Technical Support or technology transfer therein.

ARTICLE X
INDEMNITY

10.1 Producer's Obligation. Producer agrees to indemnify and hold harmless Purchaser's Indemnitees from and against, and in respect of, any and all Liabilities to Third Parties incurred by any of Purchaser's Indemnitees that arise out of, relate to, or result from:

(a) any material failure by it or any of its Affiliates to comply in any respect with any of the covenants, agreements, representations or warranties set forth in Section 8.1;

(b) any material breach by it of its obligations under this Agreement.

provided, however, that this Section 10.1 shall not apply to any Liabilities to the extent that the Liability is within the scope of the indemnity obligations set forth in Section 10.2 below. Expenses shall be reimbursed or advanced when and as incurred promptly upon submission of statements by any Indemnitee to Producer.

10.2 Purchaser's Obligation. Purchaser agrees to indemnify and hold harmless Producer's Indemnitees from and against, and in respect of, any and all Liabilities to Third Parties asserted against or incurred by any of Producer's Indemnitees that arise out of, relate to or result from:

(a) any actual or alleged infringement, misappropriation or violation of the patent, copyright, trademark or other proprietary rights or Intellectual Property of any Third Party, arising out of the use by Producer of Purchaser Products or Purchaser Supplied Components in accordance with the Specifications;

(b) any actual or alleged infringement, misappropriation or violation of the patent, copyright, trademark or other proprietary rights or Intellectual Property of any Third Party by the Purchaser Products or Purchaser Supplied Components;

(c) the development, manufacture, storage, promotion, marketing, distribution, sale or use of any Supplied Product;

(d) any failure of the Purchaser Supplied Components to comply in any material respect with the Specifications therefor; or

(e) any material breach by it of its obligations under this Agreement;

provided, however, that this Section 10.2 shall not apply to any Liabilities to the extent that the Liability is within the scope of the indemnity obligations set forth in Section 10.1 above; and provided, further, that clause (c) shall not include the manufacture or storage by or on behalf of Producer of Supplied Products in material breach of the warranties contained in Section 8.1. Expenses shall be reimbursed or advanced when and as incurred promptly upon submission of statements by any Indemnitee to Purchaser.

10.3 Procedures for Indemnification of Third-Party Claims.

(a) *Notice of Claims*. If, at or following the Effective Date, an Indemnitee shall receive notice or otherwise learn of the assertion by a Person (including any Governmental Authority) who is not a member of the Parent Group or the SpinCo Group of any claim or of the commencement by any such Person of any Action (collectively, a "Third-Party Claim") with respect to which an Indemnifying Party may be obligated to provide indemnification to such Indemnitee pursuant to this Agreement, such Indemnitee shall give such Indemnifying Party written notice thereof as soon as practicable, but in any event within 30 days (or sooner if the

nature of the Third-Party Claim so requires) after becoming aware of such Third-Party Claim. Any such notice shall describe the Third-Party Claim in reasonable detail, including the facts and circumstances giving rise to such claim for indemnification, and include copies of all notices and documents (including court papers) received by the Indemnitee relating to the Third-Party Claim. Notwithstanding the foregoing, the failure of an Indemnitee to provide notice in accordance with this Agreement shall not relieve an Indemnifying Party of its indemnification obligations under this Agreement, except to the extent to which the Indemnifying Party is actually prejudiced by the Indemnitee's failure to provide notice in accordance with this Section 10.3.

(b) *Control of Defense*. An Indemnifying Party shall defend (and seek to settle or compromise), at its own expense and with its own counsel, any Third-Party Claim; provided, that, prior to the Indemnifying Party assuming and controlling the defense of such Third-Party Claim, it shall first confirm to the Indemnitee in writing that, assuming the facts presented to the Indemnifying Party by the Indemnitee are true, the Indemnifying Party shall indemnify the Indemnitee for any such damages to the extent resulting from, or arising out of, such Third-Party-Claim. Notwithstanding the foregoing, if in the course of defending such Third-Party Claim, (i) the Indemnifying Party discovers that the facts presented at the time the Indemnifying Party acknowledged its indemnification obligation in respect of such Third-Party Claim were not true in all material respects and (ii) such untruth provides a reasonable basis for asserting that the Indemnifying Party does not have an indemnification obligation in respect of such Third-Party Claim, then (A) the Indemnifying Party shall promptly thereafter provide the Indemnitee written notice of its assertion that it does not have an indemnification obligation in respect of such Third-Party Claim and (B) the Indemnitee shall assume the defense of such Third-Party Claim, provided, however, that the Indemnifying Party shall not assume the defense of any Third-Party Claim to the extent such Third-Party Claim (x) is an Action by a Government Authority, (y) involves an allegation of a criminal violation or (z) seeks injunctive relief against the Indemnitee.

(c) *Allocation of Defense Costs*. An Indemnifying Party shall be solely liable for all fees and expenses incurred by it in connection with the defense a Third-Party Claim and shall not be entitled to seek any indemnification or reimbursement from the Indemnitee for any such fees or expenses incurred by the Indemnifying Party during the course of the defense of such Third-Party Claim by such Indemnifying Party, regardless of any subsequent decision by the Indemnifying Party to reject or otherwise abandon its assumption of such defense.

(d) *Right to Monitor and Participate*. An Indemnitee shall have the right to employ separate counsel (including local counsel as necessary) of its own choosing to monitor and participate in (but not control) the defense of any Third-Party Claim for which it is a potential Indemnitee, but the fees and expenses of such counsel shall be at the expense of such Indemnitee and the provisions of this Section 10.3(c) shall not apply to such fees and expenses. Notwithstanding the foregoing, but subject to this Agreement, the Indemnitee shall cooperate with the Indemnifying Party in the defense of any Third-Party Claim and make available to the Indemnifying Party, at the Indemnitee's expense, all witnesses, information and materials in the Indemnitee's possession or under the Indemnitee's control relating thereto as are reasonably required by the Indemnifying Party. In addition to the foregoing, if any Indemnitee reasonably determines in good faith that such Indemnitee and the Indemnifying Party have actual or potential differing defenses or conflicts of interest between them that make joint representation inappropriate, then the Indemnitee shall have the right to employ separate counsel (including local counsel) and to participate in (but not control) the defense, compromise, or settlement thereof, and in such case the Indemnifying Party shall bear the reasonable fees and expenses of such counsel for all Indemnitees.

(e) *No Settlement*. Neither any member of the Parent Group, nor any member of the SpinCo Group, may settle or compromise any Third-Party Claim for which a SpinCo Indemnitee or a Parent Indemnitee, respectively, is seeking or is reasonably expected to seek to be indemnified hereunder without the prior written consent of SpinCo or Parent, respectively, which consent may not be unreasonably withheld, unless such settlement or compromise is solely for monetary damages that are fully payable by the settling or compromising Party, does not involve any admission, finding or determination of wrongdoing or violation of Law by any SpinCo Indemnitee or any Parent Indemnitee, respectively, provides for a full, unconditional and irrevocable release of each SpinCo Indemnitee or each Parent Indemnitee, respectively, from all Liability in connection with the Third-Party Claim. The Parties hereby agree that if a Party delivers the other Party a written notice containing a proposal to settle or compromise a Third-Party Claim for which an Indemnitee is seeking to be indemnified hereunder and the Party receiving such proposal does not respond in any manner to the Party presenting such proposal within 10 business days or such longer period, not to exceed 20 days, as may be agreed by the Parties, (or within any such shorter time period that may be required by applicable Law or court order) of receipt of such proposal, then the Party receiving such proposal shall be deemed to have consented to the terms of such proposal.

(f) *Allocation of Proceeding Liabilities*. The Parties acknowledge that Liabilities for Actions (regardless of the parties to the applicable Action) may be partly Parent Liabilities and partly SpinCo Liabilities. If the Parties cannot agree on an allocation of any such Liabilities for Actions, they shall resolve the matter pursuant to the procedures set forth in this Agreement. Neither Party shall, nor shall either Party permit its Subsidiaries to, file Third Party claims or cross-claims against the other Party or its Subsidiaries in an Action in which a Third Party Claim is being resolved.

(g) *Cooperation as to Removal*. Each of the Parties agrees that at all times from and after the Effective Date, if an Action is commenced by a Third Party naming two or more Parties (or any Affiliates of such Parties) as defendants and with respect to which one or more named Parties (or any Affiliates of such Parties) is a nominal defendant and/or such Action is related solely to an Asset or Liability that the other Party has been allocated under this Agreement, then the other Party or Parties shall use commercially reasonable efforts to cause such nominal defendant to be removed from such Action, as soon as reasonably practicable.

10.4 Additional Matters.

(a) *Timing of Payments*. Indemnification or contribution payments in respect of any Liabilities for which an Indemnitee is entitled to indemnification or contribution under this Agreement shall be paid reasonably promptly (but in any event within 30 days of the final determination of the amount that the Indemnitee is entitled to indemnification or contribution under this Agreement) by the Indemnifying Party to the Indemnitee as such Liabilities are incurred upon demand by the Indemnitee, including reasonably satisfactory documentation setting forth the basis for the amount of such indemnification or contribution payment, including documentation with respect to calculations made and consideration of any Insurance Proceeds that actually reduce the amount of such Liabilities. The indemnity and contribution provisions contained in this Agreement shall remain operative and in full force and effect, regardless of (i) any investigation made by or on behalf of any Indemnitee, and (ii) the knowledge by the Indemnitee of Liabilities for which it might be entitled to indemnification hereunder.

(b) *Notice of Direct Claims*. Any claim for indemnification or contribution under this Agreement that does not result from a Third-Party Claim shall be asserted by written notice given by the Indemnitee to the applicable Indemnifying Party within 30 days of such determination that such matter has given, or will likely give rise to, a right of indemnification under this Agreement; provided that the failure by an Indemnitee to so assert any such claim shall not prejudice the ability of the Indemnitee to do so at a later time, except to the extent (if any) that the Indemnifying Party is actually prejudiced thereby. Such Indemnifying Party shall have a period of 30 days after the receipt of such notice within which to respond thereto. If such Indemnifying Party does not respond within such 30-day period, such specified claim shall be conclusively deemed a Liability of the Indemnifying Party under Section 10.3 or this Section 10.4 or, in the case of any written notice in which the amount of the claim (or any portion thereof) is estimated, on such later date when the amount of the claim (or such portion thereof) becomes finally determined. If such Indemnifying Party does not respond within such 30-day period or rejects such claim in whole or in part, such Indemnitee shall, subject to the provisions of this Agreement, be free to pursue such remedies as may be available to such Party as contemplated by this Agreement, as applicable, without prejudice to its continuing rights to pursue indemnification or contribution hereunder.

(c) *Pursuit of Claims Against Third Parties*. If (i) a Party incurs any Liability arising out of this Agreement; (ii) an adequate legal or equitable remedy is not available for any reason against the other Party to satisfy the Liability incurred by the incurring Party; and (iii) a legal or equitable remedy may be available to the other Party against a Third Party for such Liability, then the other Party shall use commercially reasonable efforts to cooperate with the incurring Party, at the incurring Party's expense, to permit the incurring Party to obtain the benefits of such legal or equitable remedy against such Third Party.

(d) *Subrogation*. In the event of payment by or on behalf of any Indemnifying Party to any Indemnitee in connection with any Third-Party Claim, such Indemnifying Party shall be subrogated to and shall stand in the place of such Indemnitee as to any events or circumstances in respect of which such Indemnitee may have any right, defense or claim relating to such Third-Party Claim against any claimant or plaintiff asserting such Third-Party Claim or against any other Person. Such Indemnitee shall cooperate with such Indemnifying Party in a reasonable manner, and at the cost and expense of such Indemnifying Party, in prosecuting any subrogated right, defense or claim.

(e) *Limitations on Subrogation Rights and Pursuit of Claims*. Notwithstanding Sections 10.4(c) and 10.4 (d), without the prior written consent of the Indemnitee (which shall not be unreasonably withheld), no Indemnifying Party shall have the right to pursue claims not directly available to it, or otherwise cause any Indemnitee to pursue any such claims, against Third Parties (other than insurance providers) with whom any Indemnitee (or Affiliate thereof) has a material commercial relationship, if such Indemnitee (or Affiliate thereof) determines in good faith that the pursuit of such claim would reasonably be expected to materially disrupt or diminish the commercial relationship with such Third Party.

(f) *Substitution.* In the event of an Action in which the Indemnifying Party is not a named defendant, if either the Indemnitee or Indemnifying Party shall so request, the Parties shall endeavor to substitute the Indemnifying Party for the named defendant. If such substitution or addition cannot be achieved for any reason or is not requested, the named defendant shall allow the Indemnifying Party to manage the Action as set forth in this Section 10.4 and Section 10.5, and the Indemnifying Party shall fully indemnify the named defendant against all reasonable costs of defending the Action (including court costs, sanctions imposed by a court, attorneys' fees, experts fees and all other external expenses), the costs of any judgment or settlement and the cost of any interest or penalties relating to any judgment or settlement.

(g) *Tax Matters Agreement Coordination*. The provisions of Section 10.5(a)-(f) shall not apply to Taxes to the extent specifically addressed in the Tax Matters Agreement, subject to the terms thereof. It is understood and agreed that Taxes and Tax matters, including the control of Tax-related proceedings, shall be governed by the Tax Matters Agreement to the extent specifically addressed in the Tax Matters Agreement, subject to the terms thereof. In the case of any conflict or inconsistency between this Agreement and the Tax Matters Agreement in relation to any matters addressed by the Tax Matters Agreement, the Tax Matters Agreement shall prevail.

10.5 Right of Contribution. If any right of indemnification contained in Section 10.1 or 10.2 is held unenforceable or is unavailable for any reason, or is insufficient to hold harmless an Indemnitee in respect of any Liability for which such Indemnitee is entitled to indemnification hereunder, then the Indemnifying Party shall contribute to the amounts paid or payable by the Indemnitees as a result of such Liability (or actions in respect thereof) in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and the members of its Group, on the one hand, and *the* Indemnitees entitled to contribution, on the other hand, as well as any other relevant equitable considerations.

10.6 Sole Monetary Remedy. The remedies provided in this Article X, together with any other monetary remedy, obligation or reimbursement expressly and specifically contemplated by this Agreement (including as set forth in Article VI, and Sections 8.3 and 12.1(b)), shall be the sole monetary remedies available in respect of this Agreement.

10.7 Survival of Indemnities. The rights and obligations of each of the Parties and their respective Indemnitees under this Article X shall survive (a) the sale or other transfer by either Party or any member of its Group of any assets or businesses or the assignment by it of any Liabilities; or (b) any merger, consolidation, business combination, sale of all or substantially all of its Assets, restructuring, recapitalization, reorganization or similar transaction involving either Party or any of the members of its respective Group.

ARTICLE XI
REGULATORY MATTERS

11.1 Producer's Regulatory Responsibilities Regarding Supplied Products. At all times during the Term, Producer shall be solely responsible for maintaining the Production Facilities, equipment and processes used in producing the Supplied Products and in performing Producer's other obligations under this Agreement.

11.2 Purchaser's Regulatory Responsibilities Regarding Purchaser Products. Except as specifically stated otherwise in this Agreement, Purchaser shall be responsible for all regulatory matters relating to or involving any Purchaser Product, including all decisions and actions with respect thereto. Producer shall reasonably cooperate with Purchaser in connection with Purchaser's responsibilities under this Section 11.2. Purchaser shall, with respect to any such regulatory matters: (a) act as liaison with the FDA or other Medical Regulatory Authority or Certification Body; (b) collect appropriate data and information from Producer and then prepare and make all Purchaser-required submissions to the appropriate Medical Regulatory Authorities or Certification Bodies (e.g., the annual reports, notifications, renewals, etc.); (c) monitor all studies pertinent to regulatory matters; and (d) obtain all required regulatory approvals. In particular, Purchaser shall:

(a) Prepare and obtain approval of and hold all 510(k) notifications and other new product submissions as required by the FDA and the Act, or any other relevant Medical Regulatory Authority or Certification Body, relating to the Purchaser Products;

(b) List the Purchaser Products pursuant to Section 510 of the Act or other similar requirements of Law;

(c) Comply with 21 CFR §820.30, if applicable, and other similar design control provisions of Regulations issued by the FDA or other relevant Medical Regulatory Authority or Certification Body;

(d) Provide Producer with copy for labeling to physically accompany Purchaser Products (not including promotional labeling) to the extent required to comply with the Act or other relevant Medical Regulatory Authority or Certification Body;

(e) Report to the FDA or other relevant Medical Regulatory Authority or Certification Body;

(f) Administer all requisite field corrective actions, product holds, recalls, withdrawals or quarantines relating solely to Purchaser Products; and

(g) Prepare, obtain approval and hold all Product Technical Files, Notifications and other new product dossiers required by Law, including any applicable Medical Regulatory Authority or Certification Body relating to the Purchaser Products.

11.3 Reference Filings. Upon the reasonable request of Purchaser, Producer will grant Purchaser the right to cross-reference filings held in Producer's name with applicable Medical Regulatory Authorities to the extent reasonably necessary in connection with Purchaser's obtaining and maintaining marketing approval for any Supplied Product and to the extent such grant will not violate applicable confidentiality obligations.

11.4 No Debarred Service Provider. Producer has not and will not use the services of employees or Subcontractors who have been debarred by the FDA or any other Medical Regulatory Authority or Certification Body and, at Purchaser's reasonable written request, will not use the services of any particular employees or Subcontractors identified by Purchaser in connection with the manufacture of Supplied Products pursuant to this Agreement. If Producer becomes aware that an employee, Subcontractor or employee of Subcontractor has been debarred and said person performed, in any capacity, services in connection with a Supplied Product, Producer shall promptly notify Purchaser of such person's debarment.

11.5 Quality Agreement. In the event of any conflict or inconsistency between this Agreement and the Quality Agreement, this Agreement shall govern except with respect to quality and regulatory matters, which shall be governed by the Quality Agreement.

ARTICLE XII
PRODUCT RECALLS

12.1 Investigation; Recall; Voluntary Withdrawal.

(a) Purchaser shall have the responsibility for investigating, evaluating and making all determinations with respect to recalls, withdrawals or field corrections of any Purchaser Product. In the event that (i) Purchaser reasonably determines that any such Purchaser Product should be recalled, withdrawn or subject to a field correction for any reason, (ii) a Medical Regulatory Authority in any country shall allege or prove that any such Purchaser Product does not comply with Laws in such country and should be recalled, withdrawn or subject to a field correction, or (iii) a court of competent jurisdiction or other Governmental Authority orders such a recall, withdrawal or field correction, Purchaser shall promptly notify Producer and both Parties shall cooperate fully regarding the investigation and disposition of any such matter.

(b) To the extent that any recall, withdrawal or field correction is due to the failure of Producer (and/or any of its Affiliates or any Person acting on behalf of Producer or any of its Affiliates) to deliver Supplied Products that materially comply with any of the covenants or agreements contained in Sections 8.1(a) or 8.1(b), Producer shall: (i) promptly replace, at no cost or expense to Purchaser, the recalled, withdrawn or field corrected Supplied Product with Supplied Product which conforms to the covenants and agreements contained in Sections 8.1(a) and 8.1(b), and (ii) bear all costs of conducting the recall, withdrawal or field correction in accordance with the recall guidelines of the applicable Medical Regulatory Authority, provided that such costs shall not exceed the amount of fees paid by Purchaser to Producer hereunder with respect to such Products over the prior 12 months. If each of Producer and Purchaser contributes to the cause for a recall, withdrawal or field correction, the limitations set forth in Section 12.1(c)(ii) will be reduced to a percentage of such amount representing Producer's relative fault. Any costs incurred by Producer under this Section 12.1 will not be included in the calculation of the Production Cost. If such recall, withdrawal or field correction of any Purchaser Products results from any other reason, Purchaser shall bear all costs of conducting the recall, withdrawal or field correction in accordance with the recall guidelines of the applicable Medical Regulatory Authority, including expenses of such recall, withdrawal or field correction. For purposes of this Agreement, the expenses of any recall, withdrawal or field correction shall be all expenses relating to or arising out of compliance with an order of any Governmental Authority, Medical Regulatory Authority or Certification Body and all internal and out-of-pocket expenses incurred by either Party relative to notification, shipping, disposal and return of the recalled or withdrawn Supplied Product and the notification and correction of any Supplied Product subject to a field corrective action. Notwithstanding anything to the contrary contained herein, Purchaser shall have the final decision-making authority with respect to any recall, withdrawal or field correction of any Purchaser Products and conducting any such recall, withdrawal or field correction. Purchaser shall be responsible for coordinating, tracking and monitoring any such recall, withdrawal or field correction activities with the FDA and any other Medical Regulatory Authority, as well as its customers or otherwise at a Purchaser designated site, and Producer shall reasonably cooperate with Purchaser at Purchaser's expense in this regard.

(c) Each Party shall promptly send to the other Party any reports relating to such inspections, recalls or violations or potential violations of Law applicable to the Purchaser Products; provided that such Party may reasonably redact any such reports to protect its confidential information (including information regarding products not sold to or systems not used to manufacture products for the other Party). In the event that any Governmental Authority requests from Producer, but does not seize, any Purchaser Product in connection with any inspection, Producer (i) shall promptly notify Purchaser of such request, (ii) if permitted by Law, shall satisfy such request only after receiving Purchaser's approval, such approval not to be unreasonably withheld or delayed, (iii) shall follow any reasonable procedures instructed by Purchaser in responding to such request and (iv) shall promptly send any Purchaser Product requested by the Governmental Authority to Purchaser. Producer shall not initiate any recall of a Purchaser Product except as provided in the Quality Agreement without the prior written agreement by Purchaser. Producer shall cooperate with the representatives of any Governmental Authority in connection with any of the foregoing.

ARTICLE XIII
INSURANCE

13.1 Insurance. Purchaser shall maintain (or have maintained by any Party that is an Affiliate of Purchaser for Purchaser's benefit) the following minimum types and amounts of Third-Party insurance coverage: (a) commercial general liability insurance providing coverage on an occurrence basis with a bodily injury limit of not less than $25,000,000 per occurrence; and (b) property damage insurance with a combined, $20,000,000 general aggregate limit. Purchaser shall provide Producer with evidence of such coverages in the form of a certificate of insurance, which shall confirm that such insurance coverages shall be renewed and may not be cancelled unless the insurer provides written notice to Producer at least 30 days prior to the effective date of such cancellation or nonrenewal. Each Party shall be responsible for insuring its and its Affiliates' own employees and representatives for injuries received in locations that are owned or controlled by any other Party.

ARTICLE XIV
FORCE MAJEURE

14.1 Force Majeure. No Party shall be deemed in default of this Agreement for any delay or failure to fulfill any obligation (other than a payment obligation) hereunder so long as and to the extent to which any delay or failure in the fulfillment of such obligation is prevented, frustrated, hindered or delayed as a consequence of circumstances of Force Majeure. In the event of any such excused delay, the time for performance of such obligations (other than a payment obligation) shall be extended for a period equal to the time lost by reason of the delay unless this Agreement has previously been terminated under Article IX. A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of any such event, (a) provide written notice to the other Party of the nature and extent of any such Force Majeure condition; and (b) use commercially reasonable efforts to remove any such causes and resume performance under this Agreement as soon as reasonably practicable.

ARTICLE XV
CONFIDENTIALITY

15.1 Confidentiality/Protective Arrangements.

(a) *Confidentiality*. Subject to Section 15.2, from and after the Effective Date until the third anniversary of the Effective Date, and in the case of trade secrets, until the relevant trade secret no longer retains its status or qualifies as trade secrets under applicable Laws (other than due to any act or omission of the receiving Party in breach of its obligations hereunder), each of the Parties, on behalf of itself and each member of its respective Group, agrees to hold, and to cause its respective Representatives to hold, in strict confidence, with at least the same degree of care that applies to Parent's confidential, personal and proprietary information pursuant to policies in effect as of the Effective Date, all confidential, personal and proprietary information concerning the other Party or any member of the other Party's Group or their respective businesses that is either in its possession (including confidential, personal and proprietary information in its possession prior to the date hereof) or furnished by any such other Party or any member of such other Party's Group or their respective Representatives at any time pursuant to this Agreement or otherwise, and shall not use any such confidential, personal and proprietary information other than for such purposes as shall be expressly permitted hereunder or thereunder, except, in each case, to the extent that such confidential and proprietary information has been (i) in the public domain or generally available to the public, other than as a result of a disclosure by such Party or any member of such Party's Group or any of their respective Representatives in violation of this Agreement, (ii) later lawfully acquired from other sources by such Party (or any member of such Party's Group), which sources are not themselves bound by a confidentiality obligation or other contractual, legal or fiduciary obligation of confidentiality with respect to such confidential and proprietary information or (iii) independently developed or generated without reference to or use of any proprietary or confidential information of such other Party or any member of such other Party's Group. If any confidential, personal and proprietary information of one Party or any member of its Group is disclosed to the other Party or any member of such other Party's Group in connection with providing services to such first Party or any member of such first Party's Group under this Agreement or any Ancillary Agreement, then such disclosed confidential, personal and proprietary information shall be used only as required to perform such services.

(b) *No Release; Return or Destruction*. Each Party agrees not to release or disclose, or permit to be released or disclosed, any information addressed in Section 15.1(a) to any other Person, except its Representatives who need to know such information in their capacities as such (who shall be advised of their obligations hereunder with respect to such information), and except in compliance with Section 15.2. Without limiting the foregoing, when any such information is no longer needed for the purposes contemplated by this Agreement or any Ancillary Agreement, and is no longer subject to any legal hold or other document preservation obligation, each Party shall promptly, at the request of the other Party, either return to the other Party all such information in a tangible form (including all copies thereof and all notes, extracts or summaries based thereon) or notify the other Party in writing that it has destroyed such information (and such

copies thereof and such notes, extracts or summaries based thereon); provided, that the Parties may retain electronic backup versions of such information maintained on routine computer system backup tapes, disks or other backup storage devices; provided further, that any such information so retained shall remain subject to the confidentiality provisions of this Agreement. Each Party agrees to comply with all applicable privacy, data protection, data security or other applicable Laws, policies and contracts with regard to the collection, maintenance, disclosure, retention or destruction the personal information in its possession, custody or control.

(c) *Third-Party Information; Privacy or Data Protection Laws*. Each Party acknowledges that it and members of its Group may presently have and, following the Effective Date, may gain access to or possession of confidential or proprietary information of, personal information relating to, Third Parties (i) that was received under privacy policies and/or confidentiality or non-disclosure agreements entered into between such Third Parties, on the one hand, and the other Party or members of such other Party's Group, on the other hand, prior to the Effective Date; or (ii) that, as between the two Parties, was originally collected by the other Party or members of such other Party's Group and that may be subject to and protected by privacy policies, as well as privacy, data protection, data security or other applicable Laws. Each Party agrees that it shall hold, protect and use, and shall cause the members of its Group and its and their respective Representatives to hold, protect and use, in strict confidence the confidential and proprietary information of, or personal information relating to, Third Parties in accordance with privacy policies and privacy, data protection or other applicable Laws and the terms of any agreements that were either entered into before the Effective Date or affirmative commitments or representations that were made before the Effective Date by, between or among the other Party or members of the other Party's Group, on the one hand, and such Third Parties, on the other hand.

15.2 Protective Arrangements. In the event that a Party or any member of its Group either determines on the advice of its counsel that it is required to disclose any information pursuant to applicable Law or receives any request or demand under lawful process or from any Governmental Authority to disclose or provide information of the other Party (or any member of the other Party's Group) that is subject to the confidentiality provisions hereof, such Party shall notify the other Party (to the extent legally permitted) as promptly as practicable under the circumstances prior to disclosing or providing such information and shall cooperate, at the expense of the other Party, in seeking any appropriate protective order requested by the other Party. In the event that such other Party fails to receive such appropriate protective order in a timely manner and the Party receiving the request or demand reasonably determines that its failure to disclose or provide such information shall actually prejudice the Party receiving the request or demand, then the Party that received such request or demand may thereafter disclose or provide information to the extent required by such Law (as so advised by its counsel) or by lawful process or such Governmental Authority, and the disclosing Party shall promptly provide the other Party with a copy of the information so disclosed, in the same form and format so disclosed, together with a list of all Persons to whom such information was disclosed, in each case to the extent legally permitted.

ARTICLE XVI
DISPUTE RESOLUTION

16.1 General.

(a) In the event of a dispute concerning this Agreement, the Parties agree to engage in a good faith effort and negotiation in an attempt to resolve the dispute. In the event that this initial negotiation is not successful, the Parties agree to elevate the dispute to an Authorized Representative of each Party, and the Authorized Representative of each Party will negotiate in good faith and attempt to arrive at a mutual resolution of such dispute. In the event that the dispute remains unresolved 30 days after the date on which one Party notified the other in writing of the dispute, either Party may then seek to enforce this Agreement in accordance with Article VII of the Separation Agreement which shall govern all disputed matters under this Agreement (as though the Agreement referenced therein were this Agreement). Parent designates SVP of Operations and SpinCo designates SVP of Operations for purposes of Section 7.1(a) of the Separation Agreement. Each Party may replace its designee upon written notice to the other Party.

(b) Any waiver (including pursuant to Section 18.12), consent (including pursuant to Section 18.12), amendment (including pursuant to Section 18.12), or agreement executed by a Party in connection with this Agreement, including with respect to any Supplied Product, will be effective only if such waiver, consent, amendment or agreement is executed by the Senior Vice President of Strategy or Senior Vice President of Business Development, as applicable, of such Party or his or her respective designee (each, an "Authorized Representative").

ARTICLE XVII
ASSIGNMENT

17.1 General. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns; provided, however, that, except as provided below, neither Party may Transfer its interest or any of its rights or obligations in the Agreement, including Transfers by operation of law such as by way of merger or consolidation, without the prior written consent of the other Party, which consent may not be unreasonably withheld. Notwithstanding any assignment or other Transfer, references to the Parties and their Affiliates in this Agreement shall continue to apply to the original Parties (or any later successors, transferees or assignees) and their Affiliates.

17.2 Transfers by Producer. Notwithstanding the foregoing provisions of this Article XVII, Producer may Transfer substantially all of its rights and obligations hereunder (or any portion thereof with respect to any applicable Supplied Product) to any Person to which Producer shall Transfer substantially all of its business and assets related to the manufacture or provision of such Supplied Product hereunder; provided that (a) any such acquiring Person shall assume in writing the portion of Producer's obligations hereunder relating to the Supplied Products so Transferred, and shall deliver a signed copy of such assumption instrument to Purchaser, (b) any such acquiring Person is capable of adhering to these obligations consistent with all applicable regulatory requirements, including cGMP/Quality System Regulations and governmental filings/clearance, and (c) and Producer shall give Purchaser at least 60 days' Notice prior to such Transfer.

17.3 Transfers by Purchaser. Notwithstanding the foregoing provisions of this Article XVII, Purchaser may Transfer its rights and obligations hereunder to any Person to which Purchaser shall Transfer substantially all of its business and assets; provided that any such acquiring Person shall assume in writing the Purchaser's obligations hereunder and shall deliver a signed copy of such assumption instrument to Producer. Purchaser shall remain liable for all of its obligations under this Agreement notwithstanding any such Transfer.

ARTICLE XVIII
MISCELLANEOUS PROVISIONS

18.1 Counterparts; Entire Agreement; Corporate Power; Signatures and Delivery.

(a) This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the Parties hereto and delivered to the other Party hereto.

(b) This Agreement and the Exhibits, Schedules and appendices hereto contain the entire agreement between the Parties with respect to the subject matter hereof, supersede all previous agreements, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter, and there are no agreements or understandings between the Parties other than those set forth or referred to herein or therein. This Agreement, the Separation Agreement, and the Ancillary Agreements together govern the arrangements in connection with the Separation and the Distribution and would not have been entered into independently. Notwithstanding anything in this Agreement to the contrary, the Parties acknowledge and agree that SpinCo will not be charged more than once for the same service, activity, function or expense that is performed or incurred by Parent or its Affiliates or Third Parties pursuant to this Agreement to the extent that SpinCo or its Affiliates are bearing the charges for such service, activity, function or expense pursuant to another Ancillary Agreement.

(c) Parent represents on behalf of itself and each other member of the Parent Group, and SpinCo represents on behalf of itself and each other member of the SpinCo Group, as follows:

(i) each such Person has the requisite corporate or other power and authority and has taken all corporate or other action necessary in order to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby; and

(ii) this Agreement has been duly executed and delivered by it and constitutes a valid and binding agreement of it enforceable in accordance with the terms hereof.

(d) Each Party acknowledges that it and each other Party may execute this Agreement by facsimile, stamp or mechanical signature, and that delivery of an executed counterpart of a signature page to this Agreement (whether executed by manual, stamp or mechanical signature) by facsimile or by e-mail in portable document format (.pdf) shall be effective as delivery of such executed counterpart of this Agreement. Each Party expressly adopts and confirms each such facsimile, stamp or mechanical signature (regardless of whether delivered in person, by mail, by courier, by facsimile or by e-mail in portable document format (.pdf)) made in its respective name as if it were a manual signature delivered in person, agrees that it shall not assert that any such signature or delivery is not adequate to bind such Party to the same extent as if it were signed manually and delivered in person and agrees that, at the reasonable request of the other Party at any time, it shall as promptly as reasonably practicable cause this Agreement to be manually executed (any such execution to be as of the date of the initial date thereof) and delivered in person, by mail or by courier.

18.2 Governing Law.

(a) This Agreement and any claims or disputes arising out of or related hereto or to the transactions contemplated hereby or to the inducement of any Party to enter herein, whether for breach of contract, tortious conduct or otherwise and whether predicated on common law, statute or otherwise shall be governed by and construed and interpreted in accordance with the Laws of the State of Delaware irrespective of the choice of laws principles of the State of Delaware, including all matters of validity, construction, effect, enforceability, performance and remedies.

(b) Subject to the provisions of Article XVI, each of the Parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Court of Chancery of the State of Delaware, or, if (and only if) such court finds it lacks subject matter jurisdiction, the Federal court of the United States of America sitting in Delaware, and appellate courts thereof, or, if (and only if) such court finds it lacks jurisdiction, another state court in the State of Delaware, in any action or proceeding arising out of or relating to this Agreement for recognition or enforcement of any judgment or award relating hereto, and each of the Parties hereby irrevocably and unconditionally (i) agrees not to commence any such action or proceeding except in the Court of Chancery of the State of Delaware, or, if (and only if) such court finds it lacks subject matter jurisdiction, the Federal court of the United States of America sitting in Delaware, and appellate courts thereof, or, if (and only if) such court finds it lacks jurisdiction, another state court in the State of Delaware, (ii) agrees that any claim in respect of any such action or proceeding may be heard and determined in the Court of Chancery of the State of Delaware, or, if (and only if) such court finds it lacks subject matter jurisdiction, the Federal court of the United States of America sitting in Delaware, and appellate courts thereof, or, if (and only if) such court finds it lacks jurisdiction, another state court in the State of Delaware, (iii) waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any such action or proceeding in such courts and (iv) waives, to the fullest extent permitted by applicable Law, the defense of an inconvenient forum to the maintenance of such action or proceeding in such courts.

18.3 Assignability. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns; provided, however, that neither Party may assign its rights or delegate its obligations under this Agreement without the express prior written consent of the other Party hereto. Notwithstanding the foregoing, no such consent shall be required for the assignment of a Party's rights and obligations under this Agreement in connection with a Change of Control of a Party so long as the resulting, surviving or transferee Person assumes all the obligations of the relevant Party thereto by operation of Law or pursuant to an agreement in form and substance reasonably satisfactory to the other Party.

18.4 Third-Party Beneficiaries. Except for any Indemnitee (in their respective capacities as such) expressly entitled to indemnification rights under this Agreement, (a) the provisions of this Agreement are solely for the benefit of the Parties hereto and are not intended to confer upon any other Person any rights or remedies hereunder, and (b) there are no third-party beneficiaries of this Agreement and this Agreement shall not provide any Third Party with any remedy, claim, Liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement.

18.5 Notices. All notices, requests, claims, demands or other communications under this Agreement shall be in writing and shall be given or made (and except as provided herein, shall be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service, by certified mail, return receipt requested, or by electronic mail ("e-mail"), so long as confirmation of receipt of such e-mail is requested and received, to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 18.5:

If to Purchaser, to:

c/o Zimmer Biomet Holdings, Inc.
345 East Main Street
Warsaw, Indiana 46580
Attention: General Counsel
E-mail: legal.americas@zimmerbiomet.com

with copies (which shall not constitute notice), to:

White & Case LLP
1221 Avenue of the Americas
New York, New York 10020-1095
Attention: Morton A. Pierce, Esq.
Michelle B. Rutta, Esq.
Robert Chung, Esq.
E-mail: morton.pierce@whitecase.com
michelle.rutta@whitecase.com
robert.chung@whitecase.com

and

Faegre Drinker Biddle & Reath
600 E. 96th Street, Suite 600
Indianapolis, IN 46240
Attention: Trevor J. Belden
E-mail: trevor.belden@faegredrinker.com
If to Producer (prior to the Effective Date), to:

ZimVie Inc.
10225 Westmoor Dr.
Westminster, CO 80021
Attention: Heather Kidwell, General Counsel
E-mail: heather.kidwell@zimvie.com

with copies (which shall not constitute notice), to:

White & Case LLP
1221 Avenue of the Americas
New York, New York 10020-1095
Attention: Morton A. Pierce, Esq.
Michelle B. Rutta, Esq.
Robert Chung, Esq.
E-mail: morton.pierce@whitecase.com
michelle.rutta@whitecase.com
robert.chung@whitecase.com

and

Faegre Drinker Biddle & Reath
600 E. 96th Street, Suite 600
Indianapolis, IN 46240
Attention: Trevor J. Belden
E-mail: trevor.belden@faegredrinker.com

A Party may, by notice to the other Party, change the address to which such notices are to be given or made.

18.6 Severability. If any provision of this Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof or thereof, or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. Upon such determination, the Parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the Parties.

18.7 No Set-Off. Except as mutually agreed to in writing by the Parties, neither Party nor any member of such Party's Group shall have any right of set-off or other similar rights with respect to (a) any amounts received pursuant to this Agreement; or (b) any other amounts claimed to be owed to the other Party or any member of its Group arising out of this Agreement.

18.8 Publicity. From and after the Effective Date, Producer and Purchaser shall consult with each other before issuing, and give each other the opportunity to review and comment upon, that portion of any press release or other public statements that relates to the transactions contemplated by this Agreement, and shall not issue any such press release or make any such public statement prior to such consultation, except (i) as may be required by applicable Law, court process or by obligations pursuant to any listing agreement with any national securities exchange or national securities quotation system (in which case such Party shall promptly notify the other Party and allow the other Party a reasonable time and opportunity to oppose such process before making such disclosure), (ii) ordinary course communications with investors and analysts, and (iii) press releases or other public statements that are substantially consistent with prior disclosures made in accordance with this Agreement.

18.9 Expenses. Except as otherwise expressly set forth in this Agreement or as otherwise agreed to in writing by the Parties, all fees, costs and expenses incurred on or prior to the Effective Date in connection with the preparation, execution, delivery and implementation of this Agreement will be borne by the Party or its applicable Subsidiary incurring such fees, costs or expenses. The Parties agree that certain specified costs and expenses shall be allocated between the Parties as set forth on Schedule 10.10 to the Separation Agreement.

18.10 Headings. The article, section and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

18.11 Survival of Covenants. Except as expressly set forth in this Agreement, the covenants, representations and warranties contained in this Agreement, and Liability for the breach of any obligations contained herein, shall survive the Separation and the Distribution and shall remain in full force and effect.

18.12 Waivers of Default. Waiver by a Party of any default by the other Party of any provision of this Agreement must be in writing and shall not be deemed a waiver by the waiving Party of any subsequent or other default, nor shall it prejudice the rights of the other Party. No failure or delay by a Party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall a single or partial exercise thereof prejudice any other or further exercise thereof or the exercise of any other right, power or privilege.

18.13 Specific Performance. Subject to the provisions of Article XVI, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the Parties hereto who are, or are to be, thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief in respect of their respective rights under this Agreement in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative. The Parties agree that the remedies at law for any breach or threatened breach, including monetary damages, are inadequate compensation for any loss and that any defense in any Action for specific performance that a remedy at law would be adequate is waived. Any requirements for the securing or posting of any bond with such remedy are waived by each of the Parties.

18.14 Amendments. No provisions of this Agreement shall be deemed waived, amended, supplemented or modified by a Party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the Party against whom it is sought to enforce such waiver, amendment, supplement or modification.

18.15 Performance. Each Party (including its permitted successors and assigns) further agrees that it shall (a) give timely notice of the terms, conditions and continuing obligations contained in this Agreement to all of the other members of its Group and (b) cause all of the other members of its Group not to take any action or fail to take any such action inconsistent with such Party's obligations under this Agreement or the transactions contemplated hereby or thereby.

18.16 Mutual Drafting. This Agreement shall be deemed to be the joint work product of the Parties and any rule of construction that a document shall be interpreted or construed against a drafter of such document shall not be applicable.

[*signature page follows*]

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their authorized representatives as of the Effective Date.

ZIMVIE INC.

By: /s/ Vafa Jamali
Name: Vafa Jamali
Title: President and Chief Executive Officer

ZIMMER, INC.

By: /s/ Chad F. Phipps
Name: Chad F. Phipps
Title: Senior Vice President, General Counsel and Secretary

Exhibit 10.8

Dated March / 1 / 2022

TRANSITIONAL TRADEMARK LICENSE AGREEMENT

by and between

ZIMMER BIOMET HOLDINGS, INC.

and

ZIMVIE INC.

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TRANSITIONAL TRADEMARK LICENSE AGREEMENT

This TRANSITIONAL TRADEMARK LICENSE AGREEMENT (together with all Schedules attached hereto, this "Agreement"), is made effective as of March 1, 2022 (the "Effective Date"), by and between Zimmer Biomet Holdings, Inc., a Delaware corporation ("Parent"), and ZimVie Inc., a Delaware corporation ("SpinCo"). Each of Parent and SpinCo may individually be referred to in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Parent and SpinCo have entered into that certain Separation and Distribution Agreement, dated as of March 1, 2022, by and between Parent and SpinCo (as it may be amended or supplemented, the "Separation and Distribution Agreement" or "SDA"), for the contribution, assignment, transfer, conveyance and delivery to SpinCo (as defined in the Separation and Distribution Agreement) of certain assets owned by the Parent and Parent Group (as defined in the Separation and Distribution Agreement);

WHEREAS, pursuant to the Separation and Distribution Agreement, the Parties have agreed to deliver, or cause to be delivered, executed copies of this Agreement on or prior to the Effective Time;

WHEREAS, Parent and Parent Group are the owners of the Licensed Trademarks; and

WHEREAS, SpinCo desires to receive a license to use the Licensed Trademarks for a transitional basis, and Parent is willing to grant such license pursuant to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained in this Agreement and the Separation and Distribution Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. Definitions. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Separation and Distribution Agreement. For the purpose of this Agreement, the following terms shall have the following meanings:

1.1 "Commercialize" means to sell, offer for sale, distribute, import, market, promote, or otherwise commercialize.

1.2 "Corporate Name" means, with respect to SpinCo and each of the members of the SpinCo Group, the corporate name, registered name or registered fictitious name of such entity as of the Effective Date.

1.3 "Corporate Name Term" has the meaning set forth in Section 2.2(a).

1.4 "Domain Names" means Internet domain names, including top level domain names and global top level domain names, URLs, social media identifiers, handles and tags.

1.5 "Existing Inventory" has the meaning set forth in Section 2.5(b).

1.6 "Field" means the field of (a) developing, designing, manufacturing, having manufactured, importing, exporting, selling, offering for sale, marketing, distributing and otherwise commercializing: (i) either (A) dental reconstructive implants, dental prosthetic products, dental regenerative products, dental treatment design or planning software or services, digital dentistry products or services, (B) implants or surgical instruments whose primary purpose is the placement

of bone fixation or motion preservation devices in or attachment to the vertebral column (including pedicle screws, disc repair and/or replacement devices, and the placement of interbody fusion or motion preservation devices for the treatment of degenerative conditions, deformities, disease, tumors or traumatic injury of the spine) or (C) non-invasive and implantable bone growth stimulation products; and (ii) any and all associated instrumentation (including patient specific instrumentation), treatment or surgical planning, surgical navigation and surgical techniques and (b) seeking and maintaining all necessary approvals in connection with any of the foregoing, provided, however, that the "Field" expressly excludes: the development, design, manufacture, having manufactured, importation, exportation, sale, offer for sale, marketing, distribution or other commercialization of products, instruments or surgical techniques primarily related to the brain, brain stem, spinal cord, maxillofacial surgery, craniomaxillofacial reconstructive surgery, orthognathic surgery, and/or craniotomy procedures (including, for clarity, brain biopsy procedures, brain ablation procedures, deep brain stimulation, nerve root stimulation, epidural needle placement, and/or dural procedures such as for the removal of spinal cord tumors).

1.7 "Licensed Products" means those SpinCo Products Commercialized under the SpinCo Business that contain, bear, display or use any Licensed Trademarks as of immediately prior to the Effective Date.

1.8 "Licensed Trademarks" means the Trademarks set forth in Schedule 1 (*Licensed Trademarks*).

1.9 "Licensee" means each of SpinCo and the other members of the SpinCo Group.

1.10 "Licensed Domain Names" means the Domain Names set forth in Schedule 2 (*Licensed Domain Names)*.

1.11 "Marketing Materials" means product literature, promotional and advertising materials, sales literature, training and educational materials, store displays, splash screens and other similar materials in any forms or media.

1.12 "Party" and "Parties" have the meaning set forth in the preamble.

1.13 "Product Approvals" has the meaning set forth in Section 9.1.

1.14 "Product Approval Term" has the meaning set forth in Section 9.1.

1.15 "Separation and Distribution Agreement" or "SDA" have the meaning set forth in the preamble.

1.16 "Sublicensee" has the meaning set forth in Section 2.4.

1.17 "Term" has the meaning set forth in Section 9.1.

1.18 "Trademark Guidelines" has the meaning set forth in Section 5.2(a).

1.19 "Tradename Approvals" has the meaning set forth in Section 9.1.

1.20 "Tradename Licensee" means those Licensees who have a Licensed Trademark in their Corporate Name.

2. License Grant.

2.1 Trademark License Grant. Subject to the terms and conditions of this Agreement, Parent hereby grants to each Licensee a fully paid-up, royalty free, non-sublicensable (except as provided in Section 2.4), non-assignable and non-transferable, non-exclusive, worldwide transitional license to use the Licensed Trademarks in accordance with the Trademark Guidelines and in all material respects in the same form and manner as used immediately prior to the Effective Date:

(a) Products and Marketing Materials: in connection with the Commercialization of Licensed Products and associated Marketing Materials within the Field for the period of time that lasts, on Licensed Product-by-Licensed Product basis and (to the extent applicable) on a country-by-country basis, until the receipt by Licensee of all licenses, permits, consents, authorizations and regulatory approvals from the applicable Governmental Authority that are required by Law to change the Trademarks used on any Licensed Products or Marketing Materials therefor from Licensed Trademarks to Trademarks that do not include, and are not similar to, any of the Licensed Trademarks, in each case, consistent with the timelines specified in regulations or guidance from such Governmental Authority on implementation of such changes (on Licensed Product-by-Licensed Product basis and (to the extent applicable) on a country-by-country basis, the "Product Approvals"); provided, however, that (i) each Licensee uses reasonable best efforts after the Effective Date to make and notify Parent of all filings with any Governmental Authority and take such other actions necessary to obtain the Product Approvals; (ii) except as set forth in subpart (iii) below, under no circumstance shall the foregoing license expire later than two (2) years following the Effective Date (the "Product Approval Term"); (iii) in the event that a Licensee has not received all necessary Product Approvals for a Licensed Product in a country within the Product Approval Term, and provided that such Licensee has consistently taken and continues to take at all times reasonable best efforts to obtain such Product Approval, then such Licensee may, no later than sixty (60) days prior to the end of the Product Approval Term, solely with respect to the Licensed Product(s) in the countr(ies) for which Product Approval was not obtained within the Product Approval Term, elect in writing to Parent to extend the Product Approval Term for such Licensed Product(s) in such countr(ies) for consecutive one (1) year terms until the necessary relevant Product Approval(s) is received; provided that, notwithstanding anything to the contrary in this Section 2.1(a), such Licensee shall consistently continue to take at all times reasonable best efforts to expeditiously obtain such Product Approval(s); and

(b) Other Uses: for a period of one (1) year following the Effective Date, in connection with continuing the use of any other tangible assets, documents, or materials, not addressed in the foregoing clause (a), that contain, bear, display or use any Licensed Trademark as of the date hereof, including billboards, vehicle and equipment markings, stationery, forms, business cards, contracts or on letterhead and other media; provided, further, that, in each case of the foregoing clauses (a)-(b) of this Section 2.1, all such uses shall be in a manner consistent with the operation of the SpinCo Business immediately prior to the Distribution Date. For purposes of clarity, if an item requires regulatory approvals or similar approval from a Governmental Authority in a particular country to be changed, it will be treated as Marketing Materials under the foregoing clause (a). The one (1) year term of this clause (b) may be extended for an additional one (1) year term provided that Licensee has taken at all times reasonable best efforts to remove any Licensed Trademarks during the initial one (1) year term.

2.2 Corporate Name License Grant.

(a) Subject to the terms and conditions of this Agreement (including Section 5.4), Parent hereby grants to each Tradename Licensee a fully paid-up, royalty free, non-sublicensable, non-assignable and non-transferable, non-exclusive, worldwide license to use the Licensed Trademarks in its Corporate Name, until the receipt by the Tradename Licensee of all licenses, permits, consents, authorizations and regulatory approvals from the applicable Governmental Authority that are required by Law to change the Corporate Names of all Tradename Licensees to names that do not include, and are not similar to, any of the Licensed Trademarks ("Tradename Approvals"), provided, however, (i) each Tradename Licensee uses reasonable best efforts after the Effective Date to make and notify Parent of all filings with any Governmental Authority and take such other actions necessary to obtain the Trademark Approvals; (ii) except as set forth in subpart (iii) below, under no circumstance shall the foregoing license expire later than two (2) years following the Effective Date (the "Corporate Name Term"); (iii) in the event that a Tradename Licensee has not received all necessary Tradename Approvals within the Corporate Name Term, and provided that such Tradename Licensee has consistently taken and continues to take at all times reasonable best efforts to obtain such Tradename Approvals, then such Tradename Licensee may, no later than sixty (60) days prior to the end of the Corporate Name Term, elect in writing to Parent to extend the Corporate Name Term, with respect to such Corporate Name for which approval was not obtained, for consecutive one (1) year terms until the necessary relevant Tradename Approval is received; provided that, notwithstanding anything to the contrary in this Section 2.2(a), such Tradename Licensee shall consistently continue to take at all times reasonable best efforts to expeditiously obtain such Tradename Approval. Upon expiration or termination of the license granted under this Section 2.2, each Tradename Licensee shall adopt a new Corporate Name that is not confusingly similar to the Licensed Trademarks. .

2.3 Domain Name License Grant; Domain Name Redirection. Subject to the terms and conditions of this Agreement, Parent hereby grants to each Licensee a fully paid-up, royalty free, non-sublicensable, non-assignable and non-transferable, non-exclusive, worldwide licenses to use the Licensed Domain Name(s) for a period of thirty (30) calendar days following the Effective Date solely in connection with the Commercialization of Licensed Products and associated Marketing Materials within the Field in all material respects in the same form and manner as used immediately prior to the Effective Date. For a period of two (2) years following the Effective Date, in relation to any Licensed Domain Names used solely in connection with the Commercialization of Licensed Products, the Parent shall promptly reprogram each such Licensed Domain Name such that a person directed from a third party's hyperlink to any relevant Licensed Domain Name is immediately, and without any user intervention or action, redirected to a relevant web page address provided by the relevant Licensee of such Licensed Domain Name.

2.4 Sublicense Rights. The licenses granted to SpinCo in Sections 2.1 shall not include any right to grant any sublicenses except as provided in this Section 2.4. Subject to the terms and conditions of this Agreement, each Licensee may grant sublicenses to customers of the SpinCo Group (each a "Sublicensee") in connection with Commercialization of the Licensed Products in the Field, in the ordinary course of business, in each case solely for the benefit of the SpinCo Business; provided, that such Licensee ensures that the terms of any such sublicense are consistent with the terms of this Agreement and any such Sublicensee complies with such sublicense. Each Licensee shall remain responsible and liable for each Sublicensee's compliance with all of the terms and conditions of this Agreement, and any breach of the terms or conditions of this Agreement by any Sublicensee shall be deemed a breach by such Licensee of such terms and conditions.

2.5 Efforts to Remove.

(a) Each Licensee shall use reasonable best efforts to remove and cease using any Licensed Trademarks that appear on any publicly available or promotional materials used by any member of the SpinCo Group or their Affiliates within the SpinCo Business as soon as reasonably practical following the Effective Date.

(b) Notwithstanding any other provision of this Agreement to the contrary, (i) Licensee may continue to sell any inventory of Licensed Products that are manufactured and marked with the Licensed Trademarks prior to such Licensee's receipt of the relevant Product Approval (including, for clarity, any works-in-process or products for which manufacturing and/or marking with the Licensed Trademarks commenced prior to such Licensee's receipt of the relevant Product Approval) (such Licensed Products, the "Existing Inventory"); and (ii) no Licensee shall be required to arrange the recall, relabel, repackage, destroy, or otherwise modify any Existing Inventory of any Licensed Products sold prior to such Licensee's receipt of the relevant Product Approval,

2.6 Records. Notwithstanding anything in this Agreement to the contrary, and without limiting the rights otherwise granted in this Section 2, each Licensee shall have the right, at all times before, during and after the Effective Date, to retain internal records and other historical or archived documents for internal use or reference that contain or bear the Licensed Trademarks.

2.7 Group Members. SpinCo shall cause the other Licensees to comply with all applicable provisions of this Agreement.

2.8 Rebranding Progress Reporting. Within forty-five (45) calendar days following the end of each calendar quarter, commencing with the first full calendar month following the Effective Date, each Licensee shall deliver to the Parent a progress report of such Licensee's total rebranding efforts, including each of the Licensee's obligations pursuant to this Section 2.

2.9 Best Efforts. In assessing whether Licensee is taking or has taken "reasonable best efforts" under this Section 2, the Parties acknowledge that Licensee operates in a large number of countries and in a highly complex regulatory environment, including for example the European Union Medical Device Regulation (EUMDR). Making changes to labeling, changing the names of legal manufacturer and other similar changes must be managed in a coordinated way in order to minimize the risk of violating regulatory requirements which could lead to the interruption of the availability of critical medical products to Licensee's patients. As a result, the Parties acknowledge that the pace of changes related to particular countries must take into account these regulatory complexities. The Parties also acknowledge that, pursuant to Section 10.15, acts of god, unforeseen circumstances, pandemics and the like must also be taken into consideration when assessing whether Licensee is taking or has taken "reasonable best efforts."

3. Restrictions. Except as expressly permitted in this Agreement, no Licensee shall:

(a) use any of the Licensed Trademarks in a way that would reasonably be expected to (i) tarnish, degrade, disparage or reflect adversely on a Licensed Trademark or Parent's or any member of the Parent Group's business or reputation, (ii) dilute or otherwise harm the value, reputation or distinctiveness of or Parent's goodwill used in connection with or symbolized by any Licensed Trademark or (iii) invalidate or cause the cancellation or abandonment of any Licensed Trademark; or

(b) adopt, use, register or file applications to register, acquire or otherwise obtain, in any jurisdiction, any Trademark or Domain Name that consists of, incorporates or is confusingly similar to or dilutive of, or is a variation, derivation or modification of, any Licensed Trademark.

4. Ownership.

4.1 Ownership of Licensed Trademarks. Each Licensee acknowledges that as between the Parties, the Licensed Trademarks are the exclusive and sole property of Parent, and each Licensee agrees that it will not contest Parent's ownership or validity of any of the Licensed Trademarks. Nothing in this Agreement shall confer in any Licensee any right of ownership in any Licensed Trademarks, and no Licensee shall make any representation to that effect or use any Licensed Trademarks in a manner that suggests that such rights are conferred.

4.2 No Obligation to Prosecute or Maintain Trademarks. Neither Parent nor any member of the Parent Group shall have any obligation to seek, perfect, maintain any protection for, defend, or enforce any of the Licensed Trademarks. Without limiting the generality of the foregoing, except as expressly set forth in this Agreement, neither Parent nor any member of the Parent Group shall have any obligation to file any Trademark application, to prosecute any Trademark or secure any Trademark rights or to maintain any Licensed Trademark in force.

5. Quality Control.

5.1 SpinCo Covenants.

(a) Quality Control. Each Licensee shall ensure that all Licensed Products are made and Commercialized according to standards that are, and a level of quality that is either (i) substantially the same as the standards and quality of the SpinCo Business as of immediately prior to the Effective Date, or (ii) approved in advance in writing by Parent.

(b) Samples. Each Licensee agrees, upon Parent's reasonable request, to furnish to Parent representative samples of Licensed Products or Marketing Materials Commercialized by SpinCo that include or bear the Licensed Trademarks.

5.2 Conditions Applicable to the Appearance of the Licensed Trademarks.

(a) Each Licensee agrees to comply with the rules and brand guidelines applicable to the SpinCo Business as of immediately prior to the Effective Date with respect to the appearance and manner of use of the Licensed Trademarks ("Trademark Guidelines") as attached in Schedule 3 *(Trademark Guidelines)*. Parent agrees to notify SpinCo in writing of any changes to the Trademark Guidelines. Each Licensee's obligation to comply with revised Trademark Guidelines shall be prospective from the date of notification of any such changes thereto, and no Licensee shall be required to modify any materials complying with the prior guidelines that were Commercialized prior to such notification. No changes to any form of use of the Licensed Trademarks shall be adopted by any Licensee without prior approval in writing by Parent.

5.3 Protection of Licensed Trademarks.

(a) Each Licensee shall take reasonable steps to avoid endangering the validity of the Licensed Trademarks, including compliance with the applicable Laws in all countries where Licensed Products are Commercialized. Each Licensee shall execute registered user agreements and similar documents required by Parent to protect or enhance Parent's title and rights in the Licensed Trademarks. Except as otherwise provided in this Agreement, each Licensee shall be responsible for all out-of-pocket costs and expenses incurred in connection with obtaining and maintaining trademark registrations where such registrations would not have been applied for or maintained in the absence of its activities under this Agreement, recording this Agreement and obtaining the entry of such Licensee as a registered or authorized user of the Licensed Trademarks.

(b) In the event that any Licensee learns of any infringement or threatened infringement of the Licensed Trademarks or any passing-off or that any third party alleges or claims to such Licensee that the Licensed Trademarks are liable to cause deception or confusion to the public, or are liable to dilute or infringe any right, Each Licensee shall as promptly as reasonably practicable notify Parent or its authorized representative giving particulars thereof. Parent may elect to pursue such claims and any such proceedings shall be at the sole expense of Parent and any recoveries shall be solely for the benefit of Parent. Nothing herein, however, shall be deemed to require Parent to enforce the Licensed Trademarks against others.

(c) In the performance of this Agreement, each Licensee shall comply with all applicable Laws regarding Intellectual Property Rights, and those Laws particularly pertaining to the proper use and designation of Trademarks. Should any Licensee become aware of any applicable Laws regarding Intellectual Property Rights that are inconsistent with the provisions of this Agreement, it shall as promptly as reasonably practicable notify Parent of such inconsistency.

5.4 Protection of Licensed Trademarks. Each Licensee shall (a) comply in all material respects at all times with applicable Laws and (b) operate its business and sell Licensed Products in accordance in all material respects with at least the same standards of quality, appearance, service and other standards that it has observed as of the Effective Date. In order to promote adherence to such standards and for the purpose of protecting and maintaining the goodwill associated with the Licensed Trademarks and the reputation of Parent, Parent shall have the right to obtain from each Licensee reasonable information as to the operation of such Licensee's business regarding the Licensed Products and the manner in which the Licensed Trademarks are used.

5.5 If, at any time, any Licensee fails, in the good faith reasonable opinion of Parent, to conform or comply in all material respects to the standards and other requirements set forth in this Agreement, and Parent notifies such Licensee in writing of such failure, the Licensee promptly shall take such steps as are reasonably necessary to conform or comply in all material respects with such standards and other requirements of this Agreement. If such Licensee fails to cure any such material non-conformity or non-compliance within ninety (90) calendar days of such notice of nonconformity, but has taken reasonable best efforts in attempting to cure such material non-conformity or non-compliance, then such Licensee shall have a reasonable period to cure such material non-conformity or non-compliance; provided, that such Licensee consults with Parent to determine the steps that are reasonably necessary. If such Licensee fails to cure any such material non-conformity or non-compliance within ninety (90) calendar days of such notice of such material nonconformity or non-compliance, and has not taken reasonable best efforts in attempting to cure such material non-conformity or non-compliance, such Licensee shall promptly cease use of the Licensed Trademarks and Parent shall have the right to terminate this Agreement immediately upon written notice to such Licensee.

6. Representations and Warranties; Covenants.

6.1 Representations and Warranties. Each of Parent (on behalf of itself and its Affiliates (as applicable)) and SpinCo (on behalf of itself and its Affiliates (as applicable)) makes the representations and warranties set forth in this Section 6.1 to the other Party as of the Effective Date.

(a) It is duly organized, validly existing, and in good standing under the laws of its jurisdiction of formation. It has full corporate power and authority to execute, deliver, and perform this Agreement, and the execution, delivery and performance by it of this Agreement have been duly authorized by all requisite corporate action.

(b) This Agreement constitutes a valid and legally binding agreement enforceable against it in accordance with its terms (except as the enforceability thereof may be limited by applicable Laws).

6.2 Compliance with Laws. Each Party shall comply, and shall cause its Affiliates and sublicenses to comply, with all applicable Laws in performing its and their obligations and exercising its and their rights pursuant to this Agreement.

6.3 DISCLAIMER. EXCEPT AS MAY BE EXPRESSLY PROVIDED IN SECTION 5.4 OF THIS AGREEMENT, NEITHER PARTY MAKES, AND EACH PARTY EXPRESSLY DISCLAIMS, UNDER THIS AGREEMENT, ANY REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED AND WHETHER UNDER THIS AGREEMENT OR AT LAW, INCLUDING ANY REPRESENTATION OR WARRANTY (A) OF QUALITY, MERCHANTABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE, REGISTERABILITY, ALLOWABILITY, VALIDITY OR ENFORCEABILITY, (B) ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR TRADE USAGE OR (C) THAT ANY LICENSED TRADEMARK TO THE OTHER PARTY HEREUNDER MAY BE PRACTICED WITHOUT INFRINGING THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY. EXCEPT AS MAY EXPRESSLY BE SET FORTH HEREIN, THE LICENSED TRADEMARKS ARE BEING LICENSED ON AN "AS IS," "WHERE IS" BASIS AND THE RESPECTIVE TRANSFEREES SHALL BEAR THE ECONOMIC AND LEGAL RISKS RELATED TO THE USE OF THE LICENSED TRADEMARKS IN CONNECTION WITH THE SPINCO BUSINESS.

7. Limitation of Liability. EXCEPT TO THE EXTENT ARISING FROM CLAIMS THAT A LICENSEE HAS USED ANY LICENSED TRADEMARKS OUTSIDE OF THE SCOPE OF THE LICENSES GRANTED UNDER THIS AGREEMENT OR BREACHES BY EITHER PARTY OF SECTION 8 HEREOF, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, INDIRECT, COLLATERAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, LOST PROFITS SUFFERED OR SIMILAR ITEMS (INCLUDING LOSS OF REVENUE, INCOME OR PROFITS, DIMINUTION OF VALUE OR LOSS OF BUSINESS REPUTATION OR OPPORTUNITY), OR DAMAGES CALCULATED ON MULTIPLES OF EARNINGS OR OTHER METRIC APPROACHES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, IN CONNECTION WITH ANY DAMAGES ARISING HEREUNDER.

8. Confidentiality.

8.1 Duty of Confidence**.** Subject to the other provisions of this Section 8, all Confidential Information disclosed by a Party or its Affiliates under this Agreement will be maintained in confidence and otherwise safeguarded by the recipient Party. The recipient Party may only use and disclose the Confidential Information of the other Party for the purposes of this Agreement. Subject to the other provisions of this Section 8, each Party shall hold as confidential such Confidential Information of the other Party or its Affiliates in the same manner and with the same protection as such recipient Party maintains its own confidential information. Except as expressly provided in this Section 8, a recipient Party may only disclose Confidential Information of the other Party to employees, agents, contractors, consultants and advisers of the recipient Party and its Affiliates to the extent reasonably necessary for the purposes of, and for those matters undertaken pursuant to, this Agreement; provided that such Persons are bound to maintain the confidentiality of the Confidential Information in a manner consistent with the confidentiality provisions of this Agreement.

8.2 Exceptions**.** The obligations under this Section 8 shall not apply to any information to the extent that the recipient Party can demonstrate by competent evidence that such information:

(a) is (at the time of disclosure) or becomes (after the time of disclosure) known to the public or part of the public domain through no breach of this Agreement by the recipient Party or its Affiliates;

(b) was known to, or was otherwise in the possession of, the recipient Party or its Affiliates prior to the time of disclosure by the disclosing Party or any of its Affiliates;

(c) is disclosed to the recipient Party or an Affiliate on a non-confidential basis by a Third Party who is entitled to disclose it without breaching any confidentiality obligation to the disclosing Party or any of its Affiliates; or

(d) is independently developed by or on behalf of the recipient Party or its Affiliates, as evidenced by its written records, without reference to the Confidential Information disclosed by the disclosing Party or its Affiliates under this Agreement.

Specific aspects or details of Confidential Information shall not be deemed to be within the public domain or in the possession of the recipient Party merely because the Confidential Information is embraced by more general information in the public domain or in the possession of the recipient Party. Further, any combination of Confidential Information shall not be considered in the public domain or in the possession of the recipient Party merely because individual elements of such Confidential Information are in the public domain or in the possession of the recipient Party unless the combination and its principles are in the public domain or in the possession of the recipient Party.

8.3 Authorized Disclosures**.** In the event that the recipient Party is required to disclose Confidential Information of the disclosing Party pursuant to applicable Law or in connection with bona fide legal process, such disclosure shall not be a breach of this Agreement; provided that the recipient Party (a) informs the disclosing Party as soon as reasonably practicable of the required disclosure, (b) limits the disclosure to the required purpose, and (c) at the disclosing Party's request and expense, to the extent permitted by applicable Law, assists in an attempt to object to or limit the required disclosure.

9. Term and Termination; Remedies.

9.1 Term. The term of this Agreement shall commence as of the Effective Date and unless earlier terminated in accordance herewith (including pursuant to Section 5.5 for material uncured breach), shall continue in force until the last day of the last to expire license terms set forth in Section 2.1, Section 2.2, or Section 2.3 (such period, the "Term").

9.2 Effect of Termination; Survival. Upon the expiration or termination of this Agreement, SpinCo shall immediately discontinue and cease all use of the Licensed Trademarks and Domain Names. After the expiration or termination of the Term, SpinCo and the SpinCo Group shall no longer have the right to use the Licensed Trademarks and Domain Names. Further, the following provisions of this Agreement shall survive any expiration or termination (whether in part or in its entirety) of this Agreement, Section 7 (*Limitation of Liability)*, Section 8 (*Confidentiality*), Section 9.2 (*Effects of Termination; Survival)*, and Section 10 (*Miscellaneous*) and Section 1 (*Definitions*) (to the extent necessary to give effect to the foregoing sections in this sentence).

10. Miscellaneous.

10.1 Interpretation. Unless the context of this Agreement otherwise requires: (a) words in the singular shall be deemed to include the plural and vice versa and words of one gender shall be deemed to include the other genders as the context requires; (b) the terms "hereof," "herein," and "herewith" and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement (or the Separation and Distribution Agreement) as a whole (including all of the Schedules, Exhibits and Appendices hereto and thereto) and not to any particular provision of this Agreement (or the Separation and Distribution Agreement); (c) Article, Section, Schedule, Exhibit and Appendix references are to the Articles, Sections, Schedules, Exhibits and Appendices to this Agreement (or, as applicable, or the Separation and Distribution Agreement), unless otherwise specified; (d) unless otherwise stated, all references to any agreement (including this Agreement and the Separation and Distribution Agreement) shall be deemed to include the exhibits, schedules and annexes (including all Schedules, Exhibits and Appendixes) to such agreement; (e) the word "including" and words of similar import when used in this Agreement (or the Separation and Distribution Agreement) shall mean "including, without limitation," unless otherwise specified; (f) the word "or" shall not be exclusive; (g) unless otherwise specified in a particular case, the word "days" refers to calendar days; (h) references to "business day" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions are generally authorized or required by law to close in New York, New York; (i) references herein to this Agreement or any other agreement contemplated herein shall be deemed to refer to this Agreement or such other agreement as of the date on which it is executed and as it may be amended, modified or supplemented thereafter, unless otherwise specified; (j) the word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if"; and (k) unless expressly stated to the contrary in this Agreement or the Separation and Distribution Agreement, all references to "the date hereof," "the date of this Agreement," "hereby" and "hereupon" and words of similar import shall all be references to the Effective Day.

10.2 Notices. All notices, requests, claims, demands or other communications under this Agreement shall be in writing and shall be given or made (and except as provided herein, shall be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service, by certified mail, return receipt requested, or by e-mail, so long as confirmation of receipt of such e-mail is requested and received, to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice addressed as follows:

If to Parent, to:

Zimmer Biomet Holdings, Inc.
345 East Main Street
Warsaw, Indiana 46580
Attention: General Counsel
E-mail: legal.americas@zimmerbiomet.com

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

White & Case LLP
1221 Avenue of the Americas
New York, New York 10020-1095
Attention: Morton A. Pierce, Esq.
Michelle B. Rutta, Esq.
Robert Chung, Esq.

E-mail: morton.pierce@whitecase.com
michelle.rutta@whitecase.com
robert.chung@whitecase.com

If to SpinCo, to:

ZimVie Inc.
10225 Westmoor Dr.,
Westminster, CO 80021
Attention: General Counsel
E-mail: heather.kidwell@zimvie.com

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

White & Case LLP
1221 Avenue of the Americas
New York, New York 10020-1095
Attention: Morton A. Pierce, Esq.
Michelle B. Rutta, Esq.
Robert Chung, Esq.

E-mail: morton.pierce@whitecase.com
michelle.rutta@whitecase.com
robert.chung@whitecase.com

or to such other address or addresses as the Parties may from time to time designate in writing by like notice.

10.3 Amendment; Waiver. No provisions of this Agreement shall be deemed waived, amended, supplemented or modified by a Party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the Party against whom it is sought to enforce such waiver, amendment, supplement or modification.

10.4 Assignability. The rights, benefits and obligations of each Party under (or relating to) this Agreement (including any licenses or sublicenses granted pursuant to this Agreement) are personal to such Party. A Party may not assign (including in a bankruptcy or similar proceeding) or assume in a bankruptcy or similar proceeding this Agreement or any rights, benefits or obligations under or relating to this Agreement, in each case whether by operation of law or otherwise, without the other Party's prior written consent (which shall not be unreasonably withheld, conditioned, or delayed); provided that a Party may, with notice to the other Party but without the consent of the other Party, assign or transfer its rights and obligations under this Agreement in whole or in part to one or more of its Affiliates; provided that no such assignment by a Party to an Affiliate shall release such Party from its obligations under this Agreement. In the event of a permitted assignment, this Agreement shall be binding upon and inure to the benefit of the Parties and their respective permitted successors and permitted assigns. Any attempted assignment that contravenes the terms of this Agreement shall be void ab initio and of no force or effect.

10.5 Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral or written, with respect to such matters, except for (a) the Separation and Distribution Agreement (and the Exhibits, Schedules and Annexes thereto), (b) the other Ancillary Agreements and any other written agreement of the Parties that expressly provides that it is not superseded by this Agreement. In the event and to the extent that there shall be a conflict between the provisions of this Agreement and the provisions of the Separation and Distribution Agreement, this Agreement shall control with respect to the subject matter hereof, and the Separation and Distribution Agreement shall control with respect to all other matters.

10.6 Parties in Interest. This Agreement will inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Except as expressly set forth herein, nothing in this Agreement, express or implied, is intended to confer upon any Person other than the Parties or their successors or permitted assigns, any rights or remedies under or by reason of this Agreement.

10.7 Expenses. Except as otherwise expressly provided in this Agreement, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by the Party incurring such costs and expenses.

10.8 Governing Law; Jurisdiction.

(a) This Agreement and all Actions (whether in contract or tort) that may be based upon, arise out of or relate to this Agreement or the negotiation, execution or performance hereof shall be governed by and construed and interpreted in accordance with the Laws of the State of Delaware irrespective of the choice of laws principles of the State of Delaware, including all matters of validity, construction, effect, enforceability, performance and remedies.

(b) Subject to the provisions of Article VII of the Separation and Distribution Agreement, each of the Parties hereby irrevocably and unconditionally submits to the exclusive jurisdiction of the Court of Chancery of the State of Delaware or, if such court shall not have jurisdiction, the United States District Court for the District of Delaware, or if such court shall not have jurisdiction, the other state courts of the State of Delaware, and any appellate court from any appeal thereof, in any Action arising out of or relating to this Agreement or the transactions contemplated hereby, and each of the Parties hereby irrevocably and unconditionally (i) agrees not to commence any such Action except in such courts, (ii) agrees that any claim in respect of any such Action may be heard and determined in the Court of Chancery of the State of Delaware or, to the extent permitted by Law, in such other courts, (iii) waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any such Action in the Court of Chancery of the State of Delaware or such other courts, and (iv) waives, to the fullest extent permitted by Law, the defense of an inconvenient forum to the maintenance of such Action in the Court of Chancery of the State of Delaware or such other.

10.9 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the Parties hereto or the parties thereto, respectively, and delivered to the other Party hereto or parties thereto, respectively.

10.10 Headings. The article, section and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

10.11 Severability. If any provision of this Agreement, or the application of any provision to any Person or circumstance, is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement shall remain in full force and effect. The Parties further agree that if any provision contained herein is, to any extent, held invalid or unenforceable in any respect under the Laws governing this Agreement, they shall take any actions necessary to render the remaining provisions of this Agreement valid and enforceable to the fullest extent permitted by Law and, to the extent necessary, shall amend or otherwise modify this Agreement to replace any provision contained herein that is held invalid or unenforceable with a valid and enforceable provision giving effect to the intent of the Parties.

10.12 Rules of Construction. This Agreement shall be deemed to be the joint work product of the Parties and any rule of construction that a document shall be interpreted or construed against a drafter of such document shall not be applicable.

10.13 Specific Performance. Subject to the provisions of Article VII of the Separation and Distribution Agreement, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the Party hereto, who are, or are to be, thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief in respect of their respective rights under this Agreement, in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative. The Parties agree that the remedies at law for any breach or threatened breach, including monetary damages, are inadequate compensation for any loss and that any defense in any action for specific performance that a remedy at law would be adequate is waived. Any requirements for the securing or posting of any bond with such remedy are waived by each of the Parties.

10.14 Rights in Bankruptcy. All rights and licenses granted under or pursuant to this Agreement by Parent and SpinCo, including in Section 2 and Section 3, are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code or analogous provisions of applicable Law outside the United States, licenses of right to “intellectual property” as defined under Section 101 of the U.S. Bankruptcy Code or analogous provisions of applicable law outside the United States. Each Party agrees that the other, as licensee of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the U.S. Bankruptcy Code or any other provisions of applicable Law outside the United States that provide similar protection for such intellectual property.

10.15 Force Majeure. No Party shall be deemed in default of this Agreement for any delay or failure to fulfill any obligation (other than a payment obligation) hereunder so long as and to the extent to which any delay or failure in the fulfillment of such obligation is prevented, frustrated, hindered or delayed as a consequence of circumstances of Force Majeure. In the event of any such excused delay, the time for performance of such obligations (other than a payment obligation) shall be extended for a period equal to the time lost by reason of the delay. A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of any such event, (a) provide written notice to the other Party of the nature and extent of any such Force Majeure condition; and (b) use commercially reasonable efforts to remove any such causes and resume performance under this Agreement as soon as reasonably practicable.

10.16 Further Assurances. SpinCo and Parent hereby covenant and agree, without the necessity of any further consideration, to execute, acknowledge and deliver any and all such other documents and take any such other action as may be reasonably necessary or appropriate to implement this Agreement and carry out the intent and purposes of this Agreement.

10.17 No Agency. Nothing herein contained will be construed to place the Parties in the relationship of partners, principal and agent, or employer and employee. Neither Party will have the power to assume, create or incur liability or any obligation of any kind, express or implied, in the name of or on behalf of the other Party by virtue of this Agreement.

10.18 Affiliate Status. To the extent that a Party is required hereunder to take certain action with respect to entities designated in this Agreement as such Party's Subsidiaries or Affiliates, such obligation shall apply to such entities only during such period of time that such entities are Subsidiaries or Affiliates of such Party. To the extent that this Agreement requires a Subsidiary or an Affiliate of any Party to take or omit to take any action, such agreement and obligation includes the obligation of such Party to cause such Subsidiary or Affiliate to take or omit to take such action.

10.19 Dispute Resolution. Article VII of the Separation and Distribution Agreement is hereby incorporated by reference herein (but for this purpose, only to the extent applicable to this Agreement, and not to the Separation and Distribution Agreement or any other Ancillary Agreement). Parent designates its Vice President, Chief Patent Counsel or their respective designee and SpinCo designates its Senior Patent Counsel or their respective designee for purposes of Section 7.1(a) of the Separation and Distribution Agreement. Each Party may replace its designee upon written notice to the other Party.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

ZIMMER BIOMET HOLDINGS, INC.

By: /s/ Chad F. Phipps
Name: Chad F. Phipps
Title: Senior Vice President, General Counsel and Secretary

ZIMVIE INC.

By: /s/ Vafa Jamali
Name: Vafa Jamali
Title: President and Chief Executive Officer

ZimVie Completes Separation from Zimmer Biomet; Announces Board of Directors

WESTMINSTER, Colorado, March 1, 2022 (GLOBE NEWSWIRE) – ZimVie Inc. (Nasdaq: ZIMV) today announced its debut as an independent publicly traded company and the completion of its separation from Zimmer Biomet Holdings, Inc. (NYSE and SIX: ZBH). This separation completes the path ZimVie began in 2021 when its former parent company announced its intention to separate its Dental and Spine businesses into one of the world's newest and leading life sciences companies. ZimVie common stock began "regular way" trading under the symbol "ZIMV" on the Nasdaq Stock Market.

"As an independent company, we are uniquely poised to expand the reach of our Dental and Spine product platforms through innovation and enhanced commercial and operational focus," said Vafa Jamali, President and Chief Executive Officer of ZimVie. "Our solutions hold strong positions in the Dental and Spine markets, which represent a collective $20 billion addressable market opportunity. We intend to advance our positioning in each of these markets over time as we execute on multiple opportunities for growth and continue innovating to offer better solutions that help restore daily life."

Concurrent with its separation, ZimVie announced the individuals who serve as members of the Company's Board of Directors:

- **Vinit K. Asar**, President and Chief Executive Officer of Hanger Inc., a leading provider of outcomes-based orthotic and prosthetic patient care services and solutions, since May 2012. Mr. Asar brings executive and public company experience as well as significant experience in the healthcare products and services industry to ZimVie's Board of Directors.
- **Sally Crawford**, former Chief Operating Officer of Healthsource, Inc., a publicly held managed care organization, from its founding in 1985 until 1997. She serves as a member of the boards of directors of Hologic, Inc. and Abcam plc. Ms. Crawford brings governance experience, operational experience, and a detailed understanding of the healthcare and managed care industries that are relevant to ZimVie's business.
- **Vafa Jamali**, President and Chief Executive Officer of ZimVie and previously Senior Vice President and President, Respiratory, Gastrointestinal and Informatics of Medtronic plc. Mr. Jamali brings significant leadership experience and public company knowledge to ZimVie's management team and Board of Directors.
- **David King**, former Chief Executive Officer of Labcorp, a leading global life sciences company, from 2007 to 2019. He serves as a member of the board of directors of Privia Health, as the Board Chair of PATH, and as a member of the advisory board for Duke University's Robert J. Margolis, MD Center for Health Policy. Mr. King brings extensive executive and medical leadership experience, a deep understanding of the healthcare industry, and public company operational expertise to ZimVie's Board of Directors.
- **Richard Kuntz, M.D.**, Senior Vice President, Chief Medical and Scientific Officer of Medtronic plc. Dr. Kuntz brings to ZimVie's Board of Directors extensive experience leading and navigating medical affairs, health policy and reimbursement, clinical research activities, and corporate technology, as well as clinical expertise from years of practice in internal medicine followed by interventional cardiology.
- **Karen Matusinec**, former Senior Vice President, Treasurer of McDonald's Corporation from 2011 to 2021. In that role, she was responsible for Global Treasury, Tax, Insurance, and Global Business Services functions. Ms. Matusinec brings significant financial expertise and extensive experience in treasury, tax, insurance, shared services, and risk management to ZimVie's Board of Directors.

ZimVie's directors bring decades of collective healthcare industry and finance experience to help guide the Company on its path to improve growth and drive long-term shareholder value. For full biographies on each of the directors, please visit ZimVie's investor relations website.

Terms of the Separation

Under the terms of the separation, at 12:01 a.m. Eastern time on March 1, 2022, each Zimmer Biomet Holdings, Inc. shareholder received one share of ZimVie common stock for every ten shares of Zimmer Biomet common stock held as of the close of business on Feb. 15, 2022 (the record date for the distribution). Zimmer Biomet retained approximately 19.7% of ZimVie's common stock.

About ZimVie

ZimVie is a global life sciences leader in the Dental and Spine markets that develops, manufactures, and delivers a comprehensive portfolio of products and solutions designed to treat a wide range of Spine pathologies and support Dental tooth replacement and restoration procedures. The company was founded in March 2022 as an independent, publicly traded spin-off of the Dental and Spine business units of Zimmer Biomet to breathe new life, dedicated energy, and strategic focus to its portfolio of trusted brands and products. From its headquarters in Westminster, Colorado, and additional facilities around the globe, the company serves customers in over 70 countries worldwide with a robust offering of Dental and Spine solutions, including differentiated product platforms supported by extensive clinical evidence. For more information about ZimVie, please visit us at www.ZimVie.com. Follow @ZimVie on Twitter, Facebook, LinkedIn, or Instagram.

Cautionary Note Regarding Forward-Looking Statements

This news release contains forward-looking statements within the meaning of federal securities laws, including, among others, any statements about our expectations, plans, intentions, strategies, or prospects. All statements other than statements of historical or current fact are, or may be deemed to be, forward-looking statements. Such statements are based upon the current beliefs, expectations, and assumptions of management and are subject to significant risks, uncertainties, and changes in circumstances that could cause actual outcomes and results to differ materially from the forward-looking statements. For a list and description of some of such risks and uncertainties, see ZimVie's registration statement on Form 10 filed with the U.S. Securities and Exchange Commission (SEC), including the sections of the information statement captioned "Risk Factors" and "Cautionary Statement Concerning Forward-Looking Statements." These factors should not be construed as exhaustive and should be read in conjunction with the other cautionary statements that are included in ZimVie's filings with the SEC. Forward-looking statements speak only as of the date they are made, and we expressly disclaim any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events, or otherwise. Readers of this news release are cautioned not to rely on these forward-looking statements, since there can be no assurance that these forward-looking statements will prove to be accurate. This cautionary statement is applicable to all forward-looking statements contained in this news release.

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