

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

FORM 8-K/A

(Amendment No. 1):

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 6, 2024

BERRY GLOBAL GROUP, INC.

(Exact Name of Registrant as Specified in Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

1-35672
(Commission
File Number)

20-5234618
(IRS Employer
Identification No.)

101 Oakley Street, Evansville, Indiana
(Address of Principal Executive Offices)

47710
(Zip Code)

(812) 424-2904

(Registrant's telephone number, including area code)

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 per share	BERY	New York Stock Exchange

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.

As previously disclosed in a Current Report on Form 8-K filed by Berry Global Group, Inc. (the “Company”) with the Securities and Exchange Commission (the “SEC”) on February 7, 2024, the Company, Treasure Holdco, Inc., a Delaware corporation and a wholly owned subsidiary of the Company (“Spinco”), entered into certain definitive agreements with Glatfelter Corporation, a Pennsylvania corporation (“Glatfelter”), Treasure Merger Sub I, Inc., a Delaware corporation and a wholly owned subsidiary of Glatfelter (“First Merger Sub”) and Treasure Merger Sub II, LLC, a Delaware limited liability company and a wholly owned subsidiary of Glatfelter (“Second Merger Sub” and together with First Merger Sub, the “Merger Subs”). The definitive agreements provide for a series of transactions pursuant to which, among other things, the Company will transfer the business, operations and activities that constitute the majority of its Health, Hygiene and Specialties segment to include its global nonwovens and hygiene films business of the Company (the “HHNF Business”) to Spinco, subject to the terms and conditions set forth in the definitive agreements.

The definitive agreements entered into in connection with the transactions (collectively, the “Transaction Agreements”) include:

- a RMT Transaction Agreement, dated February 6, 2024 (the “RMT Transaction Agreement”), by and among the Company, Spinco, Glatfelter and Merger Subs;
- a Separation and Distribution Agreement, dated February 6, 2024 (the “Separation Agreement”), by and among the Company, Spinco and Glatfelter;
- a Tax Matters Agreement, dated February 6, 2024, by and among the Company, Spinco and Glatfelter, which governs the parties’ respective rights, responsibilities and obligations with respect to taxes, tax attributes, the preparation and filing of tax returns, responsibility for and preservation of the expected tax-free status of the transactions contemplated by the RMT Transaction Agreement and the Separation Agreement, and certain other tax matters; and
- an Employee Matters Agreement, dated February 6, 2024, by and among the Company, Spinco and Glatfelter, which governs the parties’ respective obligations with respect to current and former employees of the HHNF Business and certain other employee compensation and benefits matters relating to the transaction, including, without limitation, the treatment of the Company’s outstanding equity awards as of the closing.

A summary of the material terms and conditions of each of the RMT Transaction Agreement and the Separation Agreement is included in the Current Report on Form 8-K filed by the Company with the SEC on February 7, 2024, which summaries are incorporated herein by reference. The descriptions of the Transaction Agreements and the transactions contemplated thereby do not purport to be complete and are subject to, and qualified in their entirety by reference to, the full text of the Transaction Agreements, copies of which are attached hereto as Exhibit 2.1, Exhibit 2.2, Exhibit 10.1 and Exhibit 10.2, respectively, which are incorporated herein by reference.

The Transaction Agreements have been included to provide investors with information regarding their terms. They are not intended to provide any financial or other factual information about the Company, Spinco or Glatfelter. The representations, warranties, covenants and agreements contained in the Transaction Agreements (1) were made only for purposes of the Transaction Agreements, as of the specific dates therein, (2) were solely for the benefit of the parties to the Transaction Agreements and the parties expressly identified as third-party beneficiaries thereto, as applicable (except as expressly provided therein), (3) may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures made for the purposes of allocating contractual risk between the parties to the Transaction Agreements instead of establishing these matters as facts and (4) may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Investors are not third-party beneficiaries under the Transaction Agreements and should not rely on the representations, warranties, covenants and agreements therein or any descriptions thereof as characterizations of the actual state of facts or condition of the parties thereto or any of their respective subsidiaries or affiliates. Moreover, information concerning the subject matter of representations and warranties may change after the respective dates of the Transaction Agreements, which subsequent information may or may not be fully reflected in the respective public disclosures by the Company, Spinco and Glatfelter. Accordingly, investors should read the Transaction Agreements not in isolation but in conjunction with the other information about the Company, Spinco and Glatfelter and their respective subsidiaries that the respective companies include in reports, statements and other filings they make with the SEC.

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

On February 6, 2024, the Company agreed to provide Curt Begle with an incentive package in connection with the successful closing of the transactions described above. The RMT Transaction Agreement provides that, contingent on the closing of the transactions, Curt Begle will depart as President of the Company's Health, Hygiene & Specialties Division and will be appointed as Chief Executive Officer of the combined company. As part of the incentive package, Mr. Begle will be entitled to receive a transaction bonus in the amount of \$1,500,000, to be paid in two installments, 50% as soon as administratively possible following the closing of the transactions and the remaining 50% to be paid six months following the closing of the transactions, provided that Mr. Begle remains employed with the combined company or the Company for six months following the closing. Mr. Begle will also be entitled to receive a sales incentive payment equal to a maximum of \$3,007,500, which will be funded in its entirety by Spinco. In the event that Mr. Begle is terminated without cause within one year following the closing of the transactions, Mr. Begle will be entitled to receive payment of the second installment of the transaction bonus and full payment of the sales incentive bonus.

Upon the closing of the transactions and Mr. Begle's subsequent employment with the combined company, Mr. Begle will be treated as a retiree under the Berry Global, Inc. 2015 Long-Term Incentive Plan (the "Plan") such that Mr. Begle's outstanding awards under that plan will continue to vest in accordance with their existing vesting schedule after Mr. Begle's termination of employment from the Company. If Mr. Begle is not offered a position with the combined company comparable with his current position with the Company or does not remain employed in a comparable position with the Company or one of its affiliates following the closing of the transactions, Mr. Begle would be eligible for severance under the Company's Severance Pay Plan and would be eligible to receive full payment of the transaction bonus and the sales incentive bonus. If Mr. Begle resigns or is terminated for cause before an incentive payment due date, the payment will not be made. If Mr. Begle dies, becomes disabled or terminates employment for good reason prior to the closing of the transactions, he will be entitled to receive any unpaid incentive payments.

The foregoing summary of Mr. Begle's incentive package does not purport to be complete and is qualified in its entirety by the full text of the incentive arrangement, which will be filed as an exhibit to the Company's Quarterly Report on Form 10-Q for the current fiscal quarter.

Cautionary Statement Concerning Forward-Looking Statements

Statements in this release that are not historical, including statements relating the expected timing, completion and effects of the proposed transaction between Berry and Glatfelter, are considered "forward looking" within the meaning of the federal securities laws and are presented pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. You can identify forward-looking statements because they contain words such as "believes," "expects," "may," "will," "should," "would," "could," "seeks," "approximately," "intends," "plans," "estimates," "projects," "outlook," "anticipates" or "looking forward," or similar expressions that relate to strategy, plans, intentions, or expectations. All statements relating to estimates and statements about the expected timing and structure of the proposed transaction, the ability of the parties to complete the proposed transaction, benefits of the transaction, including future financial and operating results, the combined company's plans, objectives, expectations and intentions, and other statements that are not historical facts are forward-looking statements. In addition, senior management of Berry and Glatfelter, from time to time make forward-looking public statements concerning expected future operations and performance and other developments.

Actual results may differ materially from those that are expected due to a variety of factors, including without limitation: the occurrence of any event, change or other circumstances that could give rise to the termination of the proposed transaction; the risk that Glatfelter shareholders may not approve the transaction proposals; the risk that the necessary regulatory approvals may not be obtained or may be obtained subject to conditions that are not anticipated; risks that any of the other closing conditions to the proposed transaction may not be satisfied in a timely manner; risks that the anticipated tax treatment of the proposed transaction is not obtained; risks related to potential litigation brought in connection with the proposed transaction; uncertainties as to the timing of the consummation of the proposed transaction; unexpected costs, charges or expenses resulting from the proposed transaction; risks and costs related to the implementation of the separation of Berry's HSNF Business into a new entity ("Spinco"), including timing anticipated to complete the separation; any changes to the configuration of the businesses included in the separation if implemented; the risk that the integration of the combined companies is more difficult, time consuming or costly than expected; risks related to financial community and rating agency perceptions of each of Berry and Glatfelter and its business, operations, financial condition and the industry in which they operate; risks related to disruption of management time from ongoing business operations due to the proposed transaction; failure to realize the benefits expected from the proposed transaction; effects of the announcement, pendency or completion of the proposed transaction on the ability of the parties to retain customers and retain and hire key personnel and maintain relationships with their counterparties, and on their operating results and businesses generally; and other risk factors detailed from time to time in Glatfelter's and Berry's reports filed with the SEC, including annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and other documents filed with the SEC. These risks, as well as other risks associated with the proposed transaction, will be more fully discussed in the registration statements, proxy statement/prospectus and other documents that will be filed with the SEC in connection with the proposed transaction. The foregoing list of important factors may not contain all of the material factors that are important to you. New factors may emerge from time to time, and it is not possible to either predict new factors or assess the potential effect of any such new factors. Accordingly, readers should not place undue reliance on those statements. All forward-looking statements are based upon information available as of the date hereof. All forward-looking statements are made only as of the date hereof and neither Berry nor Glatfelter undertake any obligation to update or revise any forward-looking statement as a result of new information, future events or otherwise, except as otherwise required by law.

Non-GAAP Financial Information

Non-GAAP financial information included within this current report and accompanying materials is provided as a complement to the results provided in accordance with accounting principles generally accepted in the United States of America ("GAAP"). Due to high variability and difficulty in predicting items that impact cash from operating activities and capital expenditures, the Company is not able to provide a reconciliation between projected free cash flow and the most comparable GAAP metric without unreasonable effort.

Additional Information and Where to Find It

This communication may be deemed to be solicitation material in respect of the proposed transaction between Berry and Glatfelter. In connection with the proposed transaction, Berry and Glatfelter intend to file relevant materials with the SEC, including a registration statement on Form S-4 by Glatfelter that will contain a proxy statement/prospectus relating to the proposed transaction. In addition, Spinco expects to file a registration statement in connection with its separation from Berry. This communication is not a substitute for the registration statements, proxy statement/prospectus or any other document which Berry and/or Glatfelter may file with the SEC. **STOCKHOLDERS OF BERRY AND GLATFELTER ARE URGED TO READ ALL RELEVANT DOCUMENTS FILED WITH THE SEC, INCLUDING THE REGISTRATION STATEMENT AND PROXY STATEMENT/PROSPECTUS, BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT THE PROPOSED TRANSACTION.** Investors and security holders will be able to obtain copies of the registration statements and proxy statement/prospectus (when available) as well as other filings containing information about Berry and Glatfelter, as well as the Spinco, without charge, at the SEC's website, <http://www.sec.gov>. Copies of documents filed with the SEC by Berry or the Spinco will be made available free of charge on Berry's investor relations website at <https://ir.berryglobal.com>. Copies of documents filed with the SEC by Glatfelter will be made available free of charge on Glatfelter's investor relations website at <https://www.glatfelter.com/investors>.

No Offer or Solicitation

This communication is for informational purposes only and is not intended to and does not constitute an offer to sell, or the solicitation of an offer to sell, subscribe for or buy, or a solicitation of any vote or approval in any jurisdiction, nor shall there be any sale, issuance or transfer of securities in any jurisdiction in which such offer, sale or solicitation would be unlawful, prior to registration or qualification under the securities laws of any such jurisdiction. No offer or sale of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the Securities Act of 1933, as amended, and otherwise in accordance with applicable law.

Participants in Solicitation

Berry and its directors and executive officers, and Glatfelter and its directors and executive officers, may be deemed to be participants in the solicitation of proxies from the holders of Glatfelter capital stock and/or the offering of securities in respect of the proposed transaction. Information about the directors and executive officers of Berry, including a description of their direct or indirect interests, by security holdings or otherwise, is set forth under the caption "Security Ownership of Beneficial Owners and Management" in the definitive proxy statement for Berry's 2024 Annual Meeting of Stockholders, which was filed with the SEC on January 4, 2024 (https://www.sec.gov/ixviewer/ix.html?doc=/Archives/edgar/data/0001378992/000110465924001073/tm2325571d6_def14a.htm). Information about the directors and executive officers of Glatfelter including a description of their direct or indirect interests, by security holdings or otherwise, is set forth under the caption "Ownership of Company Stock" in the proxy statement for Glatfelter's 2023 Annual Meeting of Shareholders, which was filed with the SEC on March 31, 2023 (<https://www.sec.gov/ixviewer/ix.html?doc=/Archives/edgar/data/0000041719/000004171923000012/glt-20230331.htm>). In addition, Curt Begle, the current President of Berry's Health, Hygiene & Specialties Division, will be appointed as Chief Executive Officer of the combined company. Investors may obtain additional information regarding the interest of such participants by reading the proxy statement/prospectus regarding the proposed transaction when it becomes available.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

[2.1 RMT Transaction Agreement, dated February 6, 2024, by and among Berry Global Group, Inc., Treasure Holdco, Inc., Glatfelter Corporation, Treasure Merger Sub I, Inc. and Treasure Merger Sub II, LLC *](#)

[2.2 Separation and Distribution Agreement, dated February 6, 2024, by and among Berry Global Group, Inc., Treasure Holdco, Inc. and Glatfelter Corporation *](#)

[10.1 Tax Matters Agreement, dated February 6, 2024, by and among Berry Global Group, Inc., Treasure Holdco, Inc. and Glatfelter Corporation](#)

[10.2 Employee Matters Agreement, dated February 6, 2024, by and among Berry Global Group, Inc., Treasure Holdco, Inc. and Glatfelter Corporation](#)

104 Cover Page Interactive Data File (embedded within the Inline XBRL document)

* Certain schedules (or similar attachments) have been omitted pursuant to Item 601(a)(5) or Item 601(b)(2) of Regulation S-K. The registrant agrees to furnish copies of such schedules (or similar attachments) to the U.S. Securities and Exchange Commission upon request.

Signature

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.

BERRY GLOBAL GROUP, INC.

Date: February 12, 2024

By: /s/ Jason K. Greene

Jason K. Greene

Executive Vice President, Chief Legal Officer and Secretary

RMT TRANSACTION AGREEMENT

among

BERRY GLOBAL GROUP, INC.,

TREASURE HOLDCO, INC.,

GLATFELTER CORPORATION,

TREASURE MERGER SUB I, INC.

and

TREASURE MERGER SUB II, LLC

Dated as of February 6, 2024

TABLE OF CONTENTS

Page

ARTICLE I

THE RMT PARTNER CHARTER AMENDMENT

Section 1.1	The RMT Partner Charter Amendment	3
Section 1.2	Charter Amendment Effective Time	3

ARTICLE II

THE MERGER

Section 2.1	The Merger	3
Section 2.2	Closing	4
Section 2.3	Effective Time	4
Section 2.4	Certificates of Formation	4
Section 2.5	Bylaws and Operating Agreement	5
Section 2.6	Directors and Managers	5
Section 2.7	Officers	5
Section 2.8	RMT Partner Governance Matters	5
Section 2.9	Alternative Transaction Structure	7

ARTICLE III

EFFECT OF THE MERGER ON CAPITAL STOCK

Section 3.1	Conversion of Shares	8
Section 3.2	Second Merger	8
Section 3.3	Anti-Dilution Adjustments	9

ARTICLE IV

DELIVERY OF MERGER CONSIDERATION; PROCEDURES FOR SURRENDER

Section 4.1	Distribution Agent	9
Section 4.2	Exchange Agent	9
Section 4.3	Procedures for Exchange	10
Section 4.4	Distributions with Respect to Undistributed Shares	10
Section 4.5	Transfers	11
Section 4.6	Fractional Shares	11
Section 4.7	Termination of Exchange Fund	11
Section 4.8	Withholding Rights	12
Section 4.9	No Appraisal Rights	12

TABLE OF CONTENTS

Page

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF REMAINCO RELATING TO REMAINCO

Section 5.1	Organization, Good Standing and Qualification	12
Section 5.2	Corporate Authority and Approval	13
Section 5.3	Governmental Filings; No Violations	13
Section 5.4	Litigation	14
Section 5.5	Remainco Internal Controls	14
Section 5.6	Brokers and Finders	15

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF REMAINCO RELATING TO THE SPINCO ENTITIES

Section 6.1	Organization, Good Standing and Qualification	15
Section 6.2	Capital Structure	16
Section 6.3	Corporate Authority and Approval	16
Section 6.4	Governmental Filings; No Violations	17
Section 6.5	Financial Statements	18
Section 6.6	Absence of Certain Changes	19
Section 6.7	Litigation	20
Section 6.8	Employee Benefits and Labor Matters	20
Section 6.9	Compliance with Laws, Permits	23
Section 6.10	Sufficiency of Assets	25
Section 6.11	Certain Contracts	25
Section 6.12	Environmental Matters	27
Section 6.13	Taxes	27
Section 6.14	Intellectual Property	28
Section 6.15	Insurance	31
Section 6.16	Related-Party Transactions	31
Section 6.17	Real Property	32
Section 6.18	Brokers and Finders	32
Section 6.19	Product Liability; Product Warranty; Recalls	32
Section 6.20	Customers and Suppliers	33
Section 6.21	Spinco Financing	33
Section 6.22	Information to be Supplied	34
Section 6.23	No Other Representations and Warranties	34

ARTICLE VII

REPRESENTATIONS AND WARRANTIES OF RMT PARTNER AND MERGER SUBS

Section 7.1	Organization, Good Standing and Qualification	35
Section 7.2	Capital Structure	35

TABLE OF CONTENTS

	Page	
Section 7.3	Corporate Authority and Approval	37
Section 7.4	Governmental Filings; No Violations	38
Section 7.5	Financial Statements	39
Section 7.6	Absence of Certain Changes	40
Section 7.7	Litigation	40
Section 7.8	Employee Benefits and Labor Matters	41
Section 7.9	Compliance with Laws, Permits	44
Section 7.10	Certain Contracts	45
Section 7.11	Environmental Matters	47
Section 7.12	Taxes	47
Section 7.13	Intellectual Property	49
Section 7.14	Insurance	52
Section 7.15	Related-Party Transactions	52
Section 7.16	Real Property	52
Section 7.17	Brokers and Finders	53
Section 7.18	Product Liability; Product Warranty; Recalls	53
Section 7.19	Customers and Suppliers	54
Section 7.20	Information To Be Supplied	54
Section 7.21	No Other Representations and Warranties	54

ARTICLE VIII

COVENANTS

Section 8.1	Interim Operations	55
Section 8.2	Spinco Acquisition Proposals	62
Section 8.3	RMT Partner Acquisition Proposals; Change of Recommendation	64
Section 8.4	Securities Filings; Information Supplied	68
Section 8.5	RMT Partner	70
Section 8.6	Approval of Sole Stockholder of First Merger Sub	71
Section 8.7	Approval of Sole Stockholder of Spinco	71
Section 8.8	Cooperation; Efforts to Consummate	71
Section 8.9	Status; Notifications	74
Section 8.10	Information; Access and Reports	74
Section 8.11	Stock Exchange Listing	75
Section 8.12	Publicity	76
Section 8.13	Employee Matters	76
Section 8.14	Tax Matters	77
Section 8.15	Indemnification; Directors' and Officers' Insurance	78
Section 8.16	Takeover Statutes	80
Section 8.17	Section 16 Matters	80
Section 8.18	Transaction Litigation	81
Section 8.19	Financing	81
Section 8.20	Remainco Marks; Corporate Name; Domain Name	87
Section 8.21	Transaction Documents	88
Section 8.22	Spinco Financial Information	89

TABLE OF CONTENTS

	Page	
Section 8.23	Works Council Matters	90
Section 8.24	Employee Non-Solicitation; Non-Competition	90
Section 8.25	Further Assurances	91
ARTICLE IX		
CONDITIONS		
Section 9.1	Conditions to Obligation of Each Party	92
Section 9.2	Conditions to Obligation of RMT Partner and Merger Subs	93
Section 9.3	Conditions to Obligation of Remainco and Spinco	94
ARTICLE X		
TERMINATION		
Section 10.1	Termination by Mutual Written Consent	95
Section 10.2	Termination by Either Remainco or RMT Partner	95
Section 10.3	Termination by Remainco	95
Section 10.4	Termination by RMT Partner	96
Section 10.5	Effect of Termination and Abandonment	96
ARTICLE XI		
MISCELLANEOUS AND GENERAL		
Section 11.1	Survival	98
Section 11.2	Modification or Amendment; Waiver	98
Section 11.3	Counterparts	98
Section 11.4	Governing Law and Venue; Submission to Jurisdiction; Selection of Forum; Waiver of Trial by Jury	99
Section 11.5	Specific Performance	100
Section 11.6	Notices	101
Section 11.7	Entire Agreement	101
Section 11.8	Third-Party Beneficiaries	102
Section 11.9	Non-Recourse	102
Section 11.10	Fulfillment of Obligations	103
Section 11.11	Expenses	103
Section 11.12	Transfer Taxes	103
Section 11.13	Severability	103
Section 11.14	Successors and Assigns	104
Section 11.15	Definitions	104
Section 11.16	Interpretation and Construction	106

TABLE OF CONTENTS

Page

ANNEXES AND EXHIBITS

- Annex A** — Certain Definitions
- Exhibit A** — Separation and Distribution Agreement
- Exhibit B** — Tax Matters Agreement
- Exhibit C** — Employee Matters Agreement
- Exhibit D** — Transition Services Agreement
- Exhibit E** — RMT Partner Charter Amendment
- Exhibit F** — Spinco Merger Tax Representation Letter
- Exhibit G** — RMT Partner Merger Tax Representation Letter
- Exhibit H** — Remainco Merger Tax Opinion
- Exhibit I** — Spinco Commitment Letter

RMT TRANSACTION AGREEMENT

This RMT TRANSACTION AGREEMENT (this “Agreement”), dated as of February 6, 2024, is entered into by and among BERRY GLOBAL GROUP, INC., a Delaware corporation (“Remainco”), TREASURE HOLDCO, INC., a Delaware corporation and a wholly owned indirect Subsidiary of Remainco (“Spinco”), GLATFELTER CORPORATION, a Pennsylvania corporation (“RMT Partner”), Treasure Merger Sub I, Inc., a Delaware corporation and a wholly owned Subsidiary of RMT Partner (“First Merger Sub”), and Treasure Merger Sub II, LLC, a Delaware limited liability company and a wholly owned Subsidiary of RMT Partner (“Second Merger Sub” and, together with First Merger Sub, “Merger Subs” and, together with Remainco, Spinco and RMT Partner, the “Parties” and each, a “Party”).

RECITALS

WHEREAS, contemporaneously with the execution of this Agreement, Remainco, Spinco and RMT Partner are entering into the Separation and Distribution Agreement, pursuant to which Remainco will (in accordance with the Separation) separate the Spinco Business such that, as of the Initial Spin, the Spinco Business is held by the Spinco Entities;

WHEREAS, following the Separation and pursuant to the Separation and Distribution Agreement, the sole stockholder of Spinco, Berry Global, Inc., a Delaware corporation and wholly-owned subsidiary of Remainco (“BGI”), will distribute to Remainco one hundred percent (100%) of the shares of Spinco Common Stock (the “Initial Spin”);

WHEREAS, following the Initial Spin, Remainco will distribute to the holders of Remainco Common Stock all of the shares of Spinco Common Stock received in the Initial Spin (a) by means of a pro rata distribution (the “Spin-Off”), and/or (b) with the consent of RMT Partner, by way of an offer to exchange shares of Spinco Common Stock for outstanding shares of Remainco Common Stock (the “Exchange Offer”) (to be followed by a Clean-Up Spin-Off);

WHEREAS, upon the terms and subject to the conditions set forth herein, at the Charter Amendment Effective Time, as a condition and material inducement to the willingness of Remainco and Spinco to enter into this Agreement, RMT Partner will amend the Existing RMT Partner Charter pursuant to which, among other things, (a) RMT Partner will effect a reverse stock split of all issued and outstanding shares of RMT Partner Common Stock at a reverse stock split ratio to be determined by Remainco and RMT Partner, and (b) the number of authorized shares of RMT Partner Common Stock will be increased from 120,000,000 shares to 240,000,000 shares;

WHEREAS, unless the Alternative Transaction Structure is agreed to by the Parties upon the terms and subject to the conditions set forth in Section 2.9, after the Charter Amendment Effective Time and immediately following the Spinco Distribution and pursuant to this Agreement, at the First Effective Time, the Parties will effect the merger of First Merger Sub with and into Spinco (the “First Merger”), with Spinco continuing as the surviving corporation and a wholly owned Subsidiary of RMT Partner, all upon the terms and subject to the conditions set forth herein;

WHEREAS, immediately following the First Merger and as part of the same overall transaction as the First Merger, Spinco will merge with and into Second Merger Sub (the “Second Merger” and, together with the First Merger, the “Merger”), with Second Merger Sub being the surviving limited liability company and wholly owned Subsidiary of RMT Partner;

WHEREAS, the board of directors of RMT Partner (the “RMT Partner Board”) has (a) approved and declared advisable this Agreement, the Separation and Distribution Agreement and the other Transaction Documents and the transactions contemplated hereby and thereby, including the Merger, the RMT Partner Share Issuance and the RMT Partner Charter Amendment (the “Transactions”), (b) determined that this Agreement and the Transactions, including the Merger, are in the best interests of RMT Partner, and (c) resolved to make the RMT Partner Recommendation;

WHEREAS, the board of directors of First Merger Sub has (a) approved and declared advisable this Agreement and the transactions contemplated hereby, including the Merger, (b) determined that this Agreement and the transactions contemplated hereby, including the Merger, are in the best interest of First Merger Sub and RMT Partner, as its sole stockholder, and (c) resolved to recommend the adoption of this Agreement by RMT Partner, as the sole stockholder of First Merger Sub;

WHEREAS, RMT Partner, as the sole member and manager of Second Merger Sub has (a) approved and declared advisable this Agreement and the Transactions, including the Merger, and (b) determined that this Agreement and the Transactions, including the Merger, are fair to and in the best interests of Second Merger Sub and RMT Partner, as its sole member;

WHEREAS, the board of directors of Spinco (the “Spinco Board”) has (a) approved and declared advisable this Agreement, the Separation and Distribution Agreement and the Transactions, including the Separation, the Initial Spin, the Spinco Distribution and the Merger, (b) determined that this Agreement, the Separation and Distribution Agreement and the Transactions, including the Separation, the Initial Spin, the Spinco Distribution and the Merger, are in the best interest of Spinco and BGI, as its sole stockholder, and (c) resolved to recommend the adoption of this Agreement by BGI, as the sole stockholder of Spinco;

WHEREAS, the board of directors of Remainco (the “Remainco Board”) has approved this Agreement and the Separation and Distribution Agreement and the Transactions, including the Separation, the Initial Spin, the Spinco Distribution and the Merger, subject to such further action of the Remainco Board required, if applicable, to determine the structure of the Initial Spin and the Spinco Distribution, establish the Record Date and the Spinco Distribution Date, and the effectiveness of the declaration of the Initial Spin and the Spinco Distribution by the Remainco Board (which is subject to the satisfaction or, to the extent permitted by applicable Law, waiver of the conditions set forth in the Separation and Distribution Agreement);

WHEREAS, for U.S. federal income tax purposes, it is intended that (a) the Contribution, the Initial Spin, the Spinco Distribution, the Spinco Special Cash Payment, the Spin-Off, the Exchange Offer and the Merger shall qualify for the Intended Tax Treatment, and (b) this Agreement, together with the Separation and Distribution Agreement, shall constitute a “plan of reorganization” for purposes of Section 368 of the Code; and

WHEREAS, the Parties desire to make certain representations, warranties, covenants and agreements in connection with this Agreement and set forth certain conditions to the Merger.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and the representations, warranties, covenants and agreements set forth in this Agreement, the Parties agree as follows:

ARTICLE I

THE RMT PARTNER CHARTER AMENDMENT

Section 1.1 **The RMT Partner Charter Amendment**. Unless the Alternative Transaction Structure is agreed to by the Parties pursuant to **Section 2.9**, on the terms and subject to the conditions set forth in this Agreement, on the date of the Closing and prior to the First Effective Time, the Existing RMT Partner Charter shall be amended by the Articles of Amendment to the Existing RMT Partner Charter, as set forth on **Exhibit E** (the "**RMT Partner Charter Amendment**"). The Existing RMT Partner Charter, as amended by the RMT Partner Charter Amendment, shall be the articles of incorporation of RMT Partner until duly amended as provided therein or by applicable Law.

Section 1.2 **Charter Amendment Effective Time**. On the terms and subject to the conditions set forth in this Agreement, including **Section 1.2** of the Spinco Disclosure Letter, RMT Partner shall cause the RMT Partner Charter Amendment to be executed, acknowledged and filed with the Secretary of State of the Commonwealth of Pennsylvania as provided in the applicable provisions of the Pennsylvania Business Corporation Law of 1988, as amended (the "**PBCL**"). The RMT Partner Charter Amendment shall become effective prior to, and subject to the occurrence of, the First Effective Time or at such other date and time as may be agreed by the Parties in writing and specified in the RMT Partner Charter Amendment (such date and time, the "**Charter Amendment Effective Time**").

ARTICLE II

THE MERGER

Section 2.1 **The Merger**.

(a) On the terms and subject to the conditions set forth in this Agreement, at the First Effective Time, (i) First Merger Sub shall be merged with and into Spinco in accordance with the General Corporation Law of the State of Delaware (the "**DGCL**"), and the separate corporate existence of First Merger Sub shall thereupon cease, (ii) Spinco shall be the surviving corporation in the First Merger (sometimes referred to as, the "**First Merger Surviving Corporation**"), and, from and after the First Effective Time, shall be a wholly owned subsidiary of RMT Partner and the separate corporate existence of Spinco with all of its rights, privileges, immunities, powers and franchises shall continue unaffected by the First Merger as provided in the DGCL, and (iii) the First Merger shall have such other effects as provided in the DGCL, except as expressly set forth in this Agreement.

(b) On the terms and subject to the conditions set forth in this Agreement, at the Second Effective Time, (i) the First Merger Surviving Corporation shall be merged with and into Second Merger Sub in accordance with the DGCL and the Delaware Limited Liability Company Act (the “DLLCA”), and the separate corporate existence of First Surviving Corporation shall thereupon cease, (ii) Second Merger Sub shall be the surviving limited liability company in the Merger (sometimes referred to in this Agreement as, the “Surviving Entity”), and, from and after the Second Effective Time, shall be a wholly owned subsidiary of RMT Partner and the separate existence of the Second Merger Sub with all of its rights, privileges, immunities, powers and franchises shall continue unaffected by the Second Merger as provided in the DLLCA, and (c) the Second Merger shall have such other effects as provided in the DGCL and the DLLCA, in each case, except as expressly set forth in this Agreement.

Section 2.2 Closing. Unless the Alternative Transaction Structure is agreed to by the Parties pursuant to Section 2.9, the consummation of the Merger (the “Closing”) shall take place at 9:00 a.m. Eastern Time on the third (3rd) Business Day following the day on which the last to be satisfied or waived of the conditions set forth in ARTICLE IX (other than the conditions set forth in Section 9.1(a)) and those conditions that by their nature are to be satisfied or waived at the Closing (so long as such conditions are reasonably capable of being satisfied), but subject to the satisfaction or waiver of those conditions) shall be satisfied or waived in accordance with this Agreement or at such other date, time or place as Remainco and RMT Partner may mutually agree in writing. The Closing shall occur (a) remotely via electronic exchange of documents and signatures, or (b) at such other time and place or in such other manner as the Parties may mutually agree in writing. The date on which the Closing occurs is called the “Closing Date.”

Section 2.3 Effective Time. At the Closing, the Parties will cause (a) a certificate of merger relating to the First Merger (the “First Certificate of Merger”) to be executed, acknowledged and filed with the Secretary of State of the State of Delaware as provided in Section 251 of the DGCL, and (b) a certificate of merger relating to the Second Merger (the “Second Certificate of Merger” and, together with the First Certificate of Merger, the “Certificates of Merger”) to be executed, acknowledged and filed with the Secretary of State of the State of Delaware as provided in Section 251 of the DGCL and Section 18-209 of the DLLCA. The First Merger shall become effective at the time when the First Certificate of Merger has been duly filed with and accepted by the Secretary of State of the State of Delaware or at such later date and time as may be agreed by the Parties in writing and specified in the First Certificate of Merger (such date and time, the “First Effective Time”), and the Second Merger shall become effective at the time when the Second Certificate of Merger has been duly filed with and accepted by the Secretary of State of the State of Delaware or at such later date and time as may be agreed by the Parties in writing and specified in the Second Certificate of Merger (such date and time, the “Second Effective Time”).

Section 2.4 Certificates of Formation. The certificate of incorporation of Spinco as in effect immediately prior to the First Effective Time shall be the certificate of formation of the First Merger Surviving Corporation, until duly amended as provided therein or by applicable Law. The certificate of incorporation of Second Merger Sub as in effect immediately prior to the Second Effective Time shall be the certificate of formation of the Surviving Entity (the “Charter”), until duly amended as provided therein or by applicable Law, except that the name of the Surviving Entity shall be designated in writing by Remainco to RMT Partner prior to the Closing, provided that such designation shall be made by Remainco following a good faith consultation with RMT Partner.

Section 2.5 Bylaws and Operating Agreement. The Parties shall take all actions necessary so that (a) the bylaws of Spinco in effect immediately prior to the First Effective Time shall be the bylaws of the First Merger Surviving Corporation, until thereafter amended as provided therein or by applicable Law, and (b) at the Second Effective Time, the limited liability company operating agreement of Second Merger Sub in effect immediately prior to the Second Effective Time shall be the limited liability company operating agreement of the Surviving Entity (the “Operating Agreement”), until thereafter amended as provided therein or by applicable Law, except that the name of the Surviving Entity shall be designated in writing by Remainco to RMT Partner prior to the Closing, provided that such designation shall be made by Remainco following a good faith consultation with RMT Partner.

Section 2.6 Directors and Managers. The Parties shall take all actions necessary so that (a) directors of Spinco immediately prior to the First Effective Time shall be the directors of the First Merger Surviving Corporation, until their successors have been duly elected or appointed and qualified or until their earlier resignation or removal in accordance the bylaws of the First Merger Surviving Corporation, and (b) RMT Partner shall, from and after the Second Effective Time, be the sole member and sole manager of the Surviving Entity until its successor has been duly elected or appointed and qualified or until its earlier resignation or removal in accordance with the Charter and the Operating Agreement.

Section 2.7 Officers. The Parties shall take all actions necessary so that the (a) officers of Spinco, if any, at the First Effective Time shall, from and after the First Effective Time, be the officers of the First Merger Surviving Corporation, until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the certificate of formation and bylaws of the First Merger Surviving Corporation and (b) officers of Second Merger Sub, if any, at the Second Effective Time shall, from and after the Second Effective Time, be the officers of the Surviving Entity until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the Charter and the Operating Agreement.

Section 2.8 RMT Partner Governance Matters.

(a) At the Second Effective Time, the RMT Partner Board shall consist of nine (9) directors. Prior to the Second Effective Time, subject to Section 8.8, Remainco and RMT Partner shall each designate directors such that, at the Second Effective Time, the RMT Partner Board shall be comprised of: (i) the individual set forth on Section 2.8(a) of the Spinco Disclosure Letter (the “CEO Designee”), (ii) five (5) directors designated by Remainco who are not at the Second Effective Time also serving as employees of Remainco or as directors on the Remainco Board (collectively, the “Remainco Designees”); and (iii) three (3) directors designated by the RMT Partner Board (collectively, the “RMT Partner Designees”). The Chairperson of the RMT Partner Board shall be one of the RMT Partner Designees.

(b) If, prior to the Second Effective Time, (i) a Remainco Designee is unable or unwilling to serve on the RMT Partner Board as a result of illness, death, resignation, retirement or any other reason, then Remainco shall be entitled to designate another person to serve in such person's place, subject to the consent of RMT Partner (not to be unreasonably withheld, conditioned or delayed) unless such successor designee is an independent member of the RMT Partner Board as of the date hereof, or (ii) a RMT Partner Designee is unable or unwilling to serve on the RMT Partner Board as a result of illness, death, resignation, retirement or any other reason, then the RMT Partner Board shall be entitled to designate another person to serve in such person's place, subject to the consent of Remainco (not to be unreasonably withheld, conditioned or delayed) unless such successor designee is an independent member of the Remainco Board as of the date hereof.

(c) The initial term of the Remainco Designees and RMT Partner Designees shall expire immediately following RMT Partner's first annual meeting of shareholders that occurs after the Second Effective Time. As of the expiration of such initial term, each member of the RMT Partner Board shall thereafter be elected for a one (1)-year term expiring immediately following each RMT Partner's annual meeting of shareholders.

(d) At least two (2) of the Remainco Designees and one (1) of the RMT Partner Designees shall be eligible to serve on the audit committee of the RMT Partner Board under the applicable requirements of the SEC and NYSE.

(e) Until the second (2nd) annual meeting of RMT Partner's shareholders that occurs after the Second Effective Time, (i) if there is a vacancy created by the illness, death, resignation, retirement or removal of any Remainco Designee, such vacancy shall be filled by the affirmative vote of a majority of the remaining Remainco Designees then in office, even if less than a quorum, or by a sole remaining Remainco Designee (any such replacement, a "Continuing Remainco Designee"), and (ii) if there is a vacancy created by the illness, death, resignation, retirement or removal of any Continuing Remainco Designee, such vacancy shall be filled by the affirmative vote of a majority of the remaining Remainco Designees and/or Continuing Remainco Designees, as applicable, then in office, even if less than a quorum, or by a sole remaining Remainco Designee and/or Continuing Remainco Designee, as applicable; provided, that any such appointment shall be made in accordance with applicable law and the rules of NYSE (or other national securities exchange on which RMT Partner's securities are listed at the relevant time).

(f) Until the second annual meeting of RMT Partner's shareholders that occurs after the Second Effective Time, (i) if there is a vacancy created by the illness, death, resignation, retirement or removal of any RMT Partner Designee, such vacancy shall be filled by the affirmative vote of a majority of the remaining RMT Partner Designees then in office, even if less than a quorum, or by a sole remaining RMT Partner Designee (any such replacement, a "Continuing RMT Partner Designee"), and (ii) if there is a vacancy created by the illness, death, resignation, retirement or removal of any Continuing RMT Partner Designee, such vacancy shall be filled by the affirmative vote of a majority of the remaining RMT Partner Designees and/or Continuing RMT Partner Designees, as applicable, then in office, even if less than a quorum, or by a sole remaining RMT Partner Designee and/or Continuing RMT Partner Designee, as applicable; provided, that any such appointment shall be made in accordance with applicable law and the rules of NYSE (or other national securities exchange on which RMT Partner's securities are listed at the relevant time).

(g) The RMT Partner Board shall take all such action as may be necessary to ensure that at least one (1) RMT Partner Designee or Continuing RMT Partner Designee, as applicable, is appointed to serve on each committee of the RMT Partner Board, subject to the applicable independence requirements.

(h) At the Second Effective Time, the CEO Designee shall be appointed to serve as the Chief Executive Officer of RMT Partner. If, prior the Second Effective Time, the individual identified as CEO Designee is unable or unwilling to serve as Chief Executive Officer of RMT Partner or as a member of the RMT Partner Board as a result of illness, death, resignation, retirement or any other reason, then Remainco and RMT Partner shall cooperate and consult in good faith to designate a replacement CEO Designee. From the date of this Agreement, Remainco and RMT Partner shall cooperate and consult in good faith to appoint such other senior executive officers as mutually agreed between Remainco and RMT Partner and determine such senior executive officers' initial roles, titles and responsibilities. From the Second Effective Time, such officers shall hold office until their successors are duly appointed and qualified, or until their earlier death, resignation or removal in accordance with their respective employment agreements and the Organizational Documents of RMT Partner, as applicable.

(i) As of the Second Effective Time, RMT Partner shall have its headquarters located in Charlotte, North Carolina.

(j) As of the Second Effective Time, RMT Partner shall have changed the name and the NYSE ticker symbol of RMT Partner to such new name and ticker symbol designated in writing by Remainco to RMT Partner prior to the Closing, provided that such designation shall be made by Remainco following a good faith consultation with RMT Partner.

Section 2.9 Alternative Transaction Structure. In the event that (a) the IRS notifies Remainco or any of its Subsidiaries that the IRS will not issue the Private Letter Ruling or the Transactions will not qualify for the Intended Tax Treatment, or (b) in the reasonable determination of each of the Parties, the IRS would not reasonably be expected to issue the Private Letter Ruling, the Parties shall negotiate in good faith to structure the Transactions in an alternative tax-free manner (such structure, the "Alternative Transaction Structure"); provided, that in no event shall a Party be required to agree to any term or condition that is materially detrimental to such Party and its Subsidiaries, taken as a whole. If the Alternative Transaction Structure is adopted in accordance with the preceding sentence, (i) all relevant provisions of this Agreement shall be amended *mutatis mutandis* to refer to, and give effect to, the Alternative Transaction Structure, (ii) without limiting the generality of the foregoing clause (i), all filings, notices and reports with the SEC and any other Governmental Entity shall be made or amended, as the case may be, reflecting the Alternative Transaction Structure and, in any case, in accordance with Section 8.8, and (iii) the Parties shall, and shall cause their respective Subsidiaries to, (A) amend and restate this Agreement and, if necessary or advisable to effect the Alternative Transaction Structure, the Separation and Distribution Agreement and any other Transaction Documents to reflect the foregoing, and (B) execute, acknowledge and deliver any assurances, documents or instruments of transfer, conveyance, assignment and assumption reasonably requested by the other Party to effect the Alternative Transaction Structure. If the Alternative Transaction Structure is not agreed upon (or the Parties decide not to pursue the Alternative Transaction Structure), then the Parties shall, subject to the satisfaction or waiver of the conditions set forth in ARTICLE IX, consummate the Transactions as soon as practicable after that date which is the thirtieth (30th) day prior to the Outside Date (the "Delayed RMT") and cooperate with one another in good faith, and use commercially reasonable efforts to furnish appropriate representation letters to enable counsel to Remainco to issue an opinion on the qualification of the Delayed RMT for the Intended Tax Treatment and, if Remainco wishes to obtain an IRS ruling regarding the qualification of the Delayed RMT for the Intended Tax Treatment, the Parties will cooperate with one another in good faith, and use commercially reasonable efforts, to obtain such ruling. In connection with any Delayed RMT, (1) all filings, notices and reports with the SEC and any other Governmental Entity shall be made or amended, as the case may be, reflecting the Delayed RMT and, in any case, in accordance with Section 8.8, and (2) the Parties shall, and shall cause their respective Subsidiaries to, amend this Agreement, the Separation and Distribution Agreement and any other Transaction Documents, if necessary or advisable to effect the Delayed RMT.

ARTICLE III

EFFECT OF THE MERGER ON CAPITAL STOCK

Section 3.1 Conversion of Shares. At the First Effective Time, by virtue of the First Merger and without any action on the part of the Parties or any holder of any capital stock of First Merger Sub or Spinco, each:

(a) share of Spinco Common Stock issued and outstanding immediately prior to the First Effective Time (other than shares canceled in accordance with Section 3.1(b)) shall automatically be converted into, and become exchangeable for, the right to receive a number of shares or, subject to Section 4.6, a fraction of a share, of RMT Partner Common Stock such that each holder of record of shares of Spinco Common Stock immediately prior to the First Effective Time shall have the right to receive, in the aggregate, a number of shares of RMT Partner Common Stock equal to the product of (i) the total number of shares of Spinco Common Stock held of record by such holder immediately prior to the First Effective Time, *multiplied by* (ii) the Exchange Ratio (such shares, the "Merger Consideration"), subject to adjustment in accordance with Section 3.3;

(b) share of Spinco Common Stock issued and outstanding immediately prior to the First Effective Time held by Spinco as treasury stock or held by any other Spinco Entity, in each case, following the Spinco Distribution and immediately prior to the First Effective Time shall be cancelled and shall cease to exist and no stock or other consideration shall be issued or delivered in exchange thereof; and

(c) share of common stock of First Merger Sub issued and outstanding immediately prior to the First Effective Time shall be converted into one share of common stock First Merger Surviving Corporation, which shall constitute the only outstanding shares of common stock of the First Merger Surviving Corporation immediately following the First Effective Time.

Section 3.2 Second Merger. At the Second Effective Time, by virtue of the Second Merger and without any action on the part of the Parties, each share of common stock of the First Merger Surviving Corporation issued and outstanding immediately prior to the Effective Time shall be converted into one limited liability company interest of the Surviving Entity, which shall constitute the only outstanding limited liability company interests of the Surviving Entity immediately following the Second Effective Time.

Section 3.3 Anti-Dilution Adjustments. The Exchange Ratio and any other similarly dependent items shall be adjusted to reflect fully the appropriate effect of any stock split, split-up, reverse stock split, stock dividend or distribution of common stock or other capital stock of RMT Partner, RMT Partner Common Stock or Spinco Common Stock, as applicable, or securities convertible into any such securities, reorganization, recapitalization, reclassification or other like change with respect to common stock or other capital stock of RMT Partner, RMT Partner Common Stock or Spinco Common Stock, as applicable, having a record date occurring on or after the date of this Agreement and prior to the Second Effective Time, other than (a) in the case of Spinco Common Stock, to the extent contemplated in the Separation and Distribution Agreement (including the Separation or in connection with the Spin-Off, Exchange Offer or Clean-Up Spin-Off, where Remainco shall be entitled to cause the number of outstanding shares of Spinco Common Stock to be an amount that it determines in its sole and absolute discretion), and (b) in the case of RMT Partner Common Stock, to the extent contemplated by the RMT Partner Charter Amendment; provided, that nothing in this Section 3.3 shall be construed to permit Remainco, Spinco or RMT Partner to take any action with respect to its securities that is prohibited by the terms of this Agreement.

ARTICLE IV

DELIVERY OF MERGER CONSIDERATION; PROCEDURES FOR SURRENDER

Section 4.1 Distribution Agent. Pursuant to Section 3.6 of the Separation and Distribution Agreement, the Exchange Agent (as defined below, and acting as “Distribution Agent” thereunder) shall hold, for the account of Remainco and the relevant Remainco stockholders, book-entry shares representing all of the outstanding shares of Spinco Common Stock distributed in the Spinco Distribution. Such shares of Spinco Common Stock shall be converted into shares of RMT Partner Common Stock in accordance with the terms of ARTICLE III and this ARTICLE IV.

Section 4.2 Exchange Agent. At or prior to the First Effective Time, RMT Partner shall deposit or cause to be deposited with an exchange agent selected by Remainco with RMT Partner’s prior approval (which approval shall not be unreasonably withheld, conditioned or delayed) to serve as the exchange agent (the “Exchange Agent”) pursuant to a customary exchange agent agreement (to which Remainco, Spinco and RMT Partner shall be parties) on terms reasonably satisfactory to Remainco, Spinco and RMT Partner, for the benefit of the Persons who received shares of Spinco Common Stock in the Spinco Distribution and for distribution in accordance with Section 3.1, subject to Section 4.6, an aggregate number of shares of RMT Partner Common Stock to be issued in non-certificated book-entry form comprising the number of shares of RMT Partner Common Stock equal to (a) the total number of shares of Spinco Common Stock entitled to Merger Consideration under Section 3.1(a), *multiplied by* (b) the Exchange Ratio, rounded down to the nearest whole number. Such shares of RMT Partner Common Stock and the amount of any dividends or other distributions deposited with the Exchange Agent pursuant to this Section 4.2 and Section 4.4, being the “Exchange Fund.” The Exchange Fund shall not be used for any purpose other than a purpose expressly provided for in this Agreement. The cash portion of the Exchange Fund may be deposited by the Exchange Agent as reasonably directed by RMT Partner; provided, however, that any deposit of such cash shall in all events be limited to (i) direct short-term obligations of, or short-term obligations fully guaranteed as to principal and interest by, the United States government, in commercial paper rated P-1 or A-1 or better by Moody’s Investors Service, Inc. or Standard & Poor’s Corporation, respectively, (ii) certificates of deposit or bank repurchase agreements of commercial banks with capital exceeding \$10 billion, or (iii) AAA rated 2A-7 fixed NAV money market funds (or those of similar quality), or a combination of the foregoing clauses (i), (ii) and (iii), and, in any such case, no such instrument shall have a maturity exceeding three (3) months. To the extent that there are losses with respect to such deposits, a default of an applicable bank or for any other reason any amount in the Exchange Fund is below that required to make prompt payment of the aggregate Merger Consideration and the other payments contemplated by this ARTICLE IV, RMT Partner shall promptly replace, restore or supplement the shares of RMT Partner Common Stock or cash, as applicable, in the Exchange Fund so as to ensure that the Exchange Fund is at all times maintained at a level sufficient for the Exchange Agent to make the payment of the aggregate Merger Consideration and the other payments contemplated by this ARTICLE IV. Any interest and other income resulting from such deposit may become part of the Exchange Fund, and any amounts in excess of the amounts payable under Section 3.1 or Section 4.4 may, at the discretion of RMT Partner, be promptly returned to RMT Partner or the Surviving Entity. In the event the Merger is not consummated and this Agreement is terminated in accordance with its terms, the Exchange Agent shall promptly return all shares of RMT Partner Common Stock deposited in the Exchange Fund to RMT Partner.

Section 4.3 Procedures for Exchange.

(a) On the Closing Date, promptly after the First Effective Time, the Exchange Agent shall, and Remainco and RMT Partner shall cooperate to cause the Exchange Agent to, deliver to each record holder of shares of Spinco Common Stock following the Spinco Distribution and immediately prior to the First Effective Time, a book-entry authorization representing the number of whole shares of RMT Partner Common Stock that such holder has the right to receive pursuant to Section 3.1 (and cash in lieu of fractional shares of RMT Partner Common Stock as contemplated by Section 4.6, together with any dividends and other distributions pursuant to Section 4.4).

(b) No interest will be paid or accrued on any amount payable for shares of Spinco Common Stock or on any other amount to a holder of shares of Spinco Common Stock following the Spinco Distribution and immediately prior to the First Effective Time has a right to receive pursuant to ARTICLE III and this ARTICLE IV.

(c) The Exchange Agent shall not be entitled to vote or exercise any rights of ownership with respect to RMT Partner Common Stock held by it for the account of the Persons entitled thereto.

Section 4.4 Distributions with Respect to Undistributed Shares. No dividends or other distributions declared or made with respect to RMT Partner Common Stock with a record date after the First Effective Time shall be paid or otherwise delivered to the former holders of Spinco Common Stock with respect to any shares of RMT Partner Common Stock that are not able to be distributed by the Exchange Agent to such holder promptly after the First Effective Time, whether due to a legal impediment to such distribution or otherwise. Subject to the effect of applicable Laws, following the distribution of any such previously undistributed shares of RMT Partner Common Stock, there shall be paid to the record holder of such shares of RMT Partner Common Stock without interest, (a) at the time of the distribution, to the extent not previously paid, the amount of cash payable in lieu of fractional shares of RMT Partner Common Stock to which such holder is entitled pursuant to Section 4.6 and the amount of dividends or other distributions with a record date after the First Effective Time theretofore paid with respect to such whole shares of RMT Partner Common Stock, and (b) at the appropriate payment date therefor, the amount of dividends or other distributions with a record date after the First Effective Time but prior to the distribution of such shares of RMT Partner Common Stock and a payment date subsequent to the distribution of such shares of RMT Partner Common Stock payable with respect to such whole shares of RMT Partner Common Stock. RMT Partner shall deposit with the Exchange Agent all such dividends and distributions.

Section 4.5 Transfers. From and after the First Effective Time, there shall be no transfers on the stock transfer books of Spinco of the shares of Spinco Common Stock that were outstanding immediately prior to the First Effective Time. From and after the First Effective Time, the holders of shares of Spinco Common Stock shall cease to have any rights with respect to such shares of Spinco Common Stock except as otherwise provided herein or by applicable Law.

Section 4.6 Fractional Shares. Notwithstanding anything in this Agreement to the contrary, no fractional shares of RMT Partner Common Stock will be issued upon the conversion of shares of Spinco Common Stock pursuant to Section 3.1. All fractional shares of RMT Partner Common Stock that a holder of shares of Spinco Common Stock would otherwise be entitled to receive as a result of the Merger shall be aggregated by the Exchange Agent. The Exchange Agent shall cause the whole shares obtained thereby to be sold on behalf of such holders of shares of Spinco Common Stock that would otherwise be entitled to receive such fractional shares of RMT Partner Common Stock pursuant to the Merger, in the open market or otherwise as reasonably directed by RMT Partner, in each case at then-prevailing market prices, as promptly as reasonably practicable and in no case later than ten (10) Business Days after the First Effective Time. The Exchange Agent shall make available the net proceeds thereof, after deducting any required withholding Taxes and brokerage charges, commissions and transfer Taxes, on a pro rata basis, without interest, as soon as practicable to the holders of Spinco Common Stock that would otherwise be entitled to receive such fractional shares of RMT Partner Common Stock pursuant to the Merger. The Parties acknowledge that payment of the cash consideration in lieu of issuing fractional shares of RMT Partner Common Stock was not separately bargained-for consideration but merely represents a mechanical rounding off for purposes of avoiding the expense and inconvenience to RMT Partner that would otherwise be caused by the issuance of fractional shares of RMT Partner Common Stock.

Section 4.7 Termination of Exchange Fund. Any portion of the Exchange Fund (including the proceeds of any deposit of the Exchange Fund and any shares of RMT Partner Common Stock) that remains unclaimed by the one hundred eightieth (180th) day after the Closing Date shall be delivered to RMT Partner. Any holder of shares of Spinco Common Stock who has not theretofore complied with this ARTICLE IV shall thereafter look only to RMT Partner for delivery of the Merger Consideration, including any cash in lieu of fractional shares of RMT Partner Common Stock, and any unpaid non-stock dividends and any other dividends or other distributions, in each case, that such holder has the right to receive pursuant to ARTICLE III and this ARTICLE IV.

Section 4.8 Withholding Rights. Each of RMT Partner, the Surviving Entity and the Exchange Agent shall be entitled to deduct and withhold from the consideration otherwise payable pursuant to this Agreement to any holder of shares of Spinco Common Stock such amounts as it is required to deduct and withhold with respect to the making of such payment under the Code or any other applicable state, local or foreign Tax Law. To the extent that amounts are so withheld by RMT Partner, the Surviving Entity or the Exchange Agent, as applicable, such withheld amounts (a) shall be timely remitted by RMT Partner, the Surviving Entity or the Exchange Agent, as applicable, to the applicable Taxing authority, and (b) shall be treated for all purposes of this Agreement as having been paid to the holder of shares of Spinco Common Stock in respect of which such deduction and withholding was made by RMT Partner, the Surviving Entity or the Exchange Agent, as applicable.

Section 4.9 No Appraisal Rights. In accordance with Section 262 of the DGCL, no appraisal rights shall be available to holders of Spinco Common Stock in connection with the Merger.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF REMAINCO RELATING TO REMAINCO

Except as set forth in the forms, statements, certifications, reports and documents filed or furnished by Remainco with the SEC pursuant to the Exchange Act or the Securities Act since October 2, 2021 (the “Applicable Date”) but prior to the date of this Agreement (such forms, statements, reports and documents, in each case as amended prior to the date of this Agreement, the “Remainco Reports”) (excluding any disclosures set forth in any risk factor section or in any other section to the extent they are forward-looking statements or cautionary, predictive or forward-looking in nature) or in the corresponding sections or subsections of the disclosure letter delivered to RMT Partner by Remainco and Spinco concurrently with the execution and delivery of this Agreement (the “Spinco Disclosure Letter”), it being agreed that for purposes of the representations and warranties set forth in this ARTICLE V, disclosure of any item in any section or subsection of the Spinco Disclosure Letter shall be deemed disclosure with respect to any other section or subsection to which the relevance of such item is reasonably apparent on its face, Remainco hereby represents and warrants to RMT Partner and Merger Subs that:

Section 5.1 Organization, Good Standing and Qualification. Remainco is a corporation duly incorporated, validly existing and in good standing under the Laws of its jurisdiction of organization and has all requisite corporate power and authority to own, lease and operate its properties and assets and to carry on its business as presently conducted and is qualified to do business and is in good standing as a foreign corporation in each jurisdiction where the ownership, leasing or operation of its assets or properties or conduct of its business requires such qualification, except where the failure to be so organized, qualified or in good standing, or to have such power or authority, would not, individually or in the aggregate, reasonably be likely to have a Remainco Material Adverse Effect.

Section 5.2 Corporate Authority and Approval.

(a) Remainco has all requisite corporate power and authority and has taken all corporate action necessary in order to execute, deliver and perform its obligations under this Agreement and the other Transaction Documents to which it is or will be a party as of the date hereof and as of the Second Effective Time. This Agreement has been duly executed and delivered by Remainco and constitutes a valid and binding agreement of Remainco, enforceable against Remainco in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors' rights and to general equity principles (the "Bankruptcy and Equity Exception"). Except for such further action of the Remainco Board required, if applicable, to determine the structure of the Spinco Distribution, establish the Record Date and the Spinco Distribution Date, and the effectiveness of the declaration of the Initial Spin and the Spinco Distribution by the Remainco Board (which is subject to the satisfaction or, to the extent permitted by applicable Law, waiver of the conditions set forth in the Separation and Distribution Agreement), the execution and delivery by Remainco of this Agreement and the other Transaction Documents to which it is or will be a party as of the date hereof and as of the Second Effective Time and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary and proper corporate action on its part, and no other corporate action on the part of Remainco is necessary to authorize this Agreement or the other Transaction Documents to which it is or will be a party as of the date hereof and as of the Second Effective Time.

(b) The Remainco Board has unanimously approved and declared advisable this Agreement, the Separation and Distribution Agreement and the Transactions, including the Separation, the Initial Spin, the Spinco Distribution and the Merger, subject to such further action of the Remainco Board required, if applicable, to determine the structure of the Spinco Distribution, establish the Record Date and the Spinco Distribution Date, and the effectiveness of the declaration of the Initial Spin and the Spinco Distribution by the Remainco Board (which is subject to the satisfaction or, to the extent permitted by applicable Law, waiver of the conditions set forth in the Separation and Distribution Agreement).

(c) The approval of Remainco's stockholders is not required to effect the Transactions, including the transactions contemplated by the Separation and Distribution Agreement.

Section 5.3 Governmental Filings; No Violations.

(a) Other than the filing with the SEC of the Distribution Registration Statement and the RMT Partner Registration Statement, the filing of any amendment to the Organizational Documents of Spinco to effect the Separation, the Initial Spin, and Spinco Distribution and the necessary filings, notices, reports, consents, registrations, approvals, permits, expirations of waiting periods or authorizations (i) pursuant to Section 2.3, (ii) required under the rules and regulations of the NYSE, (iii) required under the HSR Act and any other applicable Antitrust Laws, the Exchange Act and the Securities Act, (iv) to comply with state securities or "blue-sky" Laws, and (v) as may be required with or to Foreign Regulators pursuant to Foreign Regulatory Laws, no filings, notices or reports are required to be made by Remainco with, nor are any consents, registrations, approvals, permits, expirations of waiting periods or authorizations required to be obtained by Remainco from, any Governmental Entity in connection with the execution, delivery and performance of this Agreement by Remainco, except, in each case, those that the failure to make or obtain would not, individually or in the aggregate, reasonably be likely to have a Remainco Material Adverse Effect.

(b) The execution, delivery and performance by Remainco of this Agreement and the Transaction Documents to which it is or will be a party as of the date hereof and as of the First Effective Time do not and will not, and the consummation by Remainco of the Transactions and the transactions contemplated by such other Transaction Documents will not, constitute or result in (i) a breach or violation of, or a default under, Remainco's Organizational Documents, (ii) with or without the lapse of time or the giving of notice or both, a breach or violation of, a default or termination or modification (or right of termination or modification) under, payment of additional fees under, the creation or acceleration of any obligations under, or the creation of a Lien on any of the assets of Remainco pursuant to any Contract binding upon Remainco or under any Law, Governmental Order or Permit to which Remainco is subject, or (iii) any change in the rights or obligations under any Contract to which Remainco is a party, except, in the case of clauses (ii) and (iii) above, for any such breach, violation, default, termination, modification, payment, acceleration, creation or change that would not, individually or in the aggregate, reasonably be likely to have a Remainco Material Adverse Effect.

Section 5.4 Litigation. As of the date of this Agreement, there are no Proceedings pending or, to the Knowledge of Remainco, threatened against Remainco, except for those that would not, individually or in the aggregate, reasonably be likely to have a Remainco Material Adverse Effect. As of the date of this Agreement, Remainco is not a party to or subject to the provisions of any Governmental Order that would, individually or in the aggregate, reasonably be likely to have a Remainco Material Adverse Effect.

Section 5.5 Remainco Internal Controls. Remainco maintains disclosure controls and procedures required by Rule 13a-15 or 15d-15 under the Exchange Act with respect to Remainco and its Subsidiaries (including the Spinco Entities) on a consolidated basis. Such disclosure controls and procedures are designed to ensure that information required to be disclosed by Remainco with respect to the Spinco Business in its filings with the SEC under the Exchange Act is recorded and reported on a timely basis to the individuals responsible for the preparation of Remainco's filings with the SEC under the Exchange Act. Remainco maintains internal control over financial reporting (as defined in Rule 13a-15 or 15d-15, as applicable, under the Exchange Act). Such internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP. Remainco has disclosed, based on the most recent evaluation of its Chief Executive Officer and its Chief Financial Officer prior to the date of this Agreement, to Remainco's auditors and the audit committee of the Remainco Board (a) any significant deficiencies and material weaknesses in the design or operation of its internal controls over financial reporting that are reasonably likely to adversely affect Remainco's ability to record, process, summarize and report financial information, and (b) any fraud, whether or not material, that involves management or other employees who have a significant role in Remainco's internal control over financial reporting. Remainco has made available prior to the date of this Agreement to RMT Partner (i) either materials relating to or a summary of any disclosure of matters described in clause (a) or (b) in the preceding sentence made by management of Remainco to its auditors and audit committee on or after the Applicable Date and prior to the date of this Agreement, and (ii) any material communication on or after the Applicable Date and prior to the date of this Agreement made by management of Remainco or its auditors to the audit committee as required by the listing standards of the NYSE, the audit committee's charter or professional standards of the Public Company Accounting Oversight Board. Since September 30, 2022, and prior to the date of this Agreement, no complaints from any source regarding a material violation of accounting procedures, internal accounting controls or auditing matters or compliance with Law, including from Remainco employees regarding questionable accounting, auditing or legal compliance matters, have, to the Knowledge of Remainco, been received by Remainco. As of their respective dates (or, if amended prior to the date of this Agreement, as of the date of such amendment), the Remainco Reports did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances in which they were made, not misleading.

Section 5.6 Brokers and Finders. Remainco has not incurred any liability for any brokerage fees, commissions or finders' fees in connection with the Transactions for which any Spinco Entity or, following the First Effective Time, the RMT Partner and its Subsidiaries, will be liable.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF REMAINCO RELATING TO THE SPINCO ENTITIES

Except as set forth in the Remainco Reports (excluding any disclosures set forth in any risk factor section or in any other section to the extent they are forward-looking statements or cautionary, predictive or forward-looking in nature) or in the corresponding sections or subsections of the Spinco Disclosure Letter, it being agreed that for purposes of the representations and warranties set forth in this ARTICLE VI, disclosure of any item in any section or subsection of the Spinco Disclosure Letter shall be deemed disclosure with respect to any other section or subsection to which the relevance of such item is reasonably apparent on its face, Remainco hereby represents and warrants to RMT Partner and Merger Subs that:

Section 6.1 Organization, Good Standing and Qualification. Each Spinco Entity is an entity duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization. Each Spinco Entity has full power and authority necessary to enable it to own, lease, use or otherwise hold its material properties, rights and assets and to carry on the Spinco Business as presently conducted and as conducted in the past twelve (12) months. Each Spinco Entity is duly qualified to do business and in good standing in each jurisdiction in which the conduct or nature of the Spinco Business or the ownership, leasing, use or holding of assets makes such qualification necessary, except such jurisdictions where the failure to be so qualified or in good standing has not had a Spinco Material Adverse Effect. Each Spinco Entity is not in violation of any provisions contained in its Organizational Documents.

Section 6.2 Capital Structure.

(a) As of the date of this Agreement, the authorized capital stock of Spinco consists of One Thousand (1,000) shares of Spinco Common Stock, all of which has been duly authorized and is validly issued and outstanding and fully paid and nonassessable, free and clear of any Lien, and not issued in violation of any preemptive right or other similar right. As of the date of this Agreement, all of the issued and outstanding capital stock of Spinco is owned by BGI, and there are, and immediately prior to the First Effective Time, there will be (i) no other shares of capital stock, voting securities or other equity interests of Spinco, (ii) no securities or obligations of Spinco convertible into or exchangeable for capital stock, voting securities or other equity interests of Spinco, and (iii) no options or other rights to acquire from Spinco, and no obligations of Spinco to issue, any capital stock, voting securities or other equity interests or securities or obligations convertible into or exchangeable for capital stock, voting securities or other equity interests of Spinco.

(b) Spinco has not conducted any business prior to the date of this Agreement and has no assets, liabilities or obligations of any nature other than those incident to its formation and pursuant to this Agreement and the Transactions. Immediately prior to the First Effective Time, there will be outstanding a number of shares of Spinco Common Stock as is necessary to complete the Initial Spin and the Spinco Distribution in the manner determined by Remainco in accordance with the Separation and Distribution Agreement.

(c) Section 6.2(c) of the Spinco Disclosure Letter sets forth, as of the date of this Agreement, each of the Spinco Subsidiaries and the ownership interest of Remainco, directly or indirectly, in each such Spinco Subsidiary. Each of the outstanding shares of capital stock, voting securities or other equity interests of each Spinco Subsidiary has been duly authorized and validly issued and is fully paid and nonassessable and, to the extent owned by a Spinco Entity, is owned free and clear of any Lien (other than Liens for Taxes not yet due and payable or that are being contested in good faith by appropriate proceedings and as to which appropriate reserves have been recorded in Spinco's financial statements). There are no preemptive or other outstanding rights, options, warrants, conversion rights, stock appreciation rights, redemption rights, repurchase rights, agreements, arrangements, calls, commitments or rights of any kind that obligate any Spinco Entity to issue or sell any shares of capital stock, voting securities or other equity interests of any such Spinco Entity or any securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire from any such Spinco Entity, any capital stock, voting securities or other equity interests of any such Spinco Entity, and no securities or obligations evidencing such rights are authorized, issued or outstanding. Neither Spinco nor any Spinco Entity has outstanding any bonds, debentures, notes or other obligations the holders of which have the right to vote (or convertible into or exercisable for capital stock, voting securities or other equity interests having the right to vote) with the equityholders of Spinco or any Spinco Entity on any matter.

Section 6.3 Corporate Authority and Approval.

(a) Spinco has all requisite corporate power and authority and has taken all corporate action necessary in order to execute, deliver and perform its obligations under this Agreement and the other Transaction Documents to which it is or will be a party as of the date hereof and as of the First Effective Time and to consummate the Transactions and the transactions contemplated by the Transaction Documents. This Agreement has been duly executed and delivered by Spinco and constitutes a valid and binding agreement of Spinco, enforceable against it in accordance with its terms, subject to the Bankruptcy and Equity Exception.

(b) The Spinco Board has unanimously (i) approved and declared advisable this Agreement, the Separation and Distribution Agreement and the Transactions, including the Separation, the Initial Spin, the Spinco Distribution and the Merger, (ii) determined that this Agreement, the Separation and Distribution Agreement and the Transactions, including the Separation, the Initial Spin, the Spinco Distribution and the Merger, are in the best interest of Spinco and its sole stockholder, and (iii) resolved to recommend the adoption of this Agreement by the sole stockholder of Spinco.

(c) The execution and delivery by Spinco of this Agreement and the other Transaction Documents to which it is or will be a party as of the date hereof and as of the First Effective Time and the consummation by Spinco of the transactions contemplated hereby and thereby have been duly and validly authorized and approved by all necessary and proper corporate action on its part.

Section 6.4 Governmental Filings; No Violations.

(a) Other than the filing with the SEC of the Distribution Registration Statement and the RMT Partner Registration Statement, the filing of any amendment to the Organizational Documents of Spinco to effect the Separation, the Initial Spin, and Spinco Distribution and the necessary filings, notices, reports, consents, registrations, approvals, permits, expirations of waiting periods or authorizations (i) pursuant to Section 2.3, (ii) required under the rules and regulations of the NYSE, (iii) required under the HSR Act or any other applicable Antitrust Laws, the Exchange Act and the Securities Act, (iv) to comply with state securities or "blue-sky" Laws, and (v) as may be required with or to Foreign Regulators pursuant to Foreign Regulatory Laws, no filings, notices or reports are required to be made by any Spinco Entity with, nor are any consents, registrations, approvals, permits, expirations of waiting periods or authorizations required to be obtained by any Spinco Entity from, any Governmental Entity in connection with the execution, delivery and performance of this Agreement by Spinco or the consummation by Spinco of the Transactions, except, in each case, those that the failure to make or obtain would not, individually or in the aggregate, reasonably be likely to have a Spinco Material Adverse Effect or to prevent, materially delay or materially impair the ability of Spinco to consummate the Transactions.

(b) The execution, delivery and performance by Spinco of this Agreement and the Transaction Documents to which it is or will be a party as of the First Effective Time do not and will not, and the consummation by Spinco of the Transactions and the transactions contemplated by such other Transaction Documents will not, constitute or result in (i) a breach or violation of, or a default under, the Organizational Documents of any Spinco Entity, (ii) with or without the lapse of time or the giving of notice or both, a breach or violation of, a default or termination or modification (or right of termination or modification) under, payment of additional fees under, the creation or acceleration of any obligations under, or the creation of a Lien on any Contracts binding upon any Spinco Entity, or, assuming (solely with respect to the performance of this Agreement and the consummation of the Transactions) the filings, notices, reports, consents, registrations, approvals, permits, expirations of waiting periods and authorizations referred to in Section 6.4(a) are made or obtained, under any Law, Governmental Order or Permit to which any Spinco Entity is subject, or (iii) any change in the rights or obligations under any Contract to which any Spinco Entity is a party, except, in the case of clauses (ii) and (iii) above, for any such breach, violation, default, termination, modification, payment, acceleration, creation or change that would not, individually or in the aggregate, reasonably be likely to have a Spinco Material Adverse Effect or to prevent, materially delay or materially impair the ability of Spinco to consummate the Transactions.

Section 6.5 Financial Statements.

(a) Remainco has made available to RMT Partner and Merger Subs (i) the profit and loss statements of the Spinco Entities as of September 30, 2023 (the “Latest Spinco P&L”), and (ii) the consolidated balance sheets of the Spinco Entities as of September 30, 2023, and October 1, 2022, and the related consolidated statements of operations of the Spinco Entities for the year then ended (collectively, the “Spinco Financial Statements”).

(b) In each case, (i) the Spinco Financial Statements have been prepared consistently in accordance with Remainco’s historical accounting principles and practices, and (ii) the Spinco Financial Statements present consistently, as of their respective dates and for the periods set forth therein, the consolidated financial position and results of operations, as the case may be, of the Spinco Entities. The Spinco Financial Statements have been prepared based on the books and records of the Spinco Entities and, with respect to the Spinco Business, Remainco and its Affiliates and such books and records have been regularly maintained in the Ordinary Course, except to the extent created specifically for the purposes of effecting the transactions contemplated by this Agreement and the other Transaction Documents. The Spinco Financial Statements (other than the Latest Spinco P&L) fairly present, in all material respects, the financial position of the Spinco Business (taken as a whole) as of the date thereof and results of operations for the period then ended. Except as set forth in the Spinco Financial Statements, the Spinco Entities and the Spinco Business do not maintain any “off-balance-sheet arrangement” within the meaning of Item 303 of Regulation S-K of the Securities Act. The systems of internal controls over financial reporting maintained by the Spinco Business and the Spinco Entities are sufficient to provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, consistently applied and that all transactions are executed in accordance with management’s general or specific authorization.

(c) Except for (i) liabilities disclosed, reflected, reserved against or otherwise provided for in the Spinco Financial Statements (other than the Latest Spinco P&L), (ii) liabilities incurred in the Ordinary Course of Spinco’s Business since September 30, 2023, or arising under this Agreement (none of which relates to breach of contract, breach of warranty, tort, infringement or violations of Law), (iii) liabilities that would not, individually or in the aggregate, reasonably be expected to be material to the Spinco Business, taken as a whole, or (iv) as set forth on Section 6.5(c) of the Spinco Disclosure Letter, the Spinco Entities do not have any liabilities of any nature, whether or not accrued, contingent or otherwise.

(d) When delivered pursuant to Section 8.22, the Audited Financial Statements, the Subsequent Unaudited Spinco Financial Statements and the Subsequent Audited Spinco Financial Statements will (i) except as otherwise noted and reflected therein, have been prepared in accordance with GAAP, consistently applied, as at the dates and for the periods presented (subject, with respect to the Subsequent Unaudited Spinco Financial Statements, to normal year-end adjustments, as at the dates and for the periods presented), and (ii) fairly present in all material respects the financial position of the Spinco Business and the results of its operations as of the respective dates thereof and for the respective periods covered thereby on the basis by which the Audited Financial Statements, the Subsequent Unaudited Spinco Financial Statements and the Subsequent Audited Spinco Financial Statements, in each case, were prepared, except for the fact that the Spinco Business was not operated on a stand-alone basis during such periods and, therefore, the Audited Financial Statements, the Subsequent Unaudited Spinco Financial Statements and the Subsequent Audited Spinco Financial Statements will reflect certain costs allocations made that may not reflect what would have been incurred if the Spinco Business had been operated on a stand-alone basis during such periods. The Audited Financial Statements shall conform in all material respects to the published rules and regulations of the SEC applicable to financial statements for each of the periods that will be required to be included in the RMT Partner Registration Statement, the Distribution Registration Statement and the Tender Offer Statement (if applicable).

(e) Remainco maintains disclosure controls and procedures designed to ensure that information required to be disclosed by Remainco with respect to the Spinco Business in its filings with the SEC under the Exchange Act is recorded and reported on a timely basis to the individuals responsible for the preparation of Remainco's filings with the SEC under the Exchange Act.

(f) None of the Spinco Entities has incurred any non-reported Indebtedness, or issued or sold any debt securities or rights to acquire any debt security of any Spinco Entity, the terms of which, or the terms of any instrument under which such Indebtedness, debt securities or rights were issued, requires the public listing of such Indebtedness, debt securities or rights or the maintenance by such Spinco Entity of registration under the Exchange Act. No Spinco Entity is a party to, or has any commitment to become a party to, any off-balance sheet joint venture, off-balance sheet partnership or any other "off-balance sheet arrangements" (as defined in Item 303(b) of Regulation S-K promulgated by the SEC) that is material to the Spinco Entities, taken as a whole.

(g) The information supplied or to be supplied by Remainco or any of its Subsidiaries (including the Spinco Entities) for inclusion in the Securities Filings will not, on the date of filing of the applicable Securities Filing or, in the case of the Distribution Registration Statement or the RMT Partner Registration Statement, at the time it becomes effective under the Securities Act or Exchange Act, as applicable, or on the dates the Proxy Statement is mailed to the shareholders of RMT Partner, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading.

Section 6.6 Absence of Certain Changes. Since October 2, 2022 (a) to the date of this Agreement, each Spinco Entity has conducted the Spinco Business in the Ordinary Course in all material respects, (b) there has not been any material damage, destruction or other casualty loss with respect to any material assets of any Spinco Entity, (c) there has not been a Spinco Material Adverse Effect, and (d) no Spinco Entity and, with respect to the Spinco Business, Remainco or any of its Affiliates, has taken any action that, if taken during the period from the date of this Agreement through the Closing Date without RMT Partner's consent would constitute a breach of Section 8.1(a).

Section 6.7 Litigation.

(a) There is no, and since January 1, 2021 there has been no, civil, criminal, administrative or other Proceeding pending or, to the Knowledge of Remainco, threatened against any of the Spinco Entities or, with respect to the Spinco Business, Remainco or any of its Affiliates or any of their respective properties or assets, nor is there any judgment, settlement, decree, injunction, writ, award, rule or order of any Governmental Entity or arbitrator outstanding against, or, to the Knowledge of Remainco, investigation or inquiry by any Governmental Entity, involving any Spinco Entity that would reasonably be expected to be, individually or in the aggregate, material to the Spinco Business.

(b) There are not any (i) outstanding judgments against the Spinco Entities, (ii) Proceedings pending or, to the Knowledge of Remainco, threatened, against any of the Spinco Entities, or (iii) investigations by any Governmental Entity that are, to the Knowledge of Remainco, pending or threatened against Remainco or any of the Spinco Entities that would reasonably be expected to (A) have a material adverse effect on Spinco's ability to perform its obligations under this Agreement and the other Transaction Documents to which it is a party or consummate the transactions contemplated hereby or thereby or (B) be, individually or in the aggregate, material to the Spinco Business, taken as a whole.

Section 6.8 Employee Benefits and Labor Matters.

(a) Section 6.8(a) of the Spinco Disclosure Letter sets forth a true and complete list of each material Benefit Plan of the Spinco Entities as of the date of this Agreement.

(b) Each Benefit Plan of the Spinco Entities has been administered in material compliance with its terms and the applicable provisions of the Code, ERISA and all other applicable Laws, rules and regulations and the terms of any applicable Collective Bargaining Agreement, and with respect to each Benefit Plan, the Spinco Entities have materially complied with such Laws and Collective Bargaining Agreements. As of the date hereof and, except as would not reasonably be expected to be, individually or in the aggregate, material to the Spinco Business, taken as a whole, as of the Closing, (i) except as set forth on Section 6.8(b) of the Spinco Disclosure Letter, there is no pending or threatened investigation, action, complaint, suit, proceeding or other claim (other than routine claims for benefits) in respect of any Benefit Plan of the Spinco Entities, (ii) no facts or circumstances exist that could give rise to any such actions, suits, or claims, (iii) contributions to all Benefit Plans have been made as required by applicable Laws, rules and regulations and no written or oral communication has been received from any Governmental Entity in respect of any Benefit Plan of the Spinco Entities concerning the funded status of any such plan or any transfer of assets and liabilities from any such plan in connection with the transaction contemplated herein during the past two (2) years, (iv) no administrative investigation, audit, Proceeding, or other administrative proceedings by any Governmental Entity are pending, threatened, or in progress, (v) with respect to each Benefit Plan, all reports, returns, notices and other documentation that are required to have been filed with or furnished to the appropriate Governmental Entity, or to the participants or beneficiaries of such Benefit Plan, have been filed or furnished on a timely basis, (vi) each Benefit Plan that is intended to be qualified within the meaning of Section 401(a) of the Code is so qualified and has received a favorable determination letter from the IRS to the effect that the Benefit Plan satisfies the requirements of Section 401(a) of the Code and that its related trust is exempt from taxation under Section 501(a) of the Code (or such Benefit Plan is a prototype plan that is entitled to rely on an opinion letter issued by the IRS to the prototype plan sponsor regarding qualification of the form of the prototype plan) and, to the Knowledge of Remainco, there are no facts or circumstances that could reasonably be expected to cause the loss of such qualification, (vii) to the Knowledge of Remainco, no fiduciary has any liability for breach of fiduciary duty or any other failure to act or comply with the requirements of ERISA, the Code or any other applicable Laws in connection with the administration or investment of the assets of any Benefit Plan, (viii) no Service Provider has been improperly excluded from participation in any Benefit Plan, and none of the Spinco Entities has any direct or indirect liability, whether actual or contingent, with respect to any misclassification of any person as an independent contractor rather than as an employee, or with respect to any employee leased from another employer, (ix) no non-exempt "prohibited transaction" within the meaning of Section 406 of ERISA or Section 4975 of the Code has occurred involving any Benefit Plan, and (x) any bonding required with respect to the Benefit Plans in accordance with applicable provisions of ERISA has been obtained and is in full force and effect. Except as set forth on Section 6.8(b) of the Spinco Disclosure Letter, no Spinco Entity has incurred any current or projected liability in respect of post-employment or post-retirement health, medical or life insurance or other benefits for any Service Provider, except as may be required pursuant to applicable Law, and at the expense of such Service Provider.

(c) Except as set forth on Section 6.8(c) of the Spinco Disclosure Letter, no Benefit Plan of the Spinco Entities exists that would reasonably be expected to (i) entitle any Spinco Employee to any payment, benefit or right, or increase in payment, benefit or right, (ii) accelerate the time of payment or vesting or result in any payment or funding (through a grantor trust or otherwise) of compensation or benefits under, increase the amount payable or result in any other material obligation pursuant to, any of the Benefit Plans of the Spinco Entities, or (iii) limit or restrict the right of any Spinco Entity to merge, amend or terminate any of the Benefit Plans of the Spinco Entities, in each case as a result of the execution of this Agreement or the consummation of the transactions contemplated hereby (whether alone or in connection with any subsequent event(s)).

(d) No Benefit Plan of the Spinco Entities is a Multiemployer Plan or Multiple Employer Plan, and no Spinco Entity has at any time sponsored or contributed to, or has or had any obligation to sponsor or contribute to, or has or had any liability or obligation in respect of, any Multiemployer Plan or Multiple Employer Plan.

(e) Except as set forth on Section 6.8(e) of the Spinco Disclosure Letter, none of the Spinco Entities has any actual or contingent obligation with respect to any employee benefit plan or arrangement that is subject to Section 302 of ERISA, Title IV of ERISA, Sections 412 and 4971 of the Code, that is due to the Spinco Entities' affiliation with any of their respective ERISA Affiliates.

(f) None of the execution and delivery of this Agreement, approval of this Agreement or the consummation of the transactions contemplated by this Agreement could (either alone or in combination with another event) result in the payment of any amount that could, individually or in combination with any other payment, constitute an "excess parachute payment" (as defined in Section 280G(b)(1) of the Code). None of the Spinco Entities is a party to or has any obligation under any Benefit Plan or otherwise to compensate, gross-up or indemnify any person for Taxes, including those payable pursuant to Section 409A or 4999 of the Code.

(g) With respect to each Foreign Plan, (i) all employer and employee contributions to each Foreign Plan required by Law or by the terms of such Foreign Plan have been made, or, if applicable, accrued in accordance with normal accounting practices, (ii) the fair market value of the assets of each funded Foreign Plan, the liability of each insurer for any Foreign Plan funded through insurance or the book reserve established for any Foreign Plan, together with any accrued contributions, is sufficient to procure or provide for the accrued benefit obligations, as of the Closing, with respect to all Service Providers or beneficiaries in such plan according to the actuarial assumptions and valuations most recently used to determine employer contributions to such Foreign Plan, and no transaction contemplated by this Agreement shall cause such assets or insurance obligations to be less than such benefit obligations, (iii) if intended to qualify for special Tax treatment (or permitted to have been approved to obtain any beneficial Tax or other status), such Foreign Plan meets all requirements for such treatment, (iv) if intended to be filed, registered or approved by a competent Governmental Entity, has been duly and timely filed, registered or approved, as applicable, and (v) such Foreign Plan has been maintained in good standing with applicable Governmental Entities and in compliance with all applicable Laws. Except pursuant to the express terms of a Foreign Plan, no Spinco Entity has any material current or contingent liability or obligation with respect to any Foreign Plan.

(h) Section 6.8(h) of the Spinco Disclosure Letter contains a correct and complete list of each Spinco Employee, showing, with respect to each such Spinco Employee (i) whether actively at work or on a leave of absence (and, if on a leave of absence, expected return to work date), job title or position, status as full-time or part-time, exempt or non-exempt, union or non-union, location of employment, employer, date of hire, and cumulative length of service, and (ii) to the extent permitted by applicable Law, base salary or base wage rate, bonus and commission arrangements.

(i) Section 6.8(i) of the Spinco Disclosure Letter contains a list of (i) all service agreements or contracts of employment or engagement for Spinco Employees with a base salary in excess of one hundred fifty thousand dollars (\$150,000), and (ii) material consultancy arrangements adopted by each Spinco Entity which provide for bonus, benefit and incentive entitlements including any transaction related bonuses, severance and retention plans.

(j) Except as set forth on Section 6.8(j) of the Spinco Disclosure Letter, none of the Spinco Entities is a party to any Collective Bargaining Agreement or any other material contract or agreement with any labor organization, trade union, staff forum or employee representative body, or works council, nor is any such contract or agreement, as of the date hereof, being negotiated.

(k) (i) To the Knowledge of Remainco, as of the date hereof, there are not any union organizing or election activities or attempts concerning any Spinco Employees, nor have there been since January 1, 2021; (ii) as of the date hereof, there are no labor strikes, slowdowns, work stoppages, concerted refusals to work overtime, handbilling, demonstrations, leafletting, disruptions or lockouts (in each case involving labor matters) or negative works council decisions or findings pending, anticipated or, to the Knowledge of Remainco, threatened against any Spinco Entity, nor have there been since January 1, 2021; (iii) in addition to any obligations to individual Spinco Employees, the Spinco Entities have complied with any Collective Bargaining Agreement and obligation pursuant to Law in the relevant jurisdiction to inform and consult any works council, labor organization, trade union, staff forum or employee representative body in respect of the transactions contemplated herein, or other reorganization, restructuring or transfer of employees' employment; and (iv) regarding any Spinco Entity as of the date hereof and as of the Closing, (A) no unfair labor practice charge or complaint, or demand for recognition or certification of a collective bargaining representative, is pending or, to the Knowledge of Remainco, threatened, (B) no employee-related dispute, grievance or arbitration proceeding is pending or, to the Knowledge of Remainco, threatened, (C) no individual or class action, complaint, charge, inquiry, proceeding or investigation by or on behalf of any employee, prospective employee, former employee, labor organization or other representative of the Spinco Employees is pending or, to the Knowledge of Remainco, threatened, (D) each is in compliance with all applicable Laws, agreements, contracts, policies, plans and programs relating to labor, employment, employment practices, compensation, benefits, hours, terms and conditions of employment and the termination of employment and there has not been in the past twelve (12) months, nor is there pending any third party enforcement action or compliance investigation into the same, and (E) each is not a party to, or otherwise bound by, any consent decree with, or citation by, any Governmental Entity relating to Service Providers or employment practices. Each Service Provider has all work permits, immigration permits, visas or other authorizations required by applicable Law. A properly completed Form I-9 is on file with respect to each Spinco Employee whose primary work location is in the U.S.

Section 6.9 Compliance with Laws, Permits.

(a) Each Spinco Entity is, and has been since January 1, 2021, in compliance in all respects (i) with all applicable Laws, and (ii) with its own internal policies, except for instances of noncompliance that would not reasonably be expected to be, individually or in the aggregate, material to the Spinco Business, taken as a whole. Since January 1, 2021, no Spinco Entity has received any written notice from any Governmental Entity that it is not in compliance with any applicable Law, except as would not reasonably be expected to be, individually or in the aggregate, material to the Spinco Business, taken as a whole.

(b) Since January 1, 2021, each Spinco Entity and Remainco (to the extent relating to the Spinco Business) has been and is in compliance with all applicable International Trade Laws, except as would not reasonably be expected to be, individually or in the aggregate, material to the Spinco Business, taken as a whole. Without limiting any of the foregoing, since January 1, 2021, no Spinco Entity nor any of their respective officers, directors, or employees, nor, to the Knowledge of Remainco, any other Person acting on behalf of any Spinco Entity has engaged in any business or dealings, directly or indirectly, involving or relating to (i) any country or territory that is or whose government is the target of comprehensive sanctions imposed by the United States, Canada, the European Union, or the United Kingdom (including, Cuba, Iran, North Korea, Syria, Venezuela, the Crimea region, and the so-called Donetsk and Luhansk People's Republics; each a "Sanctioned Jurisdiction"), or (ii) a Person that is designated on, or that is owned or controlled by a Person that is designated on any list of sanctioned parties maintained by the United States, Canada, the United Kingdom, or the European Union, including the list of Specially Designated Nationals and Blocked Persons maintained by OFAC (any such Person a "Sanctioned Person").

(c) No Spinco Entity nor, to the Knowledge of Remainco, any of their respective directors, officers, employees, shareholders, or other Persons acting on behalf of any Spinco Entity is (i) a Sanctioned Person, or (ii) located, organized, or resident in a Sanctioned Jurisdiction.

(d) Since January 1, 2021, each Spinco Entity and Remainco (to the extent relating to the Spinco Business) has been and is in compliance with all applicable Anti-Corruption Laws in all material respects. Without limiting the foregoing, since January 1, 2021, no Spinco Entity or Remainco (to the extent relating to the Spinco Business), nor any of their respective directors, officers, employees, nor, to the Knowledge of Remainco, any other Person acting on behalf of any Spinco Entity or Remainco (to the extent relating to the Spinco Business), has paid, offered, promised, or authorized the payment of money or anything of value, directly or indirectly, to any Government Official, any political party, or any other Person for the purpose of influencing any act or decision or to secure any improper advantage or to reward any other Person for the improper performance of any activity or function. Likewise, since January 1, 2021, no Spinco Entity or Remainco (to the extent relating to the Spinco Business), nor any of their respective directors, officers, employees, nor to the Knowledge of Remainco, any other Person acting on behalf of the Spinco Entities or Remainco (to the extent relating to the Spinco Business) has requested, agreed to receive, or accepted the payment of money or any other advantage intending that in consequence a relevant function or activity should be performed improperly, or as a reward for the improper performance of a relevant function or activity.

(e) The Spinco Business and the Spinco Entities have instituted and maintain policies and procedures reasonably designed to ensure compliance with applicable Anti-Corruption Laws and anti-money laundering Laws in each jurisdiction in which the Spinco Business is operated or a Spinco Entity operates.

(f) Since January 1, 2021, no Spinco Entity or Remainco (to the extent relating to the Spinco Business) nor any of their respective directors, officers, employees, or, to the Knowledge of Remainco, any other Person acting on behalf of any Spinco Entity or Remainco (to the extent relating to the Spinco Business) has received from any Governmental Entity or any other Person any written notice of any violation, alleged violation, or any suspected violation of any Anti-Corruption Law or International Trade Law, or conducted any internal investigation with respect to, or made any voluntary or involuntary disclosure to a Governmental Entity concerning, any actual, suspected, or alleged violation of any Anti-Corruption Law or International Trade Law.

(g) Each Spinco Entity has obtained and is in compliance with all Permits necessary to operate the Spinco Business. All such Permits are in full force and effect, except in each case as would not reasonably be expected to be, individually or in the aggregate, material to the Spinco Business, taken as a whole. There is no suspension, revocation or cancellation of any of the Permits issued to any Spinco Entity pending or, to the Knowledge of Remainco, threatened, except where the suspension or cancellation of any of the Permits would not have a Spinco Material Adverse Effect. No Spinco Entity has received any written notice from any Governmental Entity regarding a violation of, conflict with, or failure to comply with, any terms or requirement of any Permit, which if ultimately determined to result in a violation of, conflict with, or failure to comply with any such terms or requirement, would reasonably be expected to be, individually or in the aggregate, material to the Spinco Business, taken as a whole.

Section 6.10 Sufficiency of Assets.

(a) The Spinco Entities have, or will have as of the Closing, good and valid title to all assets they purport to own, in each case free and clear of all Liens other than Permitted Encumbrances or those Liens set forth on Section 6.10(a) of the Spinco Disclosure Letter.

(b) After giving effect to the Closing, the assets of each of the Spinco Entities, together with such portion of the Combined Contracts, the Commingled Contracts, the Continuing Arrangements, and any assets and services made available pursuant to the terms of the Transition Services Agreement, are necessary and sufficient to conduct and operate the Spinco Business immediately after Closing in substantially the same manner as the Spinco Business is and was conducted as of the date hereof, at Closing and during the twelve (12)-month period prior to the Closing, in each case, without any additional Contract, license or other right.

Section 6.11 Certain Contracts.

(a) Section 6.11(a) of the Spinco Disclosure Letter lists the Spinco Material Contracts in effect as of the date of this Agreement. “Spinco Material Contracts” means the following:

(i) each Contract required to be disclosed on Section 6.17(a) and Section 6.17(b) of the Spinco Disclosure Letter;

(ii) each Contract required to be disclosed on Section 6.14(a)(iii) of the Spinco Disclosure Letter;

(iii) each Contract relating to the Spinco Business with each of the Persons required to be listed on Section 6.20(a)(i) of the Spinco Disclosure Letter;

(iv) each Contract relating to the Spinco Business with each of the Persons required to be listed on Section 6.20(a)(ii) of the Spinco Disclosure Letter;

(v) (A) any Contract relating to the Spinco Business containing any right of any exclusivity in favor of the other parties thereto or any covenant limiting, in any respect, the ability of any Spinco Entity to engage in any line of business or in any geographic area or to compete with any Person or to solicit, hire or engage in transactions with the suppliers or customers of another Person or any material employee non-solicitation provision or that provides for “most favored nations” terms; (B) each Contract with respect to the Spinco Business under which there is a right of first negotiation, right of first refusal or a right of first or last offer; and (C) each Contract that (1) requires any Spinco Entity to purchase its total requirements of any product or service from a third party, or (2) provides for a “single source” supply to any Spinco Entity;

(vi) each Contract that creates, governs or controls a partnership or joint venture with any Spinco Entity;

(vii) (A) each indenture, credit agreement, loan agreement, security agreement, guarantee, note, mortgage or other evidence of Indebtedness or agreement to which any Spinco Entity is a party (or under which any Spinco Entity has obligations or its properties or assets are bound) providing for or relating to Indebtedness; and (B) each Contract that relates to the mortgage, pledge or transfer of, or the grant of a security interest in or other Lien on, any material asset of the Spinco Business;

(viii) each Contract that relates to the acquisition or disposition of any business (whether by merger, sale of stock, sale of assets or otherwise) to which any Spinco Entity is a party or has any obligations (A) pursuant to which any earn-out, deferred or contingent payment or other indemnification or material other obligations remain outstanding, or (B) was entered into in the past three (3) years;

(ix) each Contract between any Spinco Entity, on the one hand, and any of Remainco or its Affiliates, on the other hand;

(x) each Contract containing restrictions with respect to payment of dividends or any distributions in respect of the equity interests of any Spinco Entity;

(xi) each settlement agreement that (A) imposes continuing material obligations or material restrictions on any Spinco Entity, or (B) has unpaid amounts in excess of one million dollars (\$1,000,000);

(xii) each Contract or series of related Contracts relating to any single or series of related capital expenditures by any Spinco Entity pursuant to which any Spinco Entity has future financial obligations in excess of five hundred thousand dollars (\$500,000);

(xiii) each Contract to which any Spinco Entity is a party regarding any hedging, derivatives or similar arrangements;

(xiv) each Contract between any Spinco Entity and any Governmental Entity; and

(xv) each Contract under which any Spinco Entity has continuing material indemnification obligations to any Person, other than those entered into in the Ordinary Course of the Spinco Business consistent with past practice.

(b) All Spinco Material Contracts are enforceable against each Spinco Entity (as the case may be) and, to the Knowledge of Remainco, any other party thereto in accordance with their terms and are in full force and effect with respect to, and a valid and binding obligation of, each Spinco Entity, and, to the Knowledge of Remainco, with respect to any other party thereto, except as would not reasonably be expected to be, individually or in the aggregate, material to the Spinco Business taken as a whole, and no Spinco Entity, nor, to the Knowledge of Remainco, any other party thereto, is or alleged to be in violation or breach of or default under (or with notice or lapse of time, or both, would be in violation or breach of or default under) the terms of any Spinco Material Contract, in each case, except as would not reasonably be expected to be, individually or in the aggregate, material to the Spinco Business taken as a whole.

Section 6.12 Environmental Matters. (a) Each Spinco Entity is and for the past six (6) years has been operating the Spinco Business in material compliance with all Environmental Laws; (b) there are no pending or, to the Knowledge of Remainco, threatened Proceedings against any Spinco Entity alleging that such Person is in material violation of any Environmental Law; (c) no Spinco Entity has received a written notice that remains unresolved asserting that it is or may be required to conduct, any investigation, cleanup, remediation or similar activities with respect to any Release of a Hazardous Substance at any of the real property currently or formerly owned, leased or used by it or with respect to any third party disposal site to which it sent or disposed of any Hazardous Substances; (d) there has been no Release of Hazardous Substances at any of the real property currently or formerly owned, leased or used by it or at any third party disposal site to which it sent or disposed of any Hazardous Substances for which the Spinco Entities would be liable under Environmental Laws; and (e) no filings with any Governmental Entity, environmental investigation, or remediation is required in connection with the transactions contemplated under this Agreement and the other Transaction Documents pursuant to Environmental Laws.

Section 6.13 Taxes. Except as would not reasonably be likely to have, individually or in the aggregate, a Spinco Material Adverse Effect:

(a) All Tax Returns required to be filed by or with respect to any Spinco Entity have been timely filed (taking into account applicable extensions), and all such Tax Returns are true, correct and complete. All Taxes of or with respect to any Spinco Entity, whether or not shown as due on such Tax Returns, have been paid, or adequate accruals or reserves therefor in accordance with GAAP have been provided on the books of the Spinco Entities.

(b) All Taxes required to be withheld in respect of the Spinco Business or any Spinco Entity by Spinco or its Subsidiaries have been withheld and, to the extent required, have been paid over to the appropriate Taxing authority.

(c) No deficiency or other assessment or adjustment for any Taxes has been asserted or assessed by any Taxing authority in writing against any Spinco Entity (or, to the Knowledge of Remainco, has been threatened or proposed), except for deficiencies which have been satisfied by payment, settled or withdrawn. No claim, audit or other proceeding by any Taxing authority is pending or ongoing (or, to the Knowledge of Remainco, has been threatened or proposed) with respect to any Taxes of or with respect to any Spinco Entity.

(d) Other than in connection with the Initial Spin, the Spinco Distribution or otherwise in connection with the separation of the Spinco Business (including transactions contemplated by the Internal Restructuring and transactions that have already occurred in connection with such separation), no Spinco Entity has constituted either a "distributing corporation" or a "controlled corporation" (within the meaning of Section 355(a)(1) (A) of the Code) during the two (2)-year period ending on the date of this Agreement.

(e) No Spinco Entity has participated in a “listed transaction” as defined in Treasury Regulations Section 1.6011-4(b)(2) (or any corresponding provision of state, local or foreign Tax Law).

(f) There are no Liens for Taxes (other than Liens for Taxes not yet due and payable or that are being contested in good faith by appropriate proceedings and as to which appropriate reserves have been recorded) upon the assets of any Spinco Entity.

(g) No Spinco Entity (A) is, or since January 1, 2021, has been, a member of any affiliated, combined, consolidated, unitary or similar group filing a consolidated, combined, unitary or similar income Tax Return (other than a group the common parent of which is Remainco or any of its Subsidiaries), (B) has any liability for the Taxes of any Person (other than Remainco or any of its Subsidiaries) under Section 1.1502-6 of the Treasury Regulations (or any similar provision of state, local or foreign Tax Law), as a transferee or successor, by operation of Law or by Contract (other than customary commercial, leasing or employment Contracts entered into in the Ordinary Course, the primary purposes of which do not relate to Taxes), or (C) is party to (or will be liable in respect of) any Contract relating to the allocation, sharing or indemnification of Taxes, other than (i) the Tax Matters Agreement, (ii) customary commercial, leasing or employment Contracts entered into in the Ordinary Course, the primary purposes of which do not relate to Taxes, and (iii) Contracts solely between or among Spinco Entities.

(h) No Taxing authority has notified any Spinco Entity in writing that it is or may be subject to taxation by a jurisdiction in which it does not presently file Tax Returns.

(i) Spinco is not and has not been, in the five (5)-year period ending on the date hereof, a “United States real property holding corporation” within the meaning of Section 897 of the Code.

(j) As of the date hereof, Remainco is not aware of the existence of any reason, or has taken or agreed to take any action, that would reasonably be expected to prevent or impede (i) the Contribution, the Initial Spin, the Spinco Distribution, the Spinco Special Cash Payment, the Spin-Off, the Exchange Offer, and the Merger from qualifying for the Intended Tax Treatment, or (ii) either Remainco or Spinco from delivering the Remainco Tax Representation Letters and the Spinco Tax Representation Letters, respectively, at the applicable time set forth in Section 8.14(c).

Section 6.14 Intellectual Property.

(a) Section 6.14(a)(i) of the Spinco Disclosure Letter sets forth a true and complete list of all registrations and applications for registration included in the Spinco Intellectual Property, including the owner and jurisdiction of each such registration and application for registration. Section 6.14(a)(ii) of the Spinco Disclosure Letter sets forth a true and complete list of all material unregistered Trademarks and proprietary software included in the Spinco Intellectual Property. Section 6.14(a)(iii) of the Spinco Disclosure Letter set forth a true and complete list of each license, sublicense, collaboration or other agreement (excluding Liens for Indebtedness) to which any Spinco Entity is a party and (i) obtains any license, right to use or covenant not to be sued under any Intellectual Property or Spinco IT Assets (“Inbound Spinco Intellectual Property Licenses”), other than (A) for commercially available, off-the-shelf Spinco Intellectual Property or Spinco IT Assets, (B) shrinkwrap, clickwrap or other non-negotiated forms of agreement, (C) with annual fees of less than two hundred fifty thousand dollars (\$250,000), or (D) licenses to Open Source Software, or (ii) grants a license, right to use or covenant not to be sued under any Spinco Intellectual Property or Spinco IT Assets, except (A) non-exclusive licenses granted to customers or other third parties, (B) licenses to vendors, contractors or other service providers for use in providing services to the Spinco Entities, (C) licenses incidental to the Spinco Entities’ sale, license or other provision of products or services, or (D) other agreements entered into in the Ordinary Course of the Spinco Business.

(b) As of the date hereof, a Spinco Entity solely and exclusively owns and, as of the Closing, a Spinco Entity will solely and exclusively own, all Spinco Intellectual Property, free and clear of all Liens other than Permitted Encumbrances. Since January 1, 2021, neither Remainco nor any Spinco Entity has received any written communication from any Person asserting any ownership interest in any of the Spinco Intellectual Property.

(c) To the Knowledge of Remainco, the conduct of the Spinco Business as presently conducted does not violate, misappropriate, conflict with or infringe (“Infringe”), and since January 1, 2021, the conduct of the Spinco Business has not Infringed the Intellectual Property of any Person and since January 1, 2021, neither Remainco nor any Spinco Entity has received any written communication (including cease and desist letters or invitations to take an Intellectual Property license) alleging the same. The Spinco Intellectual Property is valid, enforceable (excluding applications for Spinco Intellectual Property) and subsisting and no claims are pending or, to the Knowledge of Remainco, threatened in writing against any Spinco Entity by any Person with respect to the ownership, validity or enforceability of any Spinco Intellectual Property. To the Knowledge of Remainco, each Spinco Entity is not obligated to make any payments of material royalties or fees to any Person to enable the use of any Intellectual Property in connection with the conduct of the Spinco Business as currently conducted, and to the Knowledge of Remainco, the Spinco Intellectual Property is not being Infringed by any Person.

(d) The Spinco Intellectual Property and the Intellectual Property licensed pursuant to the Inbound Spinco Intellectual Property Licenses constitute all material Intellectual Property used in or necessary to operate the Spinco Business as currently conducted and the Spinco Entities will own or have a valid and enforceable license to all Intellectual Property necessary to operate the Spinco Business following the Closing in the same manner it was conducted immediately prior to the Closing. The consummation of the transactions contemplated by this Agreement will not alter, encumber, impair or extinguish any Spinco Intellectual Property. No Contract to which any Spinco Entity is a party would, upon Closing, grant or purport to grant to any Person any license, covenant not to sue, or other rights related to Intellectual Property owned by RMT Partner or any of its Affiliates (other than the Spinco Entities).

(e) (i) The Spinco Entities have taken reasonable steps to maintain, enforce and protect the Spinco Intellectual Property, including reasonable steps to protect the confidentiality of all Spinco Intellectual Property the value of which to the Spinco Business is contingent upon maintaining the confidentiality thereof; (ii) none of the Trade Secrets included in the Spinco Intellectual Property has been disclosed, other than to Persons who are bound to hold such information in confidence pursuant to confidentiality agreements or otherwise by operation of Law or in the Ordinary Course where in the reasonable judgment of the Spinco Entities such disclosure is not material to the Spinco Entities; (iii) to the Knowledge of Remainco, no such confidentiality agreements have been breached or violated in such a manner as would have a material adverse effect on the Spinco Entities; and (iv) each current and former employee and contractor of the Spinco Entities who developed, invented or contributed to any material Spinco Intellectual Property has executed a written agreement validly assigning all rights in and to such Spinco Intellectual Property to a Spinco Entity.

(f) The manner in which any Open Source Software is incorporated into, linked to or called by, or otherwise combined or distributed with any software product or service that is Spinco Intellectual Property does not, according to the terms of the license applicable to such Open Source Software, obligate any Spinco Entity to: (i) disclose, make available, offer or deliver all or any portion of any source code of any such software product or service or any component thereof to any third party, other than the applicable Open Source Software; or (ii) create obligations to grant, or purport to grant, to any third party any rights or immunities under any Spinco Intellectual Property (including any agreement not to assert patents), or impose any present economic limitations on any commercial exploitation thereof. None of the Spinco Entities has any duty or obligation (whether present, contingent or otherwise) to deliver, license or make available the source code that is Spinco Intellectual Property to any escrow agent or other Person.

(g) The Spinco IT Assets are in all material respects in operating condition and in a good state of maintenance and repair (ordinary wear and tear excepted) and perform the functions necessary to carry on the conduct of the Spinco Business as currently conducted. The Spinco Entities have taken and currently take reasonable measures designed to ensure that none of the Spinco IT Assets contains any unauthorized “back door”, “drop dead device”, “time bomb”, “Trojan horse”, “virus” or “worm” (as such terms are commonly understood in the software industry) or any other unauthorized code intended to disrupt, disable, harm or otherwise impede the operation of, or provide unauthorized access to, a computer system or network or other device on which such code is stored or installed. The Spinco IT Assets are subject to regular evaluation for any vulnerabilities that could provide unauthorized access thereto. Since January 1, 2021, there have been no breakdowns, continued substandard performance or other adverse events affecting the Spinco IT Assets that have caused a material disruption or interruption outside of the Ordinary Course in the operation of the Spinco Business.

(h) Each Spinco Entity has been since January 1, 2021, and currently is in material compliance with (i) all applicable Laws, (ii) the requirements of any Contracts, and (iii) the written privacy policies of the Spinco Entities then in effect, relating to the collection, storage, use, Processing and transfer of all Personal Data collected or processed by the Spinco Entities. Since January 1, 2021, the Spinco Entities have had commercially reasonable security measures in place designed to protect all Personal Data under their control and/or in their possession from unauthorized access, in each case in accordance in all material respects with (A) applicable Law, (B) any applicable statements in the written privacy policies of the Spinco Entities then in effect, (C) any written public statements regarding information security practices of the Spinco Entities, and (D) all Contracts to which a Spinco Entity is a party. Since January 1, 2021, to the Knowledge of Remainco, neither Remainco (as it relates to the Spinco Business) or the Spinco Entities have suffered any breach in security or other event or incident that has permitted any unauthorized disclosure of or access to the Personal Data in each Spinco Entities’ control or possession, or that materially disrupted the operation of the Spinco Business or any Spinco Entity.

(i) Each Spinco Entity's cyber security program (i) includes administrative, technical and physical safeguards designed to safeguard the security, confidentiality and integrity of Personal Data in its possession or control, and (ii) puts in place reasonable measures designed to protect against unauthorized access to the Spinco IT Assets. Since January 1, 2021, no Spinco Entity has notified, or been required to notify, any Person of any information security breach involving Personal Data of such Spinco Entity's business. Since January 1, 2021, there have been no lawsuits, actions or investigations, or any written claims, brought against the Spinco Entities alleging any violation of any Laws relating to the collection, storage, use, Processing and transfer of Personal Data, or arising out of the Spinco Entities' Processing of Personal Data, and to the Knowledge of Remainco, no such lawsuits, claims, actions or investigations are currently contemplated or threatened. The transactions contemplated by this Agreement will not result in the violation by the Spinco Entities of any Laws relating to the collection, storage, use and transfer of Personal Data, and immediately following those transactions the Spinco Entities will have the same rights to utilize the Personal Data in their possession or control that the Spinco Entities had immediately prior to those transactions.

Section 6.15 Insurance. The insurance policies carried by or for the benefit of the Spinco Entities or the assets, properties or personnel of the Spinco Business, or for the benefit of each Spinco Entity or its assets, properties or personnel (collectively, the "Spinco Insurance Policies"), in each case as of the date of this Agreement and that are material to the Spinco Business are set forth on Section 6.15 of the Spinco Disclosure Letter. All the Spinco Insurance Policies (a) are in full force and effect, all premiums due and payable thereon have been paid (other than retroactive or retrospective premium adjustments and adjustments in respect of self-insured general liability and automobile liability fronting programs, self-insured health programs and self-insured workers' compensation programs that are not yet, but may be, required to be paid with respect to any period ending prior to the Closing Date), and no written notice of cancellation or termination has been received with respect to any Spinco Insurance Policy other than in connection with ordinary renewals, and (b) provide insurance in such amounts and against such risks as is sufficient to comply with applicable Law. Section 6.15 of the Spinco Disclosure Letter sets forth a true, correct and complete list of all Spinco Insurance Policies that will remain in effect and cover the Spinco Entities or their respective assets, properties, employees, operations, officers and directors following the consummation of the transactions contemplated hereby.

Section 6.16 Related-Party Transactions. To the Knowledge of Remainco, no present director, executive officer, stockholder, partner, member, employee or Affiliate of Remainco or its Subsidiaries, or Spinco Entity (other than its Subsidiaries), or any of such Person's Affiliates or immediate family members, is party to any Contract with or binding upon any Spinco Entity or has engaged in any transaction with any of the foregoing within the last twelve (12) months, in each case, that is of a type that would be required to be disclosed in the Remainco Reports pursuant to Item 404 of Regulation S-K that has not been so disclosed.

Section 6.17 Real Property.

(a) Section 6.17(a) of the Spinco Disclosure Letter sets forth a true and complete list of the material real property owned by the Spinco Entities (the "Owned Spinco Real Property"). The Spinco Entities have, or will have as of the Closing, good and marketable fee simple title (or jurisdictionally comparable title) to each parcel of Owned Spinco Real Property, free and clear of all Liens, other than Permitted Encumbrances. None of the Spinco Entities has leased, or granted the right to use or occupy, any portion of the Owned Spinco Real Property to any Person. There is no pending or, to the Knowledge of Remainco, threatened condemnation, eminent domain or similar proceedings affecting the Owned Spinco Real Property. There are no options, rights of first offer or rights of first refusal to purchase any such Owned Spinco Real Property or any portion thereof or interest therein.

(b) Section 6.17(b) of the Spinco Disclosure Letter sets forth, as of the date of this Agreement, a complete and correct list of all material interests in real property leased by each Spinco Entity (the "Leased Spinco Real Property", and each agreement evidencing each Spinco Entity's leasehold interest in the Leased Spinco Real Property, including all amendments, extensions, renewals, guaranties and other agreements with respect thereto, the "Spinco Leases"). The Spinco Leases are in full force and effect, and the Spinco Entities hold a valid and existing leasehold interest under each such Spinco Lease, free and clear of all Liens, except for Permitted Encumbrances. The Spinco Entities have not subleased, licensed or otherwise granted any Person the right to use or occupy any of the Leased Spinco Real Property.

(c) The Owned Spinco Real Property and the Leased Spinco Real Property (together, the "Spinco Real Property") constitute all material real property currently used in the Spinco Business.

(d) All buildings, machinery, equipment and other tangible assets currently being used by the Spinco Business are in good operating condition, maintenance and repair, ordinary wear and tear excepted, are usable in the Ordinary Course and are reasonably adequate and suitable for their current and historical uses.

(e) Except as has not had a Spinco Material Adverse Effect, the buildings and structures located on the Spinco Real Property currently have valid legal access to (i) public roads or valid easements over private streets or private property for such ingress to and egress from all such buildings and structures, and (ii) water supply, telephone, gas and electric connections, and fire protection, in each case as is necessary for the operation of such Spinco Real Property.

Section 6.18 Brokers and Finders. No Spinco Entity has incurred any liability for any brokerage fees, commissions or finders' fees in connection with the Transactions for which any Spinco Entity or, following the First Effective Time, RMT Partner and its Subsidiaries, will be liable.

Section 6.19 Product Liability; Product Warranty; Recalls.

(a) None of the Spinco Entities has (i) any material liability arising out of any injury to individuals or property as a result of the ownership, possession or use of any product designed, manufactured, or sold by or on behalf of the Spinco Business (each, a "Spinco Product"), and (ii) committed any act or failed to commit any act, which has resulted or would reasonably be expected to result in any material product liability or material liability for breach of warranty on the part of the Spinco Entities.

(b) (i) All Spinco Products are, and for the period since January 1, 2021, have been, processed, manufactured, and marketed in accordance in all material respects with (A) the specifications and standards required by or contained in customer contracts or purchase orders, and (B) all applicable Law, and (ii) since January 1, 2021, (A) there have been no third party individual product warranty claims involving the Spinco Products that exceed one million dollars (\$1,000,000), and (B) none of the Spinco Entities has been subject to a Governmental Entity shutdown, import or export prohibition, or received any Governmental Entity notice of inspectional observation, “warning letter” or “untitled letter”, requirement to make changes to Spinco Product processes or procedures, or similar correspondence or notice alleging or asserting noncompliance with any applicable Law.

(c) Section 6.19(c) of the Spinco Disclosure Letter identifies each product recall (whether voluntary or compulsory) and the circumstances surrounding each recall, involving any products manufactured, sold, leased, licensed or delivered by the Spinco Business since January 1, 2021, and except as set forth on Section 6.19(c) of the Spinco Disclosure Letter, no Spinco Product is currently subject to a recall required by any Governmental Entity and the Spinco Entities have no plans to initiate a voluntary product recall.

Section 6.20 Customers and Suppliers.

(a) Section 6.20(a)(i) of the Spinco Disclosure Letter contains lists of the top ten (10) customers of the Spinco Business on a consolidated basis (determined by revenue) for each of the 2022 and 2023 fiscal years, and Section 6.20(a)(ii) of the Spinco Disclosure Letter contains lists of the top ten (10) suppliers to the Spinco Business on a consolidated basis (determined by the cost of items or services purchased) for each of the 2022 and 2023 fiscal years.

(b) Except as set forth on Section 6.20(b) of the Spinco Disclosure Letter, no customer required to be listed on Section 6.20(a)(i) of the Spinco Disclosure Letter or supplier required to be listed on Section 6.20(a)(ii) of the Spinco Disclosure Letter has expressly stated its intention or, to the Knowledge of Remainco, threatened in writing to cancel or otherwise terminate or materially adversely modify its relationship with the Spinco Business (including with respect to volume of purchases or sales, prices, gross or contribution margins or returns). Except as set forth on Section 6.20(b) of the Spinco Disclosure Letter, the Spinco Business has not, during the past twelve (12) months, cancelled or otherwise terminated or materially and adversely modified their relationship with any customer or supplier required to be set forth on Section 6.20(a) of the Spinco Disclosure Letter, as applicable.

Section 6.21 Spinco Financing. Attached hereto as Exhibit I is a true, complete and fully executed copy of the Spinco Commitment Letter. As of the date of this Agreement, (a) the Spinco Commitment Letter has not been amended, waived or modified in any respect, (b) to the knowledge of Remainco, the respective commitments contained in the Spinco Commitment Letter have not been withdrawn, terminated, modified or rescinded in any respect, and (c) the Spinco Commitment Letter is in full force and effect and is a legal, valid and binding obligation of Spinco, and, to the knowledge of Remainco, the other parties thereto, enforceable against Spinco, and to the knowledge of Remainco, each of the other parties thereto in accordance with its terms, subject to the Bankruptcy and Equity Exception. As of the date of this Agreement, except for the Spinco Commitment Letter, to the knowledge of Remainco, there are no side letters or other Contracts related to any portion of the funding of the Spinco Financing, other than as expressly set forth in the Spinco Commitment Letter delivered to RMT Partner on or prior to the date of this Agreement. As of the date of this Agreement, no event has occurred, which, with or without notice, lapse of time or both, would constitute a default or breach on the part of Spinco, its Affiliates or, to the knowledge of Remainco, any other party to the Spinco Commitment Letter, under the Spinco Commitment Letter, or, to the knowledge of Remainco, would result in any portion of the Spinco Financing being unavailable or delayed.

Section 6.22 Information to be Supplied. The information supplied or to be supplied by Spinco for inclusion in the Securities Filings will not, on the date of filing of the applicable Securities Filing or, in the case of the Distribution Registration Statement or the RMT Partner Registration Statement, at the time it becomes effective under the Securities Act or Exchange Act, as applicable, or on the dates the Proxy Statement is mailed to the shareholders of RMT Partner, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading.

Section 6.23 No Other Representations and Warranties. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, REMAINCO AND SPINCO MAKE NO REPRESENTATIONS OR WARRANTIES TO RMT PARTNER, MERGER SUBS, OR ANY OTHER PERSON IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, EXCEPT AS SPECIFICALLY SET FORTH IN ARTICLE V AND ARTICLE VI. ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARE DISCLAIMED BY REMAINCO AND SPINCO. REMAINCO AND SPINCO ACKNOWLEDGE AND AGREE THAT NEITHER RMT PARTNER, MERGER SUBS NOR ANY OTHER PERSON HAS MADE OR IS MAKING ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY TO REMAINCO OR SPINCO OTHER THAN THOSE CONTAINED IN ARTICLE VII, AND ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARE DISCLAIMED BY RMT PARTNER AND MERGER SUBS.

ARTICLE VII

REPRESENTATIONS AND WARRANTIES OF RMT PARTNER AND MERGER SUBS

Except as set forth in the forms, statements, certifications, reports and documents or furnished by the RMT Partner with the SEC pursuant to the Exchange Act or the Securities Act since the Applicable Date but prior to the date of this Agreement (such forms, statements, reports and documents, in each case as amended prior to this Agreement, the “RMT Partner Reports”) (excluding any disclosures set forth in any risk factor section or in any other section to the extent they are forward-looking statements or cautionary, predictive or forward-looking in nature) or in the corresponding sections or subsections of the disclosure letter delivered to Remainco and Spinco by RMT Partner and Merger Subs concurrently with the execution and delivery of this Agreement (the “RMT Partner Disclosure Letter”), it being agreed that for purposes of the representations and warranties set forth in this ARTICLE VII, disclosure of any item in any section or subsection of the RMT Partner Disclosure Letter shall be deemed disclosure with respect to any other section or subsection to which the relevance of such item is reasonably apparent on its face, RMT Partner hereby represents and warrants to Remainco that:

Section 7.1 Organization, Good Standing and Qualification. Each of RMT Partner, Merger Subs and RMT Partner’s other Subsidiaries is a legal entity duly organized, validly existing and in good standing under the Laws of its respective jurisdiction of organization and has all requisite corporate or similar power and authority to own, lease and operate its properties and assets and to carry on its business as presently conducted and is qualified to do business and is in good standing as a foreign legal entity in each jurisdiction where the ownership, leasing or operation of its assets or properties or conduct of its business requires such qualification, except where the failure to be so organized, qualified or in good standing, or to have such power or authority, would not, individually or in the aggregate, reasonably be likely to have an RMT Partner Material Adverse Effect or to prevent, materially delay or materially impair the ability of RMT Partner to consummate the Transactions. Prior to the date of this Agreement, RMT Partner has made available to Remainco complete and correct copies of the Organizational Documents of RMT Partner and Merger Subs as amended to and as in effect on the date of this Agreement.

Section 7.2 Capital Structure.

(a) As of the date of this Agreement and immediately prior to the Charter Amendment Effective Time, the authorized capital stock of RMT Partner consists of 120,040,000 shares divided into two classes consisting of (i) 40,000 shares of preferred stock, par value \$50.00 per share, and (ii) 120,000,000 shares of common stock, par value \$0.01 per share. As of the close of business on February 5, 2024, there were issued and outstanding 45,086,919 shares of common stock, and no shares of preferred stock were issued and outstanding. All of the outstanding shares of capital stock of RMT Partner have been duly authorized and validly issued and are fully paid and nonassessable, and not issued in violation of any preemptive right or other similar right. As of February 5, 2024, there was an aggregate of 2,805,458 shares of common stock reserved for, and 2,385,486 shares of common stock available for, issuance pursuant to the Benefit Plans of RMT Partner identified in Section 7.2(a) of the RMT Partner Disclosure Letter as being the only Benefit Plans of RMT Partner pursuant to which shares of capital stock of RMT Partner may be issued (the “RMT Partner Stock Plans”). Except as provided in the preceding sentence and disclosed in Section 7.2(a) of the RMT Partner Disclosure Letter and except for shares of capital stock of RMT Partner that after the date hereof become reserved for issuance or subject to issuance as permitted under this Agreement, RMT Partner has no shares of capital stock reserved for, or subject to, issuance. Section 7.2(a) of the RMT Partner Disclosure Letter contains a correct and complete list of the number of shares of common stock subject to outstanding options, stock appreciation rights, and restricted stock units under the RMT Partner Stock Plans.

(b) Immediately following the Charter Amendment Effective Time and at the First Effective Time, the authorized capital stock of RMT Partner will consist of 240,040,000 shares, of which 240,000,000 shares are RMT Partner Common Stock and 40,000 of which are preferred stock of RMT Partner.

(c) As of the date of this Agreement, the authorized equity of First Merger Sub consists of one thousand (1,000) shares of common stock, par value \$0.01 per share, all of which are validly issued and outstanding. As of the date of this Agreement, the authorized equity of Second Merger Sub consists of limited liability company interests, all of which are validly issued and outstanding. As of the date of this Agreement all of the issued and outstanding shares of common stock of First Merger Sub, and all of the issued and outstanding limited liability company interests of Second Merger Sub are owned, directly or indirectly, by RMT Partner, and there are (i) no other equity interests or voting securities of either Merger Sub, (ii) no securities or obligations of either Merger Sub convertible into or exchangeable for equity interests or voting securities of either Merger Sub, and (iii) no options or other rights to acquire from either Merger Sub, and no obligations of either Merger Sub to issue, any equity interests or voting securities or securities or obligations convertible into or exchangeable for equity interests or voting securities of either Merger Sub. No Merger Sub has conducted any business prior to the date of this Agreement and has no, and prior to the First Effective Time or Second Effective Time, as applicable will have no, assets, liabilities or obligations of any nature other than those incidental to its formation and pursuant to this Agreement and the Transactions.

(d) From January 1, 2023, to the execution of this Agreement, RMT Partner has not issued any shares of capital stock except pursuant to the exercise of outstanding stock options issued under the RMT Partner Stock Plans or the settlement of stock appreciation rights and restricted stock units issued under the RMT Partner Stock Plans, in accordance with their terms and, since the date of this Agreement, except as permitted by this Agreement for the period following the date of this Agreement, RMT Partner has not issued any options, stock appreciation rights, or restricted stock units. Upon any issuance of any shares of capital stock of RMT Partner in accordance with the terms of the RMT Partner Stock Plans, such shares of capital stock of RMT Partner will be duly authorized, validly issued and fully paid and nonassessable and free and clear of any Lien. Each of the outstanding shares of capital stock, voting securities or other equity interests of each of RMT Partner's Subsidiaries has been duly authorized and validly issued and is fully paid and nonassessable and owned by RMT Partner or by a direct or indirect wholly owned Subsidiary of RMT Partner, free and clear of any Lien (other than any Liens for Taxes not yet due and payable or that are being contested in good faith by appropriate proceedings and as to which appropriate reserves have been recorded in RMT Partner's financial statements). Except as set forth in Section 7.2(a), as of the date of this Agreement, there are no preemptive or other outstanding rights, options, warrants, conversion rights, stock appreciation rights, redemption rights, repurchase rights, agreements, arrangements, calls, commitments or rights of any kind that obligate RMT Partner or any of its Subsidiaries to issue or sell any shares of capital stock, voting securities or other equity interests of RMT Partner or any of its Subsidiaries or any securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire from RMT Partner or any of its Subsidiaries, any capital stock, voting securities or other equity interests of RMT Partner or any of its Subsidiaries, and no securities or obligations evidencing such rights are authorized, issued or outstanding. RMT Partner does not have outstanding any bonds, debentures, notes or other obligations the holders of which have the right to vote (or convertible into or exercisable for capital stock, voting securities or other equity interests having the right to vote) with the shareholders of RMT Partner on any matter.

(e) Section 7.2(e) of the RMT Partner Disclosure Letter sets forth, as of the date of this Agreement, (i) each of RMT Partner's Subsidiaries and the ownership interest of RMT Partner, directly or indirectly, in each such Subsidiary, and (ii) any other Person in which RMT Partner or any of its Subsidiaries may hold capital stock, voting securities or other equity interests.

(f) Each stock option issued under the RMT Partner Stock Plans (i) was granted in compliance in all material respects with all applicable Laws and all of the terms and conditions of the RMT Partner Stock Plans pursuant to which it was issued, (ii) has an exercise price per share of capital stock of RMT Partner equal to or greater than the fair market value of a share of capital stock of RMT Partner on the date of such grant, (iii) has a grant date identical to the date on which the RMT Partner Board or the compensation committee (or similar) of the RMT Partner Board (including through delegation) actually awarded such stock option or on a date thereafter as specified by the RMT Partner Board or its compensation committee (including through delegation) in their respective authorization of such RMT Partner stock options, (iv) qualifies in all material respects for the Tax and accounting treatment afforded to such RMT Partner stock option in the RMT Partner's Tax Returns and the RMT Partner Reports, respectively, and (v) complies in all material respects with Section 409A of the Code.

Section 7.3 Corporate Authority and Approval.

(a) Each of RMT Partner and each Merger Sub has all requisite corporate and limited liability company power and authority and has taken all corporate and limited liability company action necessary in order to execute, deliver and perform its obligations under this Agreement and the Transaction Documents to which it is or will be a party as of the date hereof and as of the First Effective Time and to consummate the Transactions and the transactions contemplated by the other Transaction Documents, subject only to receipt of the RMT Partner Shareholder Approval. This Agreement has been duly executed and delivered by RMT Partner and each Merger Sub and constitutes a valid and binding agreement of RMT Partner and each Merger Sub, enforceable against each RMT Partner and each Merger Sub in accordance with its terms, subject to the Bankruptcy and Equity Exception.

(b) The RMT Partner Board has unanimously (i) approved and declared advisable this Agreement and the Transactions, including the Merger, the RMT Partner Share Issuance and the RMT Partner Charter Amendment, (ii) determined that this Agreement and the Transactions, including the Merger, are in the best interests of RMT Partner, and (iii) resolved to make the RMT Partner Recommendation.

(c) The board of directors of First Merger Sub has unanimously (i) approved and declared advisable this Agreement and the Transactions, including the Merger and (ii) determined that this Agreement and the Transactions, including the Merger, are fair to and in the best interests of First Merger Sub and its stockholders.

(d) RMT Partner, as the sole member and manager of Merger Sub, has (i) approved and declared advisable this Agreement and the Transactions, including the Merger, and (ii) determined that this Agreement and the Transactions, including the Merger, are fair to and in the best interest of the Merger Sub and RMT Partner, as its sole member.

(e) No vote of the holders of any class of equity securities of RMT Partner is required for the execution and delivery of this Agreement, the Transaction Documents or any other agreements and documents contemplated hereby to which RMT Partner is a party, the performance by RMT Partner of its obligations hereunder and thereunder, or to consummate the Merger and the transactions contemplated hereunder and thereunder, except that the consummation of the RMT Partner Share Issuance and the RMT Partner Charter Amendment require the RMT Partner Shareholder Approval.

(f) Each of the RMT Partner Board and RMT Partner, as the sole member and manager of Merger Sub, has taken all necessary action so that Remainco will not be an “interested stockholder” or prohibited from entering into or consummating a “business combinations” with RMT Partner (in each case, as such term is used in Section 203 of the DGCL and Sections 2551 et. seq. of the PBCL) under Section 203 of the DGCL and Sections 2551 et. seq. of the PBCL as a result of the execution of this Agreement or the consummation of the Transactions.

(g) Except for Sections 2551 et. seq. of the PBCL, in respect of which the RMT Partner Board has taken the action described in this Section 7.3, no Takeover Statute or any anti-takeover provision in the Organizational Documents of RMT Partner is applicable to RMT Partner, the capital stock of RMT Partner or the Transactions.

(h) The RMT Partner Board has received the opinion of J.P. Morgan Securities LLC to the effect that, as of the date of such opinion and based upon and subject to the various qualifications, assumptions, limitations and other matters set forth therein, the Merger Consideration is fair, from a financial point of view, to RMT Partner.

Section 7.4 Governmental Filings; No Violations.

(a) Other than the filing with the SEC of the Distribution Registration Statement and the RMT Partner Registration Statement, the filing of any amendment to the Organizational Documents of Spinco to effect the Separation and Spinco Distribution and the necessary filings, notices, reports, consents, registrations, approvals, permits, expirations of waiting periods or authorizations (i) pursuant to Section 1.2 and Section 2.3, (ii) required under the rules and regulations of the NYSE, (iii) required under the HSR Act or any other applicable Antitrust Laws, the Exchange Act and the Securities Act, (iv) to comply with state securities or “blue-sky” Laws, and (v) as may be required with or to Foreign Regulators pursuant to Foreign Regulatory Laws, no filings, notices or reports are required to be made by RMT Partner, Merger Subs or any other of RMT Partner’s Subsidiaries with, nor are any consents, registrations, approvals, permits, expirations of waiting periods or authorizations required to be obtained by RMT Partner, Merger Subs or any other of RMT Partner’s Subsidiaries from, any Governmental Entity in connection with the execution, delivery and performance of this Agreement by RMT Partner and Merger Subs or the consummation by RMT Partner and Merger Subs of the Transactions, except, in each case, those that the failure to make or obtain would not, individually or in the aggregate, reasonably be likely to have an RMT Partner Material Adverse Effect or to prevent, materially delay or materially impair the ability of RMT Partner to consummate the Transactions.

(b) The execution, delivery and performance by each of RMT Partner and Merger Subs of this Agreement and the Transaction Documents to which it is or will be a party as of the First Effective Time do not and will not, and the consummation by RMT Partner and Merger Subs of the Transactions and the transactions contemplated by such other Transaction Documents will not, constitute or result in (i) a breach or violation of, or a default under, the Organizational Documents of RMT Partner, Merger Subs or RMT Partner’s Subsidiaries, (ii) with or without the lapse of time or the giving of notice or both, a breach or violation of, a default or termination or modification (or right of termination or modification) under, payment of additional fees under, the creation or acceleration of any obligations under, or the creation of a Lien on any Contracts binding upon RMT Partner or any of its Subsidiaries, or, assuming (solely with respect to the performance of this Agreement and the consummation of the Transactions) the filings, notices, reports, consents, registrations, approvals, permits, expirations of waiting periods and authorizations referred to in Section 7.4(a) are made or obtained and receipt of the RMT Partner Shareholder Approval, under any Law, Governmental Order or Permit to which RMT Partner or any of its Subsidiaries is subject, or (iii) any change in the rights or obligations under any Contract to which RMT Partner or any of its Subsidiaries is a party, except, in the case of clauses (ii) and (iii) above, for any such breach, violation, default, termination, modification, payment, acceleration, creation or change that would not, individually or in the aggregate, reasonably be likely to have an RMT Partner Material Adverse Effect or to prevent, materially delay or materially impair the ability of RMT Partner to consummate the Transactions.

Section 7.5 Financial Statements.

(a) The consolidated balance sheets and each of the consolidated statements of operations, cash flows and changes in shareholders' equity for RMT Partner and its Subsidiaries as at and for the fiscal year ended December 31, 2022 and December 31, 2021 were prepared in accordance with GAAP, consistently applied, subject to normal year-end adjustments and except as may be noted therein or in the notes thereto.

(b) The consolidated balance sheets and each of the consolidated statements of operations, cash flows and changes in shareholders' equity for RMT Partner and its Subsidiaries as at and for the fiscal year ended December 31, 2022 and December 31, 2021 included in or incorporated by reference into the RMT Partner Reports (including the related notes and schedules) fairly present in all material respects the financial position of the RMT Partner and its Subsidiaries and the results of its operations as of the respective dates thereof and for the respective periods covered thereby.

(c) Except for (i) liabilities disclosed, reflected, reserved against or otherwise provided for in RMT Partner's financial statements, (ii) liabilities incurred in the Ordinary Course of RMT Partner's Business since September 30, 2023 or arising out of this Agreement (none of which relates to breach of contract, breach of warranty, tort, infringement or violations of Law), (iii) liabilities that would not, individually or in the aggregate, reasonably be expected to be material to the RMT Partner Business, taken as a whole, or (iv) as set forth on Section 7.5(c) of the RMT Partner Disclosure Letter, neither RMT Partner nor its Subsidiaries have any liabilities of any nature, whether or not accrued, contingent or otherwise.

(d) RMT Partner maintains disclosure controls and procedures required by Rule 13a-15 or 15d-15 under the Exchange Act. Such disclosure controls and procedures are designed to ensure that information required to be disclosed by RMT Partner in its filings with the SEC under the Exchange Act is recorded and reported on a timely basis to the individuals responsible for the preparation of RMT Partner's filings with the SEC under the Exchange Act. RMT Partner maintains internal control over financial reporting (as defined in Rule 13a-15 or 15d-15, as applicable, under the Exchange Act). Such internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP. RMT Partner has disclosed, based on the most recent evaluation of its Chief Executive Officer and its Chief Financial Officer prior to the date of this Agreement, to RMT Partner's auditors and the audit committee of the RMT Partner Board (i) any significant deficiencies and material weaknesses in the design or operation of its internal controls over financial reporting that are reasonably likely to adversely affect RMT Partner's ability to record, process, summarize and report financial information, and (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in RMT Partner's internal control over financial reporting.

(e) Neither RMT Partner nor any of its Subsidiaries has incurred any Indebtedness, or issued or sold any debt securities or rights to acquire any debt security of RMT Partner or any of its Subsidiaries, the terms of which, or the terms of any instrument under which such Indebtedness, debt securities or rights were issued, requires the public listing of such Indebtedness, debt securities or rights or the maintenance by RMT Partner or any of its Subsidiaries of registration under the Exchange Act. Neither RMT Partner nor any of its Subsidiaries is a party to, or has any commitment to become a party to, any off-balance sheet joint venture, off-balance sheet partnership or any other “off-balance sheet arrangements” (as defined in Item 303(b) of Regulation S-K promulgated by the SEC) that is material to RMT Partner and its Subsidiaries, taken as a whole.

Section 7.6 Absence of Certain Changes. Since January 1, 2023 (a) to the date of this Agreement, RMT Partner and its Subsidiaries have conducted the RMT Partner Business in the Ordinary Course in all material respects, (b) there has not been any material damage, destruction or other casualty loss with respect to any material assets of RMT Partner or its Subsidiaries, (c) there has not been a RMT Partner Material Adverse Effect, and (d) none of RMT Partner or its Subsidiaries has taken any action that, if taken during the period from the date of this Agreement through the Closing Date without Remainco’s consent would constitute a breach of Section 8.1(b).

Section 7.7 Litigation.

(a) There is no, and since January 1, 2021 there has been no, civil, criminal, administrative or other Proceeding pending or, to the Knowledge of RMT Partner, threatened against RMT Partner or its Subsidiaries or any of their respective properties or assets, nor is there any judgment, settlement, decree, injunction, writ, award, rule or order of any Governmental Entity or arbitrator outstanding against, or, to the Knowledge of RMT Partner, investigation or inquiry by any Governmental Entity, involving RMT Partner or its Subsidiaries that would reasonably be expected to be, individually or in the aggregate, material to the RMT Partner Business.

(b) There are not any (i) outstanding judgments against RMT Partner or its Subsidiaries, (ii) Proceedings pending or, to the Knowledge of RMT Partner, threatened against RMT Partner or its Subsidiaries, or (iii) investigations by any Governmental Entity that are, to the Knowledge of RMT Partner, pending or threatened against RMT Partner or Merger Subs that would reasonably be expected to (A) have a material adverse effect on RMT Partner’s or Merger Subs’ ability to perform its obligations under this Agreement and the other Transaction Documents to which it is a party or consummate the transactions contemplated hereby or thereby, or (B) be, individually or in the aggregate, material to the RMT Partner Business, taken as a whole.

Section 7.8 Employee Benefits and Labor Matters.

(a) Section 7.8(a) of the RMT Partner Disclosure Letter sets forth a true and complete list of each material Benefit Plan of RMT Partner and its Subsidiaries as of the date of this Agreement.

(b) Each Benefit Plan of RMT Partner and its Subsidiaries has been administered in material compliance with its terms and the applicable provisions of the Code, ERISA and all other applicable Laws, rules and regulations and the terms of any applicable Collective Bargaining Agreement, and with respect to each Benefit Plan, RMT Partner and its Subsidiaries have materially complied with such Laws and Collective Bargaining Agreements. As of the date hereof and, except as would not reasonably be expected to be, individually or in the aggregate, material to the RMT Partner Business, taken as a whole, as of the Closing, (i) except as set forth on Section 7.8(b) of the RMT Partner Disclosure Letter, there is no pending or threatened investigation, action, complaint, suit, proceeding or other claim (other than routine claims for benefits) in respect of any Benefit Plan of RMT Partner and its Subsidiaries, (ii) no facts or circumstances exist that could give rise to any such actions, suits, or claims, (iii) contributions to all Benefit Plans have been made as required by applicable Laws, rules and regulations and no written or oral communication has been received from any Governmental Entity in respect of any Benefit Plan of RMT Partner and its Subsidiaries concerning the funded status of any such plan or any transfer of assets and liabilities from any such plan in connection with the transaction contemplated herein during the past two (2) years, (iv) no administrative investigation, audit, Proceeding, or other administrative proceedings by any Governmental Entity are pending, threatened, or in progress, (v) with respect to each Benefit Plan, all reports, returns, notices and other documentation that are required to have been filed with or furnished to the appropriate Governmental Entity, or to the participants or beneficiaries of such Benefit Plan, have been filed or furnished on a timely basis, (vi) each Benefit Plan that is intended to be qualified within the meaning of Section 401(a) of the Code is so qualified and has received a favorable determination letter from the IRS to the effect that the Benefit Plan satisfies the requirements of Section 401(a) of the Code and that its related trust is exempt from taxation under Section 501(a) of the Code (or such Benefit Plan is a prototype plan that is entitled to rely on an opinion letter issued by the IRS to the prototype plan sponsor regarding qualification of the form of the prototype plan) and, to the Knowledge of RMT Partner, there are no facts or circumstances that could reasonably be expected to cause the loss of such qualification, (vii) to the Knowledge of RMT Partner, no fiduciary has any liability for breach of fiduciary duty or any other failure to act or comply with the requirements of ERISA, the Code or any other applicable Laws in connection with the administration or investment of the assets of any Benefit Plan, (viii) no Service Provider has been improperly excluded from participation in any Benefit Plan, and none of RMT Partner and its Subsidiaries has any direct or indirect liability, whether actual or contingent, with respect to any misclassification of any person as an independent contractor rather than as an employee, or with respect to any employee leased from another employer, (ix) no non-exempt "prohibited transaction" within the meaning of Section 406 of ERISA or Section 4975 of the Code has occurred involving any Benefit Plan, and (x) any bonding required with respect to the Benefit Plans in accordance with applicable provisions of ERISA has been obtained and is in full force and effect. Except as set forth on Section 7.8(b) of the RMT Partner Disclosure Letter, none of RMT Partner or its Subsidiaries has incurred any current or projected liability in respect of post-employment or post-retirement health, medical or life insurance or other benefits for any Service Provider, except as may be required pursuant to applicable Law, and at the expense of such Service Provider.

(c) Except as set forth on Section 7.8(c) of the RMT Partner Disclosure Letter, no Benefit Plan of RMT Partner and its Subsidiaries exists that would reasonably be expected to (i) entitle any RMT Partner Employee to any payment, benefit or right, or increase in payment, benefit or right, (ii) accelerate the time of payment or vesting or result in any payment or funding (through a grantor trust or otherwise) of compensation or benefits under, increase the amount payable or result in any other material obligation pursuant to, any of the Benefit Plans of RMT Partner and its Subsidiaries, or (iii) limit or restrict the right of RMT Partner or its Subsidiaries to merge, amend or terminate any of the Benefit Plans of RMT Partner and its Subsidiaries, in each case as a result of the execution of this Agreement or the consummation of the transactions contemplated hereby (whether alone or in connection with any subsequent event(s)).

(d) No Benefit Plan of RMT Partner and its Subsidiaries is a Multiemployer Plan or Multiple Employer Plan, and none of RMT Partner or its Subsidiaries has at any time sponsored or contributed to, or has or had any obligation to sponsor or contribute to, or has or had any liability or obligation in respect of, any Multiemployer Plan or Multiple Employer Plan.

(e) Except as set forth on Section 7.8(e) of the RMT Partner Disclosure Letter, none of RMT Partner and its Subsidiaries has any actual or contingent obligation with respect to any employee benefit plan or arrangement that is subject to Section 302 of ERISA, Title IV of ERISA, Sections 412 and 4971 of the Code, that is due to RMT Partner and its Subsidiaries' affiliation with any of their respective ERISA Affiliates.

(f) None of the execution and delivery of this Agreement, approval of this Agreement or the consummation of the transactions contemplated by this Agreement could (either alone or in combination with another event) result in the payment of any amount that could, individually or in combination with any other payment, constitute an "excess parachute payment" (as defined in Section 280G(b)(1) of the Code). None of RMT Partner and its Subsidiaries is a party to or has any obligation under any Benefit Plan or otherwise to compensate, gross-up or indemnify any person for Taxes, including those payable pursuant to Section 409A or 4999 of the Code.

(g) With respect to each Foreign Plan, (i) all employer and employee contributions to each Foreign Plan required by Law or by the terms of such Foreign Plan have been made, or, if applicable, accrued in accordance with normal accounting practices, (ii) the fair market value of the assets of each funded Foreign Plan, the liability of each insurer for any Foreign Plan funded through insurance or the book reserve established for any Foreign Plan, together with any accrued contributions, is sufficient to procure or provide for the accrued benefit obligations, as of the Closing, with respect to all Service Providers or beneficiaries in such plan according to the actuarial assumptions and valuations most recently used to determine employer contributions to such Foreign Plan, and no transaction contemplated by this Agreement shall cause such assets or insurance obligations to be less than such benefit obligations, (iii) if intended to qualify for special Tax treatment (or permitted to have been approved to obtain any beneficial Tax or other status), such Foreign Plan meets all requirements for such treatment, (iv) if intended to be filed, registered or approved by a competent Governmental Entity, has been duly and timely filed, registered or approved, as applicable, and (v) such Foreign Plan has been maintained in good standing with applicable Governmental Entities and in compliance with all applicable Laws. Except pursuant to the express terms of a Foreign Plan, none of RMT Partner or its Subsidiaries has any material current or contingent liability or obligation with respect to any Foreign Plan.

(h) Section 7.8(h) of the RMT Partner Disclosure Letter contains a correct and complete list of each RMT Partner Employee, showing, with respect to each such RMT Partner Employee (i) whether actively at work or on a leave of absence (and, if on a leave of absence, expected return to work date), job title or position, status as full-time or part-time, exempt or non-exempt, union or non-union, location of employment, employer, date of hire, and cumulative length of service, and (ii) to the extent permitted by applicable Law, base salary or base wage rate, bonus and commission arrangements.

(i) Section 7.8(i) of the RMT Partner Disclosure Letter contains a list of (i) all service agreements or contracts of employment or engagement for RMT Partner Employees with a base salary in excess of one hundred fifty thousand dollars (\$150,000), and (ii) material consultancy arrangements adopted by RMT Partner and its Subsidiaries which provide for bonus, benefit and incentive entitlements including any transaction related bonuses, severance and retention plans.

(j) Except as set forth on Section 7.8(j) of the RMT Partner Disclosure Letter, neither RMT Partner nor its Subsidiaries is a party to any Collective Bargaining Agreement or any other material contract or agreement with any labor organization, trade union, staff forum or employee representative body, or works council, nor is any such contract or agreement, as of the date hereof, being negotiated.

(k) (i) To the Knowledge of RMT Partner, as of the date hereof, there are not any union organizing or election activities or attempts concerning any RMT Partner Employees, nor have there been since January 1, 2021; (ii) as of the date hereof, there are no labor strikes, slowdowns, work stoppages, concerted refusals to work overtime, handbilling, demonstrations, leafletting, disruptions or lockouts (in each case involving labor matters) or negative works council decisions or findings pending, anticipated or, to the Knowledge of RMT Partner, threatened against RMT Partner or its Subsidiaries, nor have there been since January 1, 2021; (iii) in addition to any obligations to individual RMT Partner Employees, RMT Partner and its Subsidiaries have complied with any Collective Bargaining Agreement and obligation pursuant to Law in the relevant jurisdiction to inform and consult any works council, labor organization, trade union, staff forum or employee representative body in respect of the transactions contemplated herein, or other reorganization, restructuring or transfer of employees' employment; and (iv) regarding any of RMT Partner and its Subsidiaries as of the date hereof and as of the Closing, (A) no unfair labor practice charge or complaint, or demand for recognition or certification of a collective bargaining representative, is pending or, to the Knowledge of RMT Partner, threatened, (B) no employee-related dispute, grievance or arbitration proceeding is pending or, to the Knowledge of RMT Partner, threatened, (C) no individual or class action, complaint, charge, inquiry, proceeding or investigation by or on behalf of any employee, prospective employee, former employee, labor organization or other representative of the RMT Partner Employees is pending or, to the Knowledge of RMT Partner, threatened, (D) each is in compliance with all applicable Laws, agreements, contracts, policies, plans and programs relating to labor, employment, employment practices, compensation, benefits, hours, terms and conditions of employment and the termination of employment and there has not been in the past twelve (12) months, nor is there pending any third party enforcement action or compliance investigation into the same, and (E) each is not a party to, or otherwise bound by, any consent decree with, or citation by, any Governmental Entity relating to Service Providers or employment practices. Each Service Provider has all work permits, immigration permits, visas or other authorizations required by applicable Law. A properly completed Form I-9 is on file with respect to each RMT Partner Employee whose primary work location is in the U.S.

Section 7.9 Compliance with Laws, Permits.

(a) Each of RMT Partner and its Subsidiaries is, and has been since January 1, 2021, in compliance in all respects (i) with all applicable Laws, and (ii) with its own internal policies, except for instances of noncompliance that would not reasonably be expected to be, individually or in the aggregate, material to the RMT Partner Business, taken as a whole. Since January 1, 2021, none of RMT Partner or its Subsidiaries has received any written notice from any Governmental Entity that it is not in compliance with any applicable Law, except as would not reasonably be expected to be, individually or in the aggregate, material to the RMT Partner Business, taken as a whole.

(b) Since January 1, 2021, each of RMT Partner and its Subsidiaries, and the conduct of the RMT Partner Business, has been and is in compliance with all applicable International Trade Laws, except as would not reasonably be expected to be, individually or in the aggregate, material to the RMT Partner Business, taken as a whole. Without limiting any of the foregoing, since January 1, 2021, none of RMT Partner or its Subsidiaries nor any of their respective officers, directors, or employees, nor, to the Knowledge of RMT Partner, any other Person acting on behalf of RMT Partner and its Subsidiaries has engaged in any business or dealings, directly or indirectly, involving or relating to (i) any country or territory that is or whose government is a Sanctioned Jurisdiction, or (ii) a Sanctioned Person.

(c) None of RMT Partner or its Subsidiaries nor, to the Knowledge of RMT Partner, any of their respective directors, officers, employees, shareholders, or other Persons acting on behalf of RMT Partner or its Subsidiaries is (i) a Sanctioned Person, or (ii) located, organized, or resident in a Sanctioned Jurisdiction.

(d) Since January 1, 2021, each of RMT Partner and its Subsidiaries has been and is in compliance with all applicable Anti-Corruption Laws in all material respects. Without limiting the foregoing, since January 1, 2021, none of RMT Partner or its Subsidiaries, nor any of their respective directors, officers, employees, nor, to the Knowledge of RMT Partner, any other Person acting on behalf of RMT Partner or its Subsidiaries, has paid, offered, promised, or authorized the payment of money or anything of value, directly or indirectly, to any Government Official, any political party, or any other Person for the purpose of influencing any act or decision or to secure any improper advantage or to reward any other Person for the improper performance of any activity or function. Likewise, since January 1, 2021, none of RMT Partner or its Subsidiaries, nor any of their respective directors, officers, employees, nor to the Knowledge of RMT Partner, any other Person acting on behalf of RMT Partner and its Subsidiaries has requested, agreed to receive, or accepted the payment of money or any other advantage intending that in consequence a relevant function or activity should be performed improperly, or as a reward for the improper performance of a relevant function or activity.

(e) The RMT Partner Business and RMT Partner have instituted and maintain policies and procedures reasonably designed to ensure compliance with applicable Anti-Corruption Laws and anti-money laundering Laws in each jurisdiction in which the RMT Partner Business is operated or RMT Partner or its Subsidiaries operate.

(f) Since January 1, 2021, none of RMT Partner or its Subsidiaries nor any of their respective directors, officers, employees, or, to the Knowledge of RMT Partner, any other Person acting on behalf of RMT Partner or its Subsidiaries has received from any Governmental Entity or any other Person any written notice of any violation, alleged violation, or any suspected violation of any Anti-Corruption Law or International Trade Law, or conducted any internal investigation with respect to, or made any voluntary or involuntary disclosure to a Governmental Entity concerning, any actual, suspected, or alleged violation of any Anti-Corruption Law or International Trade Law.

(g) Each of RMT Partner and its Subsidiaries has obtained and is in compliance with all Permits necessary to operate the RMT Partner Business. All such Permits are in full force and effect, except in each case as would not reasonably be expected to be, individually or in the aggregate, material to the RMT Partner Business, taken as a whole. There is no suspension, revocation or cancellation of any of the Permits issued to RMT Partner and its Subsidiaries pending or, to the Knowledge of RMT Partner, threatened, except where the suspension or cancellation of any of the Permits would not have a RMT Partner Material Adverse Effect. None of RMT Partner or its Subsidiaries has received any written notice from any Governmental Entity regarding a violation of, conflict with, or failure to comply with, any terms or requirement of any Permit, which if ultimately determined to result in a violation of, conflict with, or failure to comply with any such terms or requirement, would reasonably be expected to be, individually or in the aggregate, material to the RMT Partner Business, taken as a whole.

Section 7.10 Certain Contracts.

(a) Section 7.10(a) of the RMT Partner Disclosure Letter lists the RMT Partner Material Contracts in effect as of the date of this Agreement. “RMT Partner Material Contracts” means the following:

(i) each Contract required to be disclosed on Section 7.16(a) and Section 7.16(b) of the RMT Partner Disclosure Letter;

(ii) each Contract required to be disclosed on Section 7.13(a)(iii) of the RMT Partner Disclosure Letter;

(iii) each Contract relating to the RMT Partner Business with each of the Persons required to be listed on Section 7.19(a)(i) of the RMT Partner Disclosure Letter;

(iv) each Contract relating to the RMT Partner Business with each of the Persons required to be listed on Section 7.19(a)(ii) of the RMT Partner Disclosure Letter;

(v) (A) any Contract relating to the RMT Partner Business containing any right of any exclusivity in favor of the other parties thereto or any covenant limiting, in any respect, the ability of RMT Partner and its Subsidiaries to engage in any line of business or in any geographic area or to compete with any Person or to solicit, hire or engage in transactions with the suppliers or customers of another Person or any material employee non-solicitation provision or that provides for “most favored nations” terms; (B) each Contract with respect to the RMT Partner Business under which there is a right of first negotiation, right of first refusal or a right of first or last offer; and (C) each Contract that (1) requires RMT Partner and its Subsidiaries to purchase its total requirements of any product or service from a third party, or (2) provides for a “single source” supply to any RMT Partner and its Subsidiaries;

(vi) each Contract that creates, governs or controls a partnership or joint venture with any of RMT Partner and its Subsidiaries;

(vii) (A) each indenture, credit agreement, loan agreement, security agreement, guarantee, note, mortgage or other evidence of Indebtedness or agreement to which any of RMT Partner and its Subsidiaries is a party (or under which any of RMT Partner and its Subsidiaries has obligations or its properties or assets are bound) providing for or relating to Indebtedness; and (B) each Contract that relates to the mortgage, pledge or transfer of, or the grant of a security interest in or other Lien on, any material asset of the RMT Partner Business;

(viii) each Contract that relates to the acquisition or disposition of any business (whether by merger, sale of stock, sale of assets or otherwise) to which any of RMT Partner and its Subsidiaries is a party or has any obligations (A) pursuant to which any earn-out, deferred or contingent payment or other indemnification or material other obligations remain outstanding, or (B) was entered into in the past three (3) years;

(ix) each Contract between any of RMT Partner and its Subsidiaries, on the one hand, and any of RMT Partner or its Affiliates, on the other hand;

(x) each Contract containing restrictions with respect to payment of dividends or any distributions in respect of the equity interests of any of RMT Partner and its Subsidiaries;

(xi) each settlement agreement that (A) imposes continuing material obligations or material restrictions on any of RMT Partner and its Subsidiaries, or (B) has unpaid amounts in excess of three hundred thousand dollars (\$300,000);

(xii) each Contract or series of related Contracts relating to any single or series of related capital expenditures by any of RMT Partner and its Subsidiaries pursuant to which any of RMT Partner and its Subsidiaries has future financial obligations in excess of one hundred fifty thousand dollars (\$150,000);

(xiii) each Contract to which any of RMT Partner and its Subsidiaries is a party regarding any hedging, derivatives or similar arrangements;

(xiv) each Contract between any of RMT Partner and its Subsidiaries and any Governmental Entity; and

(xv) each Contract under which any of RMT Partner and its Subsidiaries has continuing material indemnification obligations to any Person, other than those entered into in the Ordinary Course of the RMT Partner Business consistent with past practice.

(b) All RMT Partner Material Contracts are enforceable against each of RMT Partner and its Subsidiaries (as the case may be) and, to the Knowledge of RMT Partner, any other party thereto in accordance with their terms and are in full force and effect with respect to, and a valid and binding obligation of, each of RMT Partner and its Subsidiaries, and, to the Knowledge of RMT Partner, with respect to any other party thereto, except as would not reasonably be expected to be, individually or in the aggregate, material to the RMT Partner Business taken as a whole, and none of RMT Partner or its Subsidiaries, nor, to the Knowledge of RMT Partner, any other party thereto, is or alleged to be in violation or breach of or default under (or with notice or lapse of time, or both, would be in violation or breach of or default under) the terms of any RMT Partner Material Contract, in each case, except as would not reasonably be expected to be, individually or in the aggregate, material to the RMT Partner Business taken as a whole.

Section 7.11 Environmental Matters. (a) Each of RMT Partner and its Subsidiaries is and for the past six (6) years has been operating the RMT Partner Business in material compliance with all Environmental Laws; (b) there are no pending or, to the Knowledge of RMT Partner, threatened Proceedings against any of RMT Partner or its Subsidiaries alleging that such Person is in material violation of any Environmental Law; (c) none of RMT Partner or its Subsidiaries has received a written notice that remains unresolved asserting that it is or may be required to conduct, any investigation, cleanup, remediation or similar activities with respect to any Release of a Hazardous Substance at any of the real property currently or formerly owned, leased or used by it or with respect to any third party disposal site to which it sent or disposed of any Hazardous Substances; (d) there has been no Release of Hazardous Substances at any of the real property currently or formerly owned, leased or used by it or at any third party disposal site to which it sent or disposed of any Hazardous Substances for which RMT Partner and its Subsidiaries would be liable under Environmental Laws; and (e) no filings with any Governmental Entity, environmental investigation, or remediation is required in connection with the transactions contemplated under this Agreement and the other Transaction Documents pursuant to Environmental Laws.

Section 7.12 Taxes. Except as would not reasonably be likely to have, individually or in the aggregate, an RMT Partner Material Adverse Effect:

(a) All Tax Returns required to be filed by or with respect to RMT Partner and its Subsidiaries have been timely filed (taking into account applicable extensions), and all such Tax Returns are true, correct and complete. All Taxes of or with respect to RMT Partner and its Subsidiaries, whether or not shown as due on such Tax Returns, have been paid, or adequate accruals or reserves therefor in accordance with GAAP have been provided on the books of RMT Partner and its Subsidiaries.

(b) All Taxes required to be withheld by RMT Partner or any of its Subsidiaries have been withheld and, to the extent required, have been paid over to the appropriate Taxing authority.

(c) No deficiency or other assessment or adjustment for any Taxes has been asserted or assessed by any Taxing authority in writing against RMT Partner or any of its Subsidiaries (or, to the Knowledge of RMT Partner, has been threatened or proposed), except for deficiencies which have been satisfied by payment, settled or withdrawn. No claim, audit or other proceeding by any Taxing authority is pending or ongoing (or, to the Knowledge of RMT Partner, has been threatened or proposed) with respect to any Taxes due from RMT Partner or any of its Subsidiaries.

(d) Neither RMT Partner nor any of its Subsidiaries has constituted either a “distributing corporation” or a “controlled corporation” (within the meaning of Section 355(a)(1)(A) of the Code) during the two (2)-year period ending on the date of this Agreement.

(e) Neither RMT Partner nor any of its Subsidiaries has participated in a “listed transaction” as defined in Treasury Regulations Section 1.6011-4(b)(2) (or any corresponding provision of state, local or foreign Tax Law).

(f) There are no Liens for Taxes (other than Liens for Taxes not yet due and payable or that are being contested in good faith by appropriate proceedings and as to which appropriate reserves have been recorded) upon the assets of RMT Partner or any of its Subsidiaries.

(g) Neither RMT Partner nor any of its Subsidiaries (A) is, or since January 1, 2021, has been, a member of any affiliated, combined, consolidated, unitary or similar group filing a consolidated, combined, unitary or similar income Tax Return (other than a group the common parent of which is RMT Partner or any of its Subsidiaries), (B) has any liability for the Taxes of any Person (other than RMT Partner or any of its Subsidiaries) under Section 1.1502-6 of the Treasury Regulations (or any similar provision of state, local or foreign Tax Law), as a transferee or successor, by operation of Law or by Contract (other than customary commercial, leasing or employment Contracts entered into in the Ordinary Course, the primary purposes of which do not relate to Taxes), or (C) is party to (or will be liable in respect of) any Contract relating to the allocation, sharing or indemnification of Taxes, other than (i) the Tax Matters Agreement, (ii) customary commercial, leasing or employment Contracts entered into in the Ordinary Course, the primary purposes of which do not relate to Taxes, and (iii) Contracts solely between or among RMT Partner or one or more of its Subsidiaries.

(h) No Taxing authority has notified RMT Partner or any of its Subsidiaries in writing that it is or may be subject to taxation by a jurisdiction in which it does not presently file Tax Returns.

(i) RMT Partner is not and has not been, in the five (5)-year period ending on the date hereof, a “United States real property holding corporation” within the meaning of Section 897 of the Code.

(j) As of the date hereof, immediately prior to the Closing, RMT Partner is not aware of the existence of any reason, or has taken or agreed to take any action, that would reasonably be expected to prevent or impede (i) the Contribution, the Spinco Distribution, the Spinco Special Cash Payment, the Initial Spin, the Spin-Off, the Exchange Offer and the Merger from qualifying for the Intended Tax Treatment, or (ii) RMT Partner from delivering the RMT Partner Tax Representation Letters at the applicable time set forth in Section 8.14(d).

(k) Each Merger Sub was formed solely for the purpose of engaging in the Merger, does not have any material assets and has not engaged in any business activities or conducted any operations other than in connection with the Merger, and Second Merger Sub is an entity disregarded as separate from its owner for U.S. federal income tax.

Section 7.13 Intellectual Property.

(a) Section 7.13(a)(i) of the RMT Partner Disclosure Letter sets forth a true and complete list of all registrations and applications for registration included in the RMT Partner Intellectual Property, including the owner and jurisdiction of each such registration and application for registration; Section 7.13(a)(ii) of the RMT Partner Disclosure Letter sets forth a true and complete list of all material unregistered Trademarks and proprietary software included in the RMT Partner Intellectual Property; and Section 7.13(a)(iii) of the RMT Partner Disclosure Letter set forth a true and complete list of each license, sublicense, collaboration or other agreement (excluding Liens for Indebtedness) to which any of RMT Partner or its Subsidiaries is a party and (i) obtains any license, right to use or covenant not to be sued under any Intellectual Property or RMT Partner IT Assets (“Inbound RMT Partner Intellectual Property Licenses”), other than (A) for commercially available, off-the-shelf RMT Partner Intellectual Property or RMT Partner IT Assets, (B) shrinkwrap, clickwrap or other non-negotiated forms of agreement, (C) with annual fees of less than one hundred fifty thousand dollars (\$150,000), or (D) licenses to Open Source Software, or (ii) grants a license, right to use or covenant not to be sued under any RMT Partner Intellectual Property or RMT Partner IT Assets, except (A) non-exclusive licenses granted to customers or other third parties, (B) licenses to vendors, contractors or other service providers for use in providing services to RMT Partner and its Subsidiaries, (C) licenses incidental to RMT Partner and its Subsidiaries’ sale, license or other provision of products or services, or (D) other agreements entered into in the Ordinary Course of the RMT Partner Business.

(b) As of the date hereof, each of RMT Partner and its Subsidiaries solely and exclusively own and, as of the Closing, each of RMT Partner and its Subsidiaries will solely and exclusively own, all RMT Partner Intellectual Property, free and clear of all Liens other than Permitted Encumbrances. Since January 1, 2021, neither RMT Partner nor any of its Subsidiaries has received any written communication from any Person asserting any ownership interest in any of the RMT Partner Intellectual Property.

(c) To the Knowledge of RMT Partner, the conduct of the RMT Partner Business as presently conducted does not Infringe, and since January 1, 2021, the conduct of the RMT Partner Business has not Infringed the Intellectual Property of any Person and since January 1, 2021, neither RMT Partner or its Subsidiaries has received any written communication (including cease and desist letters or invitations to take an Intellectual Property license) alleging the same. The RMT Partner Intellectual Property is valid, enforceable (excluding applications for RMT Partner Intellectual Property) and subsisting and no claims are pending or, to the Knowledge of RMT Partner, threatened in writing against any of RMT Partner or its Subsidiaries by any Person with respect to the ownership, validity or enforceability of any RMT Partner Intellectual Property. To the Knowledge of RMT Partner, RMT Partner and its Subsidiaries are not obligated to make any payments of material royalties or fees to any Person to enable the use of any Intellectual Property in connection with the conduct of the RMT Partner Business as currently conducted, and to the Knowledge of RMT Partner, the RMT Partner Intellectual Property is not being Infringed by any Person.

(d) The RMT Partner Intellectual Property and the Intellectual Property licensed pursuant to the Inbound RMT Partner Intellectual Property Licenses constitute all material Intellectual Property used in or necessary to operate the RMT Partner Business as currently conducted and RMT Partner and its Subsidiaries will own or have a valid and enforceable license to all Intellectual Property necessary to operate the RMT Partner Business following the Closing in the same manner it was conducted immediately prior to the Closing. The consummation of the transactions contemplated by this Agreement will not alter, encumber, impair or extinguish any RMT Partner Intellectual Property. No Contract to which any of RMT Partner or its Subsidiaries is a party would, upon Closing, grant or purport to grant to any Person any license, covenant not to sue, or other rights related to Intellectual Property owned by RMT Partner or any of its Affiliates (other than RMT Partner and its Subsidiaries).

(e) (i) RMT Partner and its Subsidiaries have taken reasonable steps to maintain, enforce and protect the RMT Partner Intellectual Property, including reasonable steps to protect the confidentiality of all RMT Partner Intellectual Property the value of which to the RMT Partner Business is contingent upon maintaining the confidentiality thereof; (ii) none of the Trade Secrets included in the RMT Partner Intellectual Property has been disclosed other than to Persons who are bound to hold such information in confidence pursuant to confidentiality agreements or otherwise by operation of Law or in the Ordinary Course where in the reasonable judgment of RMT Partner such disclosure is not material to RMT Partner and its Subsidiaries; (iii) to the Knowledge of RMT Partner, no such confidentiality agreements have been breached or violated in such a manner as would have a material adverse effect on RMT Partner and its Subsidiaries; and (iv) each current and former employee and contractor of RMT Partner and its Subsidiaries who developed, invented or contributed to any material RMT Partner Intellectual Property has executed a written agreement validly assigning all rights in and to such RMT Partner Intellectual Property to RMT Partner and its Subsidiaries.

(f) The manner in which any Open Source Software is incorporated into, linked to or called by, or otherwise combined or distributed with any software product or service that is RMT Partner Intellectual Property does not, according to the terms of the license applicable to such Open Source Software, obligate any of RMT Partner or its Subsidiaries to: (i) disclose, make available, offer or deliver all or any portion of any source code of any such software product or service or any component thereof to any third party, other than the applicable Open Source Software, or (ii) create obligations to grant, or purport to grant, to any third party any rights or immunities under any RMT Partner Intellectual Property (including any agreement not to assert patents), or impose any present economic limitations on any commercial exploitation thereof. None of RMT Partner and its Subsidiaries has any duty or obligation (whether present, contingent or otherwise) to deliver, license or make available the source code that is RMT Partner Intellectual Property to any escrow agent or other Person.

(g) The RMT Partner IT Assets are in all material respects in operating condition and in a good state of maintenance and repair (ordinary wear and tear excepted) and perform the functions necessary to carry on the conduct of the RMT Partner Business as currently conducted. RMT Partner and its Subsidiaries have taken and currently take reasonable measures designed to ensure that none of the RMT Partner IT Assets contains any unauthorized “back door”, “drop dead device”, “time bomb”, “Trojan horse”, “virus” or “worm” (as such terms are commonly understood in the software industry) or any other unauthorized code intended to disrupt, disable, harm or otherwise impede the operation of, or provide unauthorized access to, a computer system or network or other device on which such code is stored or installed. The RMT Partner IT Assets are subject to regular evaluation for any vulnerabilities that could provide unauthorized access thereto. Since January 1, 2021, there have been no breakdowns, continued substandard performance or other adverse events affecting the RMT Partner IT Assets that have caused a material disruption or interruption outside of the Ordinary Course in the operation of the RMT Partner Business.

(h) Each of RMT Partner and its Subsidiaries has been since January 1, 2021, and currently is in material compliance with (i) all applicable Laws, (ii) the requirements of any Contracts, and (iii) the written privacy policies of RMT Partner and its Subsidiaries then in effect, relating to the collection, storage, use, Processing and transfer of all Personal Data collected or processed by RMT Partner and its Subsidiaries. Since January 1, 2021, RMT Partner and its Subsidiaries have had commercially reasonable security measures in place designed to protect all Personal Data under their control and/or in their possession from unauthorized access, in each case in accordance in all material respects with (A) applicable Law, (B) any applicable statements in the written privacy policies of RMT Partner and its Subsidiaries then in effect, (C) any written public statements regarding information security practices of RMT Partner and its Subsidiaries, and (iv) all Contracts to which RMT Partner and its Subsidiaries is a party. Since January 1, 2021, to the Knowledge of RMT Partner, RMT Partner and its Subsidiaries have not suffered any breach in security or other event or incident that has permitted any unauthorized disclosure of or access to the Personal Data in the control or possession of RMT Partner and its Subsidiaries, or that materially disrupted the operation of any of RMT Partner or its Subsidiaries.

(i) Each of RMT Partner and its Subsidiaries has established and is in material compliance with a written information security program. Each of RMT Partner and its Subsidiaries’ written information security program (i) includes administrative, technical and physical safeguards designed to safeguard the security, confidentiality and integrity of Personal Data in its possession or control, and (ii) puts in place reasonable measures designed to protect against unauthorized access to the RMT Partner IT Assets. Since January 1, 2021, none of RMT Partner or its Subsidiaries has notified, or been required to notify, any Person of any information security breach involving Personal Data of the RMT Partner Business conducted by RMT Partner and its Subsidiaries. Since January 1, 2021, there have been no lawsuits, actions or investigations, or any written claims, brought against RMT Partner and its Subsidiaries alleging any violation of any Laws relating to the collection, storage, use, Processing and transfer of Personal Data, or arising out of RMT Partner and its Subsidiaries’ Processing of Personal Data, and to the Knowledge of RMT Partner, no such lawsuits, claims, actions or investigations are currently contemplated or threatened. The transactions contemplated by this Agreement will not result in the violation by RMT Partner and its Subsidiaries of any Laws relating to the collection, storage, use and transfer of Personal Data, and immediately following those transactions RMT Partner and its Subsidiaries will have the same rights to utilize the Personal Data in their possession or control that RMT Partner and its Subsidiaries had immediately prior to those transactions.

Section 7.14 Insurance. The insurance policies carried by or for the benefit of RMT Partner and its Subsidiaries or the assets, properties or personnel of the RMT Partner Business, or for the benefit of each of RMT Partner and its Subsidiaries or its assets, properties or personnel (collectively, the “RMT Partner Insurance Policies”), in each case as of the date of this Agreement and that are material to the RMT Partner Business are set forth on Section 7.14 of the RMT Partner Disclosure Letter. All the RMT Partner Insurance Policies (a) are in full force and effect, all premiums due and payable thereon have been paid (other than retroactive or retrospective premium adjustments and adjustments in respect of self-insured general liability and automobile liability fronting programs, self-insured health programs and self-insured workers’ compensation programs that are not yet, but may be, required to be paid with respect to any period ending prior to the Closing Date), and no written notice of cancellation or termination has been received with respect to any RMT Insurance Policy other than in connection with ordinary renewals, and (b) provide insurance in such amounts and against such risks as is sufficient to comply with applicable Law.

Section 7.15 Related-Party Transactions. To the Knowledge of RMT Partner, no present director, executive officer, shareholder, partner, member or Affiliate of RMT Partner or any of its Subsidiaries or any of such Person’s Affiliates or immediate family members, is party to any Contract with or binding upon RMT Partner or any of its Subsidiaries or has engaged in any transaction with any of the foregoing within the last twelve (12) months, in each case that is of a type that would be required to be disclosed in the RMT Partner Reports pursuant to Item 404 of Regulation S-K that has not been so disclosed.

Section 7.16 Real Property.

(a) Section 7.16(a) of the RMT Partner Disclosure Letter sets forth a true and complete list of the material real property owned by RMT Partner and its Subsidiaries (the “Owned RMT Partner Real Property”). RMT Partner and its Subsidiaries have good and marketable fee simple title (or jurisdictionally comparable title) to each parcel of Owned RMT Partner Real Property, free and clear of all Liens, other than Permitted Encumbrances. None of RMT Partner and its Subsidiaries has leased, or granted the right to use or occupy, any portion of the Owned RMT Partner Real Property to any Person. There is no pending or, to the Knowledge of RMT Partner, threatened condemnation, eminent domain or similar proceedings affecting the Owned RMT Partner Real Property. There are no options, rights of first offer or rights of first refusal to purchase any such Owned RMT Partner Real Property or any portion thereof or interest therein.

(b) Section 7.16(b) of the RMT Partner Disclosure Letter sets forth, as of the date of this Agreement, a complete and correct list of all material interests in real property leased by RMT Partner and its Subsidiaries (the “Leased RMT Partner Real Property”, and each agreement evidencing RMT Partner’s and its Subsidiaries’ leasehold interest in the Leased RMT Partner Real Property, including all amendments, extensions, renewals, guaranties and other agreements with respect thereto, the “RMT Partner Leases”). The RMT Partner Leases are in full force and effect, and RMT Partner and its Subsidiaries hold a valid and existing leasehold interest under each such RMT Partner Lease, free and clear of all Liens, except for Permitted Encumbrances. RMT Partner and its Subsidiaries have not subleased, licensed or otherwise granted any Person the right to use or occupy any of the Leased RMT Partner Real Property.

(c) The Owned RMT Partner Real Property and the Leased RMT Partner Real Property (together, the “RMT Partner Real Property”) constitute all material real property currently used in the RMT Partner Business.

(d) All buildings, machinery, equipment and other tangible assets currently being used by the RMT Partner Business are in good operating condition, maintenance and repair, ordinary wear and tear excepted, are usable in the Ordinary Course and are reasonably adequate and suitable for their current and historical uses.

(e) Except as has not had a RMT Partner Material Adverse Effect, the buildings and structures located on the RMT Partner Real Property currently have valid legal access to (i) public roads or valid easements over private streets or private property for such ingress to and egress from all such buildings and structures, and (ii) water supply, telephone, gas and electric connections, and fire protection, in each case as is necessary for the operation of such RMT Partner Real Property.

Section 7.17 Brokers and Finders. RMT Partner and its Subsidiaries have not employed any broker, finder or investment banker or incurred any liability for any brokerage fees, commissions or finders’ fees in connection with the Transactions, other than J.P. Morgan Securities LLC.

Section 7.18 Product Liability; Product Warranty; Recalls.

(a) None of RMT Partner or its Subsidiaries has (i) any material liability arising out of any injury to individuals or property as a result of the ownership, possession or use of any product designed, manufactured, or sold by or on behalf of the RMT Partner Business (each, a “RMT Partner Product”), and (ii) committed any act or failed to commit any act, which has resulted or would reasonably be expected to result in any material product liability or material liability for breach of warranty on the part of RMT Partner and its Subsidiaries.

(b) (i) All RMT Partner Products are, and for the period since January 1, 2021, have been, processed, manufactured, and marketed in accordance in all material respects with (A) the specifications and standards required by or contained in customer contracts or purchase orders, and (B) all applicable Law; and (ii) since January 1, 2021, (A) there have been no third party individual product warranty claims involving the RMT Partner Products that exceed three hundred thousand dollars (\$300,000), and (B) none of RMT Partner and its Subsidiaries has been subject to a Governmental Entity shutdown, import or export prohibition, or received any Governmental Entity notice of inspectional observation, “warning letter” or “untitled letter”, requirement to make changes to RMT Partner Product processes or procedures, or similar correspondence or notice alleging or asserting noncompliance with any applicable Law.

(c) Section 7.18(c) of the RMT Partner Disclosure Letter identifies each product recall (whether voluntary or compulsory) and the circumstances surrounding each recall, involving any products manufactured, sold, leased, licensed or delivered by the RMT Partner Business since January 1, 2021, and except as set forth on Section 7.18(c) of the RMT Partner Disclosure Letter, no RMT Partner Product is currently subject to a recall required by any Governmental Entity and RMT Partner and its Subsidiaries have no plans to initiate a voluntary product recall.

Section 7.19 Customers and Suppliers.

(a) Section 7.19(a)(i) of the RMT Partner Disclosure Letter contains lists of the top ten (10) customers of the RMT Partner Business on a consolidated basis (determined by revenue) for each of the 2022 and 2023 fiscal years, and Section 7.19(a)(ii) of the RMT Partner Disclosure Letter contains lists of the top fifteen (15) suppliers to the RMT Partner Business on a consolidated basis (determined by the cost of items or services purchased) for each of the 2022 and 2023 fiscal years.

(b) Except as set forth on Section 7.19(b) of the RMT Partner Disclosure Letter, no customer required to be listed on Section 7.19(a)(i) of the RMT Partner Disclosure Letter or supplier required to be listed on Section 7.19(a)(ii) of the RMT Partner Disclosure Letter has expressly stated its intention or, to the Knowledge of Remainco, threatened in writing to cancel or otherwise terminate or materially adversely modify its relationship with the RMT Partner Business (including with respect to volume of purchases or sales, prices, gross or contribution margins or returns). Except as set forth on Section 7.19(b) of the RMT Partner Disclosure Letter, the RMT Partner Business has not, during the past twelve (12) months, cancelled or otherwise terminated or materially and adversely modified their relationship with any customer or supplier required to be set forth on Section 7.19(a) of the RMT Partner Disclosure Letter, as applicable.

Section 7.20 Information To Be Supplied. The information supplied or to be supplied by RMT Partner or any of its Subsidiaries for inclusion in the Securities Filings will not, on the date of filing of the applicable Securities Filing or, in the case of the Distribution Registration Statement or the RMT Partner Registration Statement, at the time it becomes effective under the Securities Act or Exchange Act, as applicable, or on the dates the Proxy Statement is mailed to the shareholders of RMT Partner, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading.

Section 7.21 No Other Representations and Warranties. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, RMT PARTNER AND MERGER SUBS MAKE NO REPRESENTATIONS OR WARRANTIES TO REMAINCO, SPINCO, OR ANY OTHER PERSON IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, EXCEPT AS SPECIFICALLY SET FORTH IN ARTICLE VII. ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARE DISCLAIMED BY RMT PARTNER AND MERGER SUBS. RMT PARTNER AND MERGER SUBS ACKNOWLEDGE AND AGREE THAT NEITHER REMAINCO, SPINCO NOR ANY OTHER PERSON HAS MADE OR IS MAKING ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY TO RMT PARTNER OR ANY MERGER SUBS OTHER THAN THOSE CONTAINED IN ARTICLE V AND ARTICLE VI, AND ALL OTHER REPRESENTATIONS AND WARRANTIES ARE DISCLAIMED BY REMAINCO AND SPINCO.

ARTICLE VIII

COVENANTS

Section 8.1 Interim Operations.

(a) Interim Operations of Remainco and Spinco. During the period from the date of this Agreement until the First Effective Time, solely with respect to Spinco, the Spinco Subsidiaries and the Spinco Business (and, for the avoidance of doubt, excluding the business otherwise conducted by Remainco without the assets of the Spinco Business) and except as otherwise expressly (A) contemplated by this Agreement, the Separation and Distribution Agreement or the other Transaction Documents (including, subject to the Parties' obligations with respect thereto in the Tax Matters Agreement and other Transaction Documents, with respect to any actions taken to effect the Separation, the Initial Spin, and the Spinco Distribution), (B) required by applicable Law, (C) approved in writing (which approval shall not be unreasonably withheld, conditioned or delayed) by RMT Partner, or (D) set forth on Section 8.1(a) of the Spinco Disclosure Letter, Remainco covenants and agrees as to itself and the Spinco Entities that Remainco shall use its commercially reasonable efforts to conduct the Spinco Business in the Ordinary Course and, to the extent consistent therewith, (x) preserve the Spinco Business' business organizations intact and maintain existing relations and goodwill with Governmental Entities, customers, suppliers, licensors, licensees, distributors, creditors, lessors, employees and business associates and others having material business dealings with them, and (y) keep available the services of Spinco Employees and agents of the Spinco Business. In furtherance of the foregoing, Remainco covenants and agrees as to itself and the Spinco Entities that Remainco shall not, and shall cause its Subsidiaries not to:

(i) (A) amend the certificate of incorporation or bylaws of any Spinco Entity (other than an amendment to the certificate of incorporation of Spinco to increase the number of authorized or outstanding shares of Spinco Common Stock in connection with the Initial Spin and the Spinco Distribution and any other immaterial amendments to any such documents that do not impact in any respect the economic benefits of the Merger of the other Transactions to RMT Partner's shareholders), or (B) split, combine, subdivide or reclassify the outstanding shares of capital stock, voting securities or other equity interests of any Spinco Entity;

(ii) merge or consolidate with any other Person, or restructure, reorganize or completely or partially liquidate (other than mergers among, or the restructuring, reorganization or liquidation of, any wholly owned Spinco Entities of Remainco that would not prevent, materially delay or materially impair the Transactions);

(iii) knowingly take or omit to take any action if such action or failure to act would be reasonably likely to prevent or impede the Merger or the other Transactions from qualifying for the Intended Tax Treatment;

(iv) issue, deliver, sell, grant, transfer, or encumber, or authorize the issuance, delivery, sale, grant, transfer or encumbrance of, any shares of capital stock of any of the Spinco Entities or any securities convertible or exchangeable into or exercisable for, or any options, warrants or other rights to acquire, any such shares, except by a wholly owned Spinco Entity to Remainco or to any other wholly owned Spinco Entity;

(v) solely with respect to each Spinco Entity, incur any Indebtedness, except (A) the Financing, (B) in replacement of existing Indebtedness which has matured or is scheduled to mature, in each case after the date of this Agreement, on then prevailing market terms or on terms substantially consistent with or more beneficial to the Spinco Business, taken as a whole, than the Indebtedness being replaced, (C) inter-company Indebtedness among the Spinco Entities, (D) commercial paper issued in the Ordinary Course, (E) (1) to the extent not drawn upon and payments are not triggered thereby, letters of credit, bank guarantees, security or performance bonds or similar credit support instruments, and (2) overdraft facilities or cash management programs, in each case issued, made or entered into in the Ordinary Course, (F) hedging in compliance with the hedging strategy of the Spinco Business as of the date of this Agreement in the Ordinary Course and not for speculative purposes, provided that the Spinco Entities shall not be permitted to hedge any risks associated with the Financing without the prior written consent of the RMT Partner, (G) in connection with the Separation in accordance with the Separation and Distribution Agreement, and (H) in connection with one or more offers to exchange indebtedness registered under the Securities Act for substantially similar indebtedness issued pursuant to an exemption from registration under the Securities Act; provided, however, that notwithstanding the foregoing, upon the consummation of the Merger there shall be no borrowing or other amount outstanding under any senior secured revolving credit facility of the Spinco Entities under the Financing or otherwise without the prior written consent of RMT Partner;

(vi) adopt, amend, or extend (beyond the Closing Date) any Benefit Plan (or any plan that would be a Benefit Plan if adopted) in any respect that would materially increase the costs to any Spinco Entity;

(vii) other than in the Ordinary Course and in connection with the expiration of an existing Collective Bargaining Agreement or as required by applicable Law, enter into, renew or amend any Collective Bargaining Agreement, or recognize any labor union or other labor organization as the collective bargaining representative of any Spinco Employee, except as may be required under any Benefit Plan of the Spinco Entities;

(viii) (A) grant to any Spinco Employee whose total annual cash compensation exceeds or is expected to exceed two hundred fifty thousand dollars (\$250,000) any increase in compensation or benefits, except for any increase pursuant to any Benefit Plan, any increase in base compensation in connection with annual reviews in the Ordinary Course consistent with past practice or, to the extent not paid prior to the date hereof, any payments of incentive compensation for performance during the 2023 calendar year pursuant to a Benefit Plan, in amounts determined by each Spinco Entity in accordance with any such Benefit Plan, (B) grant any retention, change of control, severance, pension or other compensation or benefits in respect of, or accelerate the vesting or payment of any compensation or benefit for, any Service Provider, (C) enter into, adopt, amend, terminate or materially increase the coverage or benefits available under any health insurance Benefit Plan (or other compensation or benefit plan, program, agreement or arrangement that would be a health insurance Benefit Plan if in effect on the date of this Agreement), or (D) hire or promote any Person, or terminate the employment or service of any Spinco Employee, other than for "cause";

(ix) increase the funding obligation or contribution rate of any Benefit Plan of the Spinco Entities other than in the Ordinary Course or as required by applicable Law or the terms of any Benefit Plan;

(x) (A) permit, allow or suffer any of the assets of any Spinco Entity to become subjected to any Lien (other than Permitted Encumbrances) of any nature, or (B) cancel any Indebtedness owed to any Spinco Entity that is material, individually or in the aggregate, to the Spinco Entities, taken as a whole, or waive any claims or rights of substantial value;

(xi) (A) (1) make, revoke or change any material Tax election with respect to the Spinco Entities, (2) fail to timely file any material Tax Return required to be filed (after taking into account any extensions) by the applicable Spinco Entity, (3) prepare any material Tax Return on a basis inconsistent with past practice, (4) fail to timely pay any material Tax that is due and payable by the applicable entity, (5) settle or compromise any material audit or administrative or judicial proceeding, (6) file any material amended Tax Return, (7) surrender any claim for a refund of a material amount of Taxes, (8) consent to any extension or waiver of any limitation period with respect to any material claim or assessment for Taxes, or (9) enter into any "closing agreement" within the meaning of Section 7121 of the Code (or any similar provision of state, local, or non-U.S. Law) with respect to a material amount of Taxes, (B) make any change in accounting methods with respect to the Spinco Entities, other than as required by (1) accepted accounting principles, as in effect from time to time consistently applied (or any interpretation thereof), including pursuant to standards, guidelines and interpretations of the Financial Accounting Standards Board or any similar organization, (2) the SEC, or (3) the Public Company Accounting Oversight Board, or (C) adopt or change any Tax accounting principle, method, period or practice with respect to the Spinco Entities;

(xii) sell, lease, license or otherwise dispose of any assets, except inventory sold in the Ordinary Course;

(xiii) settle or compromise any investigation, audit, litigation, claim or action against any Spinco Entity, other than settlements or compromises of litigation where the amount paid does not exceed one million dollars (\$1,000,000) individually (or five million dollars (\$5,000,000) in the aggregate) and such settlement or compromise does not impose any restrictions on the business or operations of any Spinco Entity or the Spinco Business (other than customary confidentiality restrictions);

(xiv) make or commit to (A) any individual capital expenditure, capital addition or capital improvement (or series of related capital expenditures, capital additions or capital improvements) in excess of ten million dollars (\$10,000,000), or (B) capital expenditures, capital additions and capital improvements in excess of one hundred million dollars (\$100,000,000) in the aggregate;

(xv) solely with respect to each Spinco Entity, acquire by merging or consolidating with, or by purchasing a substantial portion of the assets of, or by any other manner, any business or any corporation, partnership, association or other business organization or division thereof or otherwise acquire any assets, other than purchases of supplies in the Ordinary Course;

(xvi) (A) enter into, cancel, modify, terminate, or waive any material right, claim or benefit under, any Spinco Material Contract other than in the Ordinary Course, or (B) enter into any Contract with respect to Spinco and its Subsidiaries that would have been a Spinco Material Contract had it been entered into prior to the date hereof, other than any such Contract entered into (x) in the Ordinary Course and (y) that is not materially adverse to the business of Spinco and its Subsidiaries, taken as a whole;

(xvii) sell, license, sublicense, abandon or permit to lapse, transfer or dispose of, create or incur any Lien (other than any Permitted Encumbrance) on, or otherwise fail to take any action necessary to maintain, enforce or protect any material item of registered Spinco Intellectual Property;

(xviii) make any loan, advance or capital contribution to or investment in any Person (other than any Spinco Entity);

(xix) terminate, modify or reduce the coverage under any insurance covering the Spinco Business or fail to timely and promptly make a claim under any insurance covering the Spinco Business;

(xx) (A) make any change in the accounting principles, methods, practices or policies of the Spinco Entities, unless such change was required by applicable Law or GAAP, or (B) change in any material respect cash management practices or policies (including the timing of collection of receivables and payment of payables and other current liabilities); or

(xxi) agree, authorize or commit to do any of the foregoing.

(b) Interim Operations of RMT Partner. During the period from the date of this Agreement until the First Effective Time, except as otherwise expressly (A) contemplated by this Agreement, the Separation and Distribution Agreement or the other Transaction Documents (including, subject to the Parties' obligations with respect thereto in the Tax Matters Agreement and other Transaction Documents, with respect to any actions taken to effect the Separation, the Initial Spin, and the Spinco Distribution), (B) required by applicable Law, (C) approved in writing (which approval shall not be unreasonably withheld, conditioned or delayed) by Remainco, or (D) set forth on Section 8.1(b) of the RMT Partner Disclosure Letter, RMT Partner covenants and agrees as to itself and its Subsidiaries that RMT Partner shall use its commercially reasonable efforts to conduct the business of it and its Subsidiaries in the Ordinary Course and, to the extent consistent therewith, (x) preserve its and its Subsidiaries' business organizations intact and maintain existing relations and goodwill with Governmental Entities, customers, suppliers, licensors, licensees, distributors, creditors, lessors, employees and business associates and others having material business dealings with them, and (y) keep available the services of it and its Subsidiaries' present employees and agents. In furtherance of the foregoing, RMT Partner covenants and agrees as to itself and its Subsidiaries that RMT Partner shall not and shall cause its Subsidiaries not to:

(i) (A) amend its articles of incorporation or bylaws (or comparable governing documents) (other than any immaterial amendments to any such documents that do not impact in any respect the economic benefits of the Merger of the other Transactions to Remainco and Remainco's stockholders), (B) split, combine, subdivide or reclassify its outstanding shares of capital stock, voting securities or other equity interests (except for any such transaction by a wholly owned Subsidiary of RMT Partner which remains a wholly owned Subsidiary after consummation of such transaction), (C) declare, set aside or pay any dividend or distribution payable in cash, stock or property (or any combination thereof) in respect of any shares of its capital stock, voting securities or other equity interests (except for any dividends or distributions paid by a direct or indirect wholly owned Subsidiary of RMT Partner to another direct or indirect wholly owned Subsidiary of RMT Partner or to RMT Partner), (D) enter into any agreement with respect to the voting of its capital stock, voting securities or other equity interests, or (E) purchase, repurchase, redeem or otherwise acquire any shares of its capital stock, voting securities or other equity interests or any securities or obligations convertible or exchangeable into or exercisable for any shares of its capital stock, voting securities or other equity interests;

(ii) merge or consolidate with any other Person, or restructure, reorganize or completely or partially liquidate (other than mergers among, or the restructuring, reorganization or liquidation of, any wholly owned Subsidiaries of RMT Partner that would not prevent, materially delay or materially impair the Transactions);

(iii) knowingly take or omit to take any action if such action or failure to act would be reasonably likely to prevent or impede the Merger or the other Transactions from qualifying for the Intended Tax Treatment;

(iv) issue, deliver, sell, grant, transfer or encumber, or authorize the issuance, delivery, sale, grant, transfer or encumbrance of, any shares of its capital stock or any securities convertible or exchangeable into or exercisable for, or any options, warrants or other rights to acquire, any such shares, except (A) for any shares of capital stock of RMT Partner issued pursuant to awards of stock options, stock appreciation rights and restricted stock units outstanding on the date of this Agreement in accordance with the existing terms of such awards and the RMT Partner Stock Plans, or (B) by wholly owned Subsidiaries to RMT Partner or to any other wholly owned Subsidiary of RMT Partner;

(v) incur any Indebtedness, except (A) in replacement of existing Indebtedness which has matured or is scheduled to mature, in each case after the date of this Agreement, on then prevailing market terms or on terms substantially consistent with or more beneficial to the RMT Partner Business, taken as a whole, than the Indebtedness being replaced, (B) inter-company Indebtedness among RMT Partner and its Subsidiaries, (C) commercial paper issued in the Ordinary Course, (D) (1) to the extent not drawn upon and payments are not triggered thereby, letters of credit, bank guarantees, security or performance bonds or similar credit support instruments, and (2) overdraft facilities or cash management programs, in each case issued, made or entered into in the Ordinary Course, (E) hedging in compliance with the hedging strategy of the RMT Partner Business as of the date of this Agreement in the Ordinary Course and not for speculative purposes, or (F) as permitted under the RMT Partner Credit Facilities in the Ordinary Course;

(vi) adopt, amend, or extend (beyond the Closing Date) any Benefit Plan (or any plan that would be a Benefit Plan if adopted) in any respect that would materially increase the costs to RMT Partner and its Subsidiaries;

(vii) other than in the Ordinary Course and in connection with the expiration of an existing Collective Bargaining Agreement or as required by applicable Law, enter into, renew or amend any Collective Bargaining Agreement with respect to RMT Partner and its Subsidiaries, or recognize any labor union or other labor organization as the collective bargaining representative of any RMT Partner Employee, except as may be required under any Benefit Plan of RMT Partner and its Subsidiaries;

(viii) (A) grant to any RMT Partner Employee whose total annual cash compensation exceeds or is expected to exceed two hundred fifty thousand dollars (\$250,000) any increase in compensation or benefits, except for any increase pursuant to any Benefit Plan, any increase in base compensation in connection with annual reviews in the Ordinary Course consistent with past practice or, to the extent not paid prior to the date hereof, any payments of incentive compensation for performance during the 2023 calendar year pursuant to a Benefit Plan, in amounts determined by RMT Partner in accordance with any such Benefit Plan, (B) grant any retention, change of control, severance, pension or other compensation or benefits in respect of, or accelerate the vesting or payment of any compensation or benefit for, any Service Provider, (C) enter into, adopt, amend, terminate or materially increase the coverage or benefits available under any health insurance Benefit Plan (or other compensation or benefit plan, program, agreement or arrangement that would be a health insurance Benefit Plan if in effect on the date of this Agreement), or (D) hire or promote any Person whose total annual base compensation exceeds one hundred fifty thousand dollars (\$150,000), or terminate the employment or service of any RMT Partner Employee whose total annual base compensation exceeds one hundred fifty thousand dollars (\$150,000), other than for “cause”;

(ix) increase the funding obligation or contribution rate of any Benefit Plan of RMT Partner and its Subsidiaries other than in the Ordinary Course or as required by applicable Law or the terms of any Benefit Plan;

(x) (A) permit, allow or suffer any of the assets of RMT Partner and its Subsidiaries to become subjected to any Lien (other than Permitted Encumbrances) of any nature, or (B) cancel any Indebtedness owed to RMT Partner and its Subsidiaries that is material, individually or in the aggregate, to RMT Partner and its Subsidiaries, taken as a whole, or waive any claims or rights of substantial value;

(xi) (A) (1) make, revoke or change any material Tax election with respect to RMT Partner and its Subsidiaries, (2) fail to timely file any material Tax Return required to be filed (after taking into account any extensions) by RMT Partner and its Subsidiaries, (3) prepare any material Tax Return on a basis inconsistent with past practice, (4) fail to timely pay any material Tax that is due and payable by the applicable entity, (5) settle or compromise any material audit or administrative or judicial proceeding, (6) file any material amended Tax Return, (7) surrender any claim for a refund of a material amount of Taxes, (8) consent to any extension or waiver of any limitation period with respect to any material claim or assessment for Taxes, or (9) enter into any “closing agreement” within the meaning of Section 7121 of the Code (or any similar provision of state, local, or non-U.S. Law) with respect to a material amount of Taxes, (B) make any change in accounting methods with respect to RMT Partner and its Subsidiaries, other than as required by (1) accepted accounting principles, as in effect from time to time consistently applied (or any interpretation thereof), including pursuant to standards, guidelines and interpretations of the Financial Accounting Standards Board or any similar organization, (2) the SEC or (3) the Public Company Accounting Oversight Board, or (C) adopt or change any Tax accounting principle, method, period or practice with respect to RMT Partner and its Subsidiaries;

(xii) sell, lease, license or otherwise dispose of any assets, other than sales of assets to third parties with a fair market value that does not exceed \$250,000 individually or \$5,000,000 in the aggregate;

(xiii) settle or compromise any investigation, audit, litigation, claim or action against RMT Partner and its Subsidiaries, other than settlements or compromises of litigation where the amount paid does not exceed three hundred thousand dollars (\$300,000) individually (or one million five hundred thousand dollars (\$1,500,000) in the aggregate) and such settlement or compromise does not impose any restrictions on the business or operations of RMT Partner and its Subsidiaries or the RMT Partner Business (other than customary confidentiality restrictions);

(xiv) make or commit to (A) any individual capital expenditure, capital addition or capital improvement (or series of related capital expenditures, capital additions or capital improvements) in excess of five million dollars (\$5,000,000), or (B) capital expenditures, capital additions and capital improvements in excess of forty million dollars (\$40,000,000) in the aggregate;

(xv) acquire by merging or consolidating with, or by purchasing a substantial portion of the assets of, or by any other manner, any business or any corporation, partnership, association or other business organization or division thereof or otherwise acquire any assets, other than purchases of supplies in the Ordinary Course;

(xvi) (A) enter into, cancel, modify, terminate, or waive any material right, claim or benefit under, any RMT Partner Material Contract other than in the Ordinary Course, or (B) enter into any Contract with respect to RMT Partner and its Subsidiaries that would have been a RMT Partner Material Contract had it been entered into prior to the date hereof, other than any such Contract entered into (x) in the Ordinary Course and (y) that is not materially adverse to the business of RMT Partner and its Subsidiaries, taken as a whole;

(xvii) sell, license, sublicense, abandon or permit to lapse, transfer or dispose of, create or incur any Lien (other than any Permitted Encumbrance) on, or otherwise fail to take any action necessary to maintain, enforce or protect any material item of registered RMT Partner Intellectual Property;

(xviii) make any loan, advance or capital contribution to or investment in any Person (other than any Subsidiary of RMT Partner);

(xix) terminate, modify or reduce the coverage under any material insurance covering the RMT Partner Business or fail to timely and promptly make a claim under any material insurance covering the RMT Partner Business;

(xx) (A) make any change in the accounting principles, methods, practices or policies of RMT Partner and its Subsidiaries, unless such change was required by applicable Law or GAAP, or (B) change in any material respect cash management practices or policies (including the timing of collection of receivables and payment of payables and other current liabilities); or

(xxi) agree, authorize or commit to do any of the foregoing.

(c) Nothing contained in this Agreement shall give Remainco or RMT Partner, directly or indirectly, the right to control or direct the other Party's operations prior to the First Effective Time. Prior to the First Effective Time, each Party will exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over its and its Subsidiaries' respective operations.

Section 8.2 Spinco Acquisition Proposals.

(a) No Solicitation. Except as expressly permitted by this Section 8.2, from and after the date hereof, Remainco shall not, and none of its Subsidiaries nor any of the directors, officers or employees of it or its Subsidiaries shall, and shall instruct and use its commercially reasonable efforts to cause its and its Subsidiaries' Representatives not to, directly or indirectly:

(i) initiate, solicit, propose or knowingly encourage or facilitate the making of any proposal or offer that constitutes, or would reasonably be expected to lead to, a Spinco Acquisition Proposal;

(ii) engage in, continue or otherwise participate in any discussions with or negotiations relating to any Spinco Acquisition Proposal or any proposal or offer that would reasonably be expected to lead to a Spinco Acquisition Proposal;

(iii) provide any information to any Person in connection with any Spinco Acquisition Proposal or any proposal or offer that would reasonably be expected to lead to a Spinco Acquisition Proposal;

(iv) otherwise knowingly facilitate any effort or attempt to make a Spinco Acquisition Proposal; or

(v) except as expressly permitted by, and after compliance with, Section 8.2(d)(ii) and termination pursuant to Section 10.3(a), enter into a Spinco Alternative Acquisition Agreement.

(b) Exceptions. Notwithstanding anything in this Section 8.2 to the contrary, if the Threshold Event occurs, then during the period beginning on the date the Threshold Event occurs and ending on the date the RMT Partner Shareholder Approval is obtained, in response to an unsolicited, *bona fide* written Spinco Acquisition Proposal that did not arise from or in connection with a breach of the obligations set forth in this Section 8.2, Remainco may:

(i) provide information in response to a request therefor (including non-public information regarding Remainco and its Subsidiaries (including the Spinco Entities)) to the Person who made such Spinco Acquisition Proposal, provided that such information has previously been made available to, or is made available to, RMT Partner prior to or concurrently with the time such information is made available to such Person and that, prior to furnishing any such information, Remainco receives from the Person making such Spinco Acquisition Proposal an executed confidentiality agreement with terms that are not materially less restrictive to the other party than the terms in the Confidentiality Agreement are on RMT Partner (it being understood that such confidentiality agreement need not prohibit the making or amending of a Spinco Acquisition Proposal to the extent such Spinco Acquisition Proposal is made directly to Remainco), provided, however, that if the Person making such Spinco Acquisition Proposal is a competitor of the Spinco Business, Remainco shall not provide any commercially sensitive non-public information to such Person in connection with any actions permitted by this Section 8.2(b) other than in accordance with customary "clean room" or other similar procedures designed to limit the disclosure of competitively sensitive information; and

- (ii) participate in any discussions or negotiations with any such Person regarding such Spinco Acquisition Proposal;

in each case, if, and only if, prior to taking any action described in clause (i) or (ii) above, the Remainco Board determines in good faith after consultation with Remainco's financial advisor that based on the information then available such Spinco Acquisition Proposal either constitutes a Spinco Superior Proposal or would reasonably be expected to result in a Spinco Superior Proposal.

(c) Notice of Spinco Acquisition Proposals. Remainco shall promptly (and, in any event, within 48 hours) give notice to RMT Partner if (i) any proposals or offers with respect to a Spinco Acquisition Proposal are received by, (ii) any information is requested in connection with any Spinco Acquisition Proposal from, or (iii) any discussions or negotiations with respect to a Spinco Acquisition Proposal are sought to be initiated or continued with, it or any of its Representatives, setting forth in such notice the name of such Person and the material terms and conditions of any proposals or offers (including, if applicable, complete copies of any written requests, proposals or offers, including proposed agreements) and thereafter shall keep RMT Partner informed, on a reasonably current basis (and, in any event, within 48 hours), of the status and terms of any such proposals or offers (including any material amendments thereto).

- (d) No Spinco Alternative Acquisition Agreement.

(i) Except as permitted by Section 8.2(d)(ii), Remainco agrees it shall not enter into, or publicly propose to enter into, any letter of intent, memorandum of understanding, agreement in principle, acquisition agreement, merger agreement, option agreement, joint venture agreement, partnership agreement or other agreement (other than a confidentiality agreement referred to in Section 8.2(b)(i)) entered into in compliance with Section 8.2(b)(i) relating to any Spinco Acquisition Proposal (a "Spinco Alternative Acquisition Agreement").

(ii) Notwithstanding anything in this Agreement to the contrary, if the Threshold Event occurs, then during the period beginning on the date the Threshold Event occurs and ending on the date on which the RMT Partner Shareholder Approval is obtained, Remainco may enter into a Spinco Alternative Acquisition Agreement if an unsolicited, *bona fide* written Spinco Acquisition Proposal that did not arise from or in connection with a breach of the obligations set forth in Section 8.2(a) is received by Remainco and Remainco's board of directors determines in good faith, after consultation with Remainco's financial advisor, that such Spinco Acquisition Proposal constitutes a Spinco Superior Proposal; provided, however, Remainco may not enter into a Spinco Alternative Acquisition Agreement or action to terminate this Agreement pursuant to Section 10.3(a) unless and until Remainco has given RMT Partner written notice of such action and the basis thereof five (5) Business Days in advance, which notice shall set forth in writing that Remainco intends to consider whether to take such action, and comply in form, substance and delivery with the provisions of Section 8.2(c). After giving such notice and prior to taking such action to terminate the Agreement pursuant to Section 10.3(a), Remainco shall, and shall cause its employees, financial advisor and outside legal counsel to, negotiate in good faith with RMT Partner (to the extent RMT Partner wishes to negotiate) to make such revisions to the terms of this Agreement as would not permit Remainco to take such action to terminate this Agreement pursuant to Section 10.3(a) in response thereto. At the end of the five (5)-Business Day period, prior to taking action to terminate this Agreement pursuant to Section 10.3(a), the Remainco Board shall take into account any changes to the terms of this Agreement proposed by RMT Partner in writing and any other information offered by RMT Partner in response to the notice, and shall have determined in good faith after consultation with its financial advisor that the Spinco Superior Proposal would continue to constitute a Spinco Superior Proposal. Any material amendment to any Spinco Acquisition Proposal will be deemed to be a new Spinco Acquisition Proposal for purposes of Section 8.2(c) and this Section 8.2(d)(ii), except that the advance written notice obligation set forth in this Section 8.2(d)(ii) shall be reduced to three (3) Business Days.

(e) Existing Discussions. Remainco shall, and shall cause its Subsidiaries and Representatives to, immediately cease and cause to be terminated any existing activities, discussions or negotiations with any Person conducted heretofore with respect to any Spinco Acquisition Proposal or proposal that would reasonably be expected to lead to a Spinco Acquisition Proposal. Remainco shall promptly deliver a written notice to each such Person providing only that Remainco is ending all discussions and negotiations with such Person with respect to any Spinco Acquisition Proposal or proposal or transaction that would reasonably be expected to lead to a Spinco Acquisition Proposal, and informing such Persons of the obligations undertaken in this Section 8.2 and in the Confidentiality Agreement, which notice shall, to the extent such Person has executed a confidentiality agreement in connection with its consideration of a Spinco Acquisition Proposal, also request the prompt return or destruction of all confidential information concerning the Spinco Business and any Spinco Entities heretofore furnished to such Person by or on behalf of Remainco or any of its Subsidiaries, as applicable. Remainco will promptly terminate all physical and electronic data access previously granted to such Persons.

Section 8.3 RMT Partner Acquisition Proposals; Change of Recommendation.

(a) No Solicitation. Except as expressly permitted by this Section 8.3, RMT Partner shall not, and none of its Subsidiaries nor any of the directors, officers or employees of it or its Subsidiaries shall, and shall instruct and use its commercially reasonable efforts to cause its and its Subsidiaries' Representatives not to, directly or indirectly:

(i) initiate, solicit, propose or knowingly encourage or facilitate the making of any proposal or offer that constitutes, or would reasonably be expected to lead to, an RMT Partner Acquisition Proposal;

(ii) engage in, continue or otherwise participate in any discussions with or negotiations relating to any RMT Partner Acquisition Proposal or any proposal or offer that would reasonably be expected to lead to an RMT Partner Acquisition Proposal;

(iii) provide any information to any Person in connection with any RMT Partner Acquisition Proposal or any proposal or offer that would reasonably be expected to lead to an RMT Partner Acquisition Proposal;

(iv) otherwise knowingly facilitate any effort or attempt to make an RMT Partner Acquisition Proposal; or

(v) except as expressly permitted by, and after compliance with, Section 8.3(d)(ii) and termination pursuant to Section 10.4(a), cause or permit RMT Partner to enter into an RMT Partner Alternative Acquisition Agreement.

(b) Exceptions. Notwithstanding anything in this Section 8.3 to the contrary, prior to the time, but not after, the RMT Partner Shareholder Approval is obtained, in response to an unsolicited, *bona fide* written RMT Partner Acquisition Proposal that did not arise from or in connection with a breach of the obligations set forth in this Section 8.3, RMT Partner may:

(i) provide information in response to a request therefor (including non-public information regarding RMT Partner or any of its Subsidiaries) to the Person who made such RMT Partner Acquisition Proposal, provided that such information has previously been made available to, or is made available to, Remainco prior to or concurrently with the time such information is made available to such Person and that, prior to furnishing any such information, RMT Partner receives from the Person making such RMT Partner Acquisition Proposal an executed confidentiality agreement with terms that are not materially less restrictive to the other party than the terms in the Confidentiality Agreement are on Remainco (it being understood that such confidentiality agreement need not prohibit the making or amending of an RMT Partner Acquisition Proposal to the extent such RMT Partner Acquisition Proposal is made directly to RMT Partner); provided, however, that if the Person making such RMT Partner Acquisition Proposal is a competitor of RMT Partner, RMT Partner shall not provide any commercially sensitive non-public information to such Person in connection with any actions permitted by this Section 8.3(b) other than in accordance with customary “clean room” or other similar procedures designed to limit the disclosure of competitively sensitive information; and

(ii) participate in any discussions or negotiations with any such Person regarding such RMT Partner Acquisition Proposal; in each case, if, and only if, prior to taking any action described in clause (i) or (ii) above, the RMT Partner Board determines in good faith after consultation with RMT Partner’s outside legal counsel that (A) based on the information then available and after consultation with RMT Partner’s financial advisor that such RMT Partner Acquisition Proposal either constitutes a RMT Partner Superior Proposal or would reasonably be expected to result in a RMT Partner Superior Proposal, and (B) failure to take such action would be inconsistent with the directors’ fiduciary duties under applicable Law.

(c) Notice of RMT Partner Acquisition Proposals. RMT Partner shall promptly (and, in any event, within 48 hours) give notice to Remainco if (i) any proposals or offers with respect to an RMT Partner Acquisition Proposal are received by, (ii) any information is requested in connection with any RMT Partner Acquisition Proposal from, or (iii) any discussions or negotiations with respect to an RMT Partner Acquisition Proposal are sought to be initiated or continued with, it or any of its Representatives, setting forth in such notice the name of such Person and the material terms and conditions of any proposals or offers (including, if applicable, complete copies of any written requests, proposals or offers, including proposed agreements) and thereafter shall keep Remainco informed, on a reasonably current basis (and, in any event, within 48 hours), of the status and terms of any such proposals or offers (including any material amendments thereto).

(d) No RMT Partner Change of Recommendation.

(i) Except as permitted by Section 8.3(d)(ii) and Section 8.3(e), the RMT Partner Board, including any committee thereof, agrees it shall not:

(A) withhold, withdraw, qualify or modify (or publicly propose or resolve to withhold, withdraw, qualify or modify) the RMT Partner Recommendation in a manner adverse to Remainco;

(B) fail to include the RMT Partner Recommendation in the Proxy Statement;

(C) fail to recommend, within ten (10) Business Days after the commencement of such RMT Partner Acquisition Proposal through a tender or exchange offer pursuant to Rule 14d-2 under the Exchange Act for outstanding shares of capital stock of RMT Partner (other than by Remainco or an Affiliate of Remainco), against acceptance of such tender offer or exchange offer by its shareholders; or

(D) approve or recommend, or publicly declare advisable or publicly propose to enter into, any letter of intent, memorandum of understanding, agreement in principle, acquisition agreement, merger agreement, option agreement, joint venture agreement, partnership agreement or other agreement (other than a confidentiality agreement referred to in Section 8.3(b)(i)) entered into in compliance with Section 8.3(b)(i)) relating to any RMT Partner Acquisition Proposal (an "RMT Partner Alternative Acquisition Agreement," and any of the actions set forth in the foregoing clauses (A), (B), (C) and (D), a "RMT Partner Change of Recommendation").

(ii) Notwithstanding anything in this Agreement to the contrary, prior to the time the RMT Partner Shareholder Approval is obtained, the RMT Partner Board may effect a RMT Partner Change of Recommendation if (A)(1) an unsolicited, *bona fide* written RMT Partner Acquisition Proposal that did not arise from or in connection with a breach of the obligations set forth in Section 8.3(a) is received by RMT Partner and the RMT Partner Board determines in good faith, after consultation with RMT Partner's outside legal counsel and financial advisor, that such RMT Partner Acquisition Proposal constitutes a RMT Partner Superior Proposal, or (2) an Intervening Event has occurred, and (B) the RMT Partner Board determines in good faith, after consultation with RMT Partner's outside legal counsel, that failure to effect a RMT Partner Change of Recommendation in response to such RMT Partner Superior Proposal or Intervening Event, as applicable, would be inconsistent with the directors' fiduciary duties under applicable Law; provided, however, that a RMT Partner Change of Recommendation or action to terminate this Agreement pursuant to Section 10.4(a) may not be made unless and until RMT Partner has given Remainco written notice of such action and the basis thereof four (4) Business Days in advance, which notice shall set forth in writing that the RMT Partner Board intends to consider whether to take such action and (x) in the case of a RMT Partner Superior Proposal, comply in form, substance and delivery with the provisions of Section 8.3(c), and (y) in the case of an Intervening Event, include a reasonable description of such Intervening Event. After giving such notice and prior to effecting such RMT Partner Change of Recommendation or taking such action to terminate this Agreement pursuant to Section 10.4(a), RMT Partner shall, and shall cause its employees, financial advisor and outside legal counsel to, negotiate in good faith with Remainco (to the extent Remainco wishes to negotiate) to make such revisions to the terms of this Agreement as would permit the RMT Partner Board not to effect a RMT Partner Change of Recommendation or to take such action to terminate this Agreement pursuant to Section 10.4(a) in response thereto. At the end of the four (4)-Business Day period, prior to taking action to effect a RMT Partner Change of Recommendation or taking action to terminate this Agreement pursuant to Section 10.4(a), the RMT Partner Board shall take into account any changes to the terms of this Agreement proposed by Remainco in writing and any other information offered by Remainco in response to the notice, and shall have determined in good faith (I) after consultation with RMT Partner's outside legal counsel and financial advisor, that, in the case of a RMT Partner Superior Proposal, the RMT Partner Superior Proposal would continue to constitute a RMT Partner Superior Proposal, or (II) after consultation with RMT Partner's outside legal counsel, that, in the case of an Intervening Event, the failure to effect an RMT Partner Change of Recommendation in response to such Intervening Event would be inconsistent with the directors' fiduciary duties under applicable Law, in each case, if such changes offered in writing were to be given effect. Any material amendment to any RMT Partner Acquisition Proposal will be deemed to be a new RMT Partner Acquisition Proposal for purposes of Section 8.3(c) and this Section 8.3(d)(ii) except that the advance written notice obligation set forth in this Section 8.3(d)(ii) shall be reduced to two (2) Business Days.

(e) Certain Permitted Disclosure. Nothing contained in this Section 8.3 shall prohibit RMT Partner from complying with its disclosure obligations under United States federal or state Law with regard to an RMT Partner Acquisition Proposal; provided, however, that this Section 8.3(e) shall not be deemed to permit RMT Partner or the RMT Partner Board to effect a RMT Partner Change of Recommendation except in accordance with Section 8.3(d).

(f) Existing Discussions. RMT Partner shall, and shall cause its Subsidiaries and Representatives to, immediately cease and cause to be terminated any existing activities, discussions or negotiations with any Person conducted heretofore with respect to any RMT Partner Acquisition Proposal or proposal that would reasonably be expected to lead to an RMT Partner Acquisition Proposal. RMT Partner shall promptly deliver a written notice to each such Person providing only that RMT Partner is ending all discussions and negotiations with such Person with respect to any RMT Partner Acquisition Proposal or proposal or transaction that would reasonably be expected to lead to an RMT Partner Acquisition Proposal, and informing such Persons of the obligations undertaken in this Section 8.3 and in the Confidentiality Agreement, which notice shall, to the extent such Person has executed a confidentiality agreement in connection with its consideration of an RMT Partner Acquisition Proposal, also request the prompt return or destruction of all confidential information concerning RMT Partner and any of its Subsidiaries heretofore furnished to such Person by or on behalf of RMT Partner or any of its Subsidiaries, as applicable. RMT Partner will promptly terminate all physical and electronic data access previously granted to such Persons.

(g) Standstill Provisions. During the period commencing with the execution and delivery of this Agreement and continuing until the earlier to occur of the termination of this Agreement pursuant to ARTICLE X and the First Effective Time, RMT Partner shall not terminate, amend, modify or waive any provision of any confidentiality, “standstill” or similar agreement, in each case relating to a RMT Partner Acquisition Proposal or a potential RMT Partner Acquisition Proposal, to which RMT Partner or any of its Subsidiaries is a party and shall enforce, to the fullest extent permitted under applicable Law, the provisions of any such agreement, including by obtaining injunctions to prevent any breaches of such agreements and to enforce specifically the terms and provisions thereof. Notwithstanding anything in this Agreement to the contrary, RMT Partner shall be permitted to terminate, amend, modify, waive or fail to enforce any provision of any confidentiality, “standstill” or similar obligation of any Person if the RMT Partner Board determines in good faith, after consultation with its outside legal counsel, that the failure to take such action would be inconsistent with the directors’ fiduciary duties under applicable Law.

Section 8.4 Securities Filings; Information Supplied.

(a) As promptly as practicable after the date of this Agreement, (i) (A) the Parties shall jointly prepare and Spinco shall file with the SEC the Distribution Registration Statement, and (B) if the Spinco Distribution is effected in whole or in part as an exchange offer (which exchange offer shall require the consent of RMT Partner (such consent not to be unreasonably withheld, conditioned or delayed)), Remainco shall prepare and file with the SEC, when and as required, a Tender Offer Statement on Schedule TO and other filings pursuant to Rule 13e-4 of the Exchange Act, and (ii) the Parties shall jointly prepare and RMT Partner shall file with the SEC (A) a proxy statement relating to the RMT Partner Shareholder Approval and RMT Partner Shareholders Meeting (together with all supplements and amendments thereto, the “Proxy Statement”), and (B) an RMT Partner Registration Statement (in which the Proxy Statement will be included as a prospectus) (the securities filings described in clauses (i) and (ii), collectively, the “Securities Filings”).

(b) Each Party shall use its commercially reasonable efforts to have the Distribution Registration Statement and the RMT Partner Registration Statement declared effective as promptly as practicable after such filing (including by responding to comments of the SEC) and to keep the Distribution Registration Statement and the RMT Partner Registration Statement effective for as long as is necessary to consummate the Merger, the Transactions and the transactions contemplated by the other Transaction Documents. RMT Partner shall cause the Proxy Statement to be mailed to the holders of its voting capital stock as promptly as practicable following the date on which the SEC clears (whether orally or in writing) the Proxy Statement and, if required by the SEC as a condition to the mailing of the Proxy Statement, the RMT Partner Registration Statement is declared effective. Each of Remainco and RMT Partner shall also take any action required to be taken under any applicable state securities Laws in connection with, in the case of RMT Partner, the RMT Partner Share Issuance and, in the case of Remainco, the issuance and distribution of the Spinco Common Stock in the Spinco Distribution and, if applicable, the exchange of Spinco Common Stock pursuant to the Exchange Offer.

(c) The Parties shall cooperate in preparing and filing with the SEC the Securities Filings and any necessary amendments or supplements thereto. RMT Partner and Merger Subs shall furnish all information concerning RMT Partner and its Subsidiaries, and Remainco and Spinco shall furnish all information concerning Remainco, the Spinco Business and the Spinco Entities, in each case, as may be reasonably requested by the other Parties in connection with, or as required by applicable Law in order to complete, the preparation, filing and distribution of the Securities Filings and any necessary amendments or supplements thereto. Each of the Parties shall provide the other Parties (and their Representatives) with a reasonable opportunity to review and comment on the Securities Filings (or any amendment or supplement thereto) prior to the filing of any such document with the SEC. Each Party will include in the Securities Filings all comments reasonably and promptly proposed by the other Party or its legal counsel and each agrees that all information relating to RMT Partner and its Subsidiaries included in the Securities Filings shall be in form and content satisfactory to RMT Partner, acting reasonably, and all information relating to Remainco and its Subsidiaries (including the Spinco Entities) included in the Securities Filings shall be in form and content satisfactory to Remainco, acting reasonably. For the avoidance of doubt, any ordinary course communications filed pursuant to Rule 425 under the Securities Act or any other disclosures or statements with respect to the Transactions contained in any filing required under securities Laws, other than the Securities Filings, shall be subject to Section 8.12.

(d) Each Party shall, as promptly as practicable after receipt thereof, provide the other Parties copies of any written comments, and advise the other Parties of any oral comments, received from the SEC with respect to the Securities Filings and shall provide the other Parties with copies of all correspondence between it and its Affiliates, on the one hand, and the SEC, on the other hand. Each Party shall provide the other Parties with a reasonable opportunity to review and comment on the Securities Filings (and such comments shall be reasonably considered in good faith by the filing Party), or any amendment or supplement to any of the foregoing and any communications with the SEC prior to filing such with the SEC, and will promptly provide the other Parties with a copy of all such filings and communications made with the SEC. RMT Partner and Remainco, as applicable, shall advise the other promptly after receiving oral or written notice of (i) the time when the Distribution Registration Statement or RMT Partner Registration Statement has become effective or any supplement or amendment to any Securities Filing has been filed, (ii) the issuance of any stop order, and (iii) the suspension of the qualification for offering or sale in any jurisdiction of the RMT Partner Common Stock issuable in connection with the Merger or the Spinco Common Stock issuable in connection with the Spinco Distribution.

(e) If at any time prior to the First Effective Time, any information relating to any of the Parties, or any of their respective Affiliates, officers or directors, is discovered by such Party, which information should be set forth in an amendment or supplement to any of the Securities Filings so that such Securities Filing would not include any misstatement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the Party that discovers such information shall promptly notify the other Parties and, to the extent required by applicable Law, an appropriate amendment or supplement describing such information shall be filed promptly with the SEC and disseminated to the applicable stockholders.

(f) In connection with the filing of the Securities Filings and any other SEC filings requiring such information, each of Remainco and RMT Partner shall use its commercially reasonable efforts to (i) cooperate with the other to prepare financial statements (including audited, unaudited and pro forma financial statements as required by the SEC and applicable Law) that comply with the rules and regulations of the SEC to the extent required for SEC filings, including the requirements of Regulation S-X, and (ii) provide and make reasonably available upon reasonable notice the senior management employees of Remainco or RMT Partner, as the case may be, to discuss the materials prepared and delivered pursuant to this Section 8.4(f).

Section 8.5 RMT Partner Shareholders Meeting.

(a) Subject to Section 8.2, RMT Partner will take, in accordance with applicable Law and its Organizational Documents, all action necessary to convene and hold a meeting of its shareholders for the purpose of obtaining the RMT Partner Shareholder Approval (the "RMT Partner Shareholders Meeting") as promptly as practicable following the date on which the SEC advises it has no further comments on the Proxy Statement and, if required by the SEC as a condition to the mailing of the Proxy Statement, the RMT Partner Registration Statement is declared effective, and in any event within forty-five (45) days thereafter, and to cause such vote to be taken, and shall not postpone or adjourn such meeting except to the extent required by Law or, if as of the time for which the RMT Partner Shareholders Meeting is originally scheduled (as set forth in the Proxy Statement) there are insufficient shares of voting capital stock represented (either in person or by proxy) and voting to approve the RMT Partner Share Issuance and the RMT Partner Charter Amendment or to constitute a quorum necessary to conduct the business of the RMT Partner Shareholders Meeting. Subject to Section 8.3, the RMT Partner Board shall recommend that the shareholders of RMT Partner approve the RMT Partner Share Issuance and the RMT Partner Charter Amendment and shall take all lawful action to solicit such approval. Without limiting the generality of the foregoing, RMT Partner agrees that, unless this Agreement is terminated in accordance with its terms, and, to the extent required by the terms of this Agreement, RMT Partner pays to Remainco the RMT Partner Termination Fee in accordance with Section 10.5(b), its obligations to hold the RMT Partner Shareholders Meeting pursuant to this Section 8.5 shall not be affected by the making of an RMT Partner Change of Recommendation by the RMT Partner Board and its obligations pursuant to this Section 8.5 shall not be affected by the commencement of or announcement or disclosure of or communication to RMT Partner of any RMT Partner Acquisition Proposal.

(b) RMT Partner agrees (i) to provide Remainco with reasonably detailed and regular updates concerning proxy solicitation results on a timely basis (including, if requested, promptly providing daily voting reports), and (ii) to give written notice to Remainco one (1) day prior to the RMT Partner Shareholders Meeting and on the day of, but prior to the RMT Partner Shareholders Meeting, indicating whether as of such date sufficient proxies representing the RMT Partner Shareholder Approval have been obtained. Notwithstanding the foregoing, if, on a date that is two (2) Business Days prior to the date the RMT Partner Shareholders Meeting is scheduled (the "Original Date"), (A) RMT Partner has not received proxies representing the RMT Partner Shareholder Approval, whether or not a quorum is present, or (B) it is necessary to ensure that any supplement or amendment to the Proxy Statement is required to be delivered, RMT Partner shall postpone or adjourn, or make one or more successive postponements or adjournments of, the RMT Partner Shareholders Meeting as long as the date of the RMT Partner Shareholders Meeting is not postponed or adjourned more than ten (10) days in connection with any one postponement or adjournment or more than an aggregate of twenty (20) days from the Original Date in reliance on the preceding sentence.

(c) Notwithstanding anything to the contrary in this Agreement, nothing will prevent RMT Partner from postponing or adjourning the RMT Partner Shareholders Meeting (i) to allow reasonable additional time for the filing and dissemination of any supplemental or amended disclosure that the RMT Partner Board reasonably determines, after consultation with outside legal counsel, is necessary to comply with applicable Law and for such supplemental or amended disclosure to be reviewed by the RMT Partner shareholders in advance of the RMT Partner Shareholders Meeting, or (ii) if Remainco provides its prior written consent to such postponement or adjournment.

Section 8.6 Approval of Sole Stockholder of First Merger Sub. Immediately following execution of this Agreement, RMT Partner shall execute and deliver, in accordance with applicable Law and its Organizational Documents, in its capacity as sole stockholder of First Merger Sub, a written consent adopting the plan of merger contained in this Agreement.

Section 8.7 Approval of Sole Stockholder of Spinco. Immediately following execution of this Agreement, Remainco shall cause BGI to execute and deliver, in accordance with applicable Law and its Organizational Documents, in its capacity as sole stockholder of Spinco, a written consent adopting the plan of merger contained in this Agreement.

Section 8.8 Cooperation; Efforts to Consummate.

(a) Remainco and RMT Partner shall, subject to Section 8.2, Section 8.3, Section 8.8(d), and Section 8.8(e), cooperate with each other and use, and shall cause their respective Subsidiaries to use, their respective reasonable best efforts to take or cause to be taken all actions, and do or cause to be done all things, necessary, proper or advisable on each of their part under this Agreement and the other Transaction Documents and applicable Laws and Governmental Orders to consummate and make effective the Merger and the other Transactions, including preparing and filing as promptly as reasonably practicable all documentation to effect all necessary notices, reports and other filings (including by filing as promptly as reasonably practicable after the date of this Agreement the notifications, filings, reports and other information required to be filed (i) under the HSR Act, (ii) under any other applicable Antitrust Laws, and (iii) with Foreign Regulators pursuant to applicable Foreign Regulatory Laws, in each case, with respect to the Merger and the other Transactions (including the filing of the notifications, filings, reports and other information set forth on Section 9.1(d) of the Spinco Disclosure Letter)) and to obtain all consents, registrations, approvals, permits, expirations of waiting periods and authorizations necessary or advisable to be obtained from any third party and/or any Governmental Entity in order to consummate the Mergers and the other Transactions. In furtherance and not in limitation of the covenants of the parties contained in this Section 8.8 (but subject to Section 8.8(e) below), each of the Parties shall use its reasonable best efforts to resolve such objections, if any, as may be asserted by any Governmental Entity in connection with the HSR Act, any other applicable Antitrust Laws, or any Foreign Regulatory Laws with respect to the Merger and the other Transactions and to avoid the entry of, or effect the dissolution of, any decree, order, judgment, injunction, temporary restraining order or other order in any suit or proceeding, that would otherwise have the effect of preventing the consummation of the Merger and the other Transactions.

(b) Remainco and RMT Partner shall each, upon request by the other, furnish the other with all information, subject to Section 8.10, concerning itself, its Affiliates, directors, officers and shareholders and such other matters as may be reasonably necessary or advisable in connection with any statement, filing, notice or application made by or on behalf of Remainco or RMT Partner or any of their respective Affiliates to any Governmental Entity in connection with the Transactions.

(c) Remainco and RMT Partner shall promptly provide all non-privileged information and documents requested by any Governmental Entity to the extent necessary or advisable to resolve any inquiry or investigation and to obtain as promptly as practicable all permits, clearances, and approvals necessary or advisable to be obtained from such Governmental Entity in order to consummate the Merger and the other Transactions.

(d) Remainco shall determine timing and strategy and be responsible for the final content of any substantive oral or written joint communications with any applicable Governmental Entity, subject to good faith consultation with RMT Partner, and, subject to the foregoing, Remainco and RMT Partner shall jointly coordinate all activities with respect to seeking any permits, clearances or approvals of any Governmental Entity under any U.S. or non-U.S. Antitrust Laws or Foreign Regulatory Laws. Subject to Remainco's right to determine timing and strategy set forth above, Remainco and RMT Partner shall have the right to review in advance (subject to, as necessary, redactions of commercially sensitive terms or the privileged information of such party or the exchange of information on an "outside counsel only" basis) and each shall consult with the other on and consider in good faith the views of the other in connection with, all the information relating to Remainco and RMT Partner, as the case may be, and any of their respective Affiliates, that appears in any filing made with, or written materials submitted to, any Governmental Entity in connection with the Transaction. Subject to Remainco's right to determine timing and strategy set forth above, neither Remainco nor RMT Partner shall permit any of its officers or any other representatives or agents to participate in any meeting or substantive communication with any Governmental Entity in respect of any filing, investigation or other inquiry relating to the Transaction unless it consults with the other Party in advance and, to the extent permitted by such Governmental Entity, gives the other Party the opportunity to attend and participate thereat (and to the extent such other Party did not participate in any communication with a Governmental Entity promptly, and in no event later than 24 hours thereafter, provide such other Party with a reasonably detailed summary of such communication).

(e) For the purposes of this Section 8.8, “reasonable best efforts” shall include taking any and all actions necessary to obtain the consents, approvals, permits, waiting period expirations or authorizations of any Governmental Entity required to consummate the Merger and the other Transactions as promptly as reasonably practicable (including taking any and all actions to (i) defend any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement, the Merger or the other Transactions, (ii) divest, transfer, sell or otherwise dispose of or hold separate (or agree to do any of the foregoing) any of their respective businesses, assets or any portions thereof, (iii) effect any conditions, commitments or restrictions (or agree to do any of the foregoing) on or related to the conduct of their respective businesses, including with respect to the individuals designated to serve as directors on the RMT Partner Board pursuant to Section 2.8, and (iv) implement the strategies and actions determined pursuant to this Section 8.8 and Section 9.1(d)(iii) of the Spinco Disclosure Letter) provided that notwithstanding anything to the contrary set forth in this Agreement:

(i) neither Remainco nor RMT Partner, or their respective Subsidiaries (including the Spinco Entities), shall be required to, and neither of them shall, without the prior written consent of the other Party (which may or may not be granted in the sole discretion of such other Party), take or refrain from taking, or agree to take or refrain from taking, any action or actions that, individually or in the aggregate, would, or would be reasonably expected to, materially and adversely affect (A) the assets, business, results of operation or financial condition of Remainco or RMT Partner and its Subsidiaries (including Spinco and the Spinco Subsidiaries), taken as a whole, after the consummation of the Transactions, or (B) the Intended Tax Treatment of the Transactions (any such action, a “Detriment”).

(ii) Remainco and its Affiliates (other than the Spinco Entities) shall not be required to (A) divest, transfer, sell or otherwise dispose of or hold separate (or agree to do any of the foregoing) any of their respective businesses, assets or any portions thereof, or (B) effect any conditions, commitments or restrictions (or agree to do any of the foregoing) on or related to the conduct of their respective businesses, except with respect to Remainco’s right to designate directors on the RMT Partner Board pursuant to Section 2.8 (any action described in clause (A) or (B), a “Remainco Detriment”).

(iii) Subject to Remainco’s right to direct timing and strategy as set forth in Section 8.8(d) above, no Party’s good faith actions to continue to contest any objection to this Agreement, the Merger or the other Transactions in an effort to achieve a more favorable resolution of such objection shall be a breach of such Party’s obligations under this Section 8.8 unless and until it would cause or be reasonably expected to cause, the Merger and the other Transactions not to be consummated prior to the Outside Date.

(f) Each of Remainco and RMT Partner shall provide the other Party with all information requested by such Party that is reasonably necessary to identify any Regulatory Approvals required under any Antitrust Law (other than the HSR Act), or Foreign Regulatory Law applicable to the consummation of the Merger or the RMT Partner Share Issuance (“Additional Consents”). The Parties shall use reasonable best efforts to promptly, and in no event no later than forty-five (45) days after the date hereof, identify any Additional Consents. To the extent the Parties identify any Additional Consents, such Additional Consents shall be added to Section 9.1(d) of the Spinco Disclosure Letter as if the Parties had included them on Section 9.1(d) of the Spinco Disclosure Letter as of the date of this Agreement, applying for this purpose the same standards of legal and business significance as were used by the parties in agreeing on Section 9.1(d) of the Spinco Disclosure Letter as of the date of this Agreement. In the event the Parties are unable to agree whether any amendment to Section 9.1(d) of the Spinco Disclosure Letter is required by this Section 8.8(f), the determination of Remainco as to whether such amendment is required shall be final and binding on the Parties.

Section 8.9 Status; Notifications. Subject to applicable Law and as otherwise required by any Governmental Entity, Remainco and RMT Partner each shall keep the other apprised of the status of matters relating to the consummation of the Transactions. Remainco and RMT Partner each shall give prompt notice to the other of any Effect that has had or would reasonably be expected to have a Remainco Material Adverse Effect, Spinco Material Adverse Effect or an RMT Partner Material Adverse Effect, as applicable, or of any failure of any condition to the other Party's obligation to consummate the Transactions; provided that the delivery of any notice pursuant to this Section 8.9 shall not affect or be deemed to modify any representation, warranty, covenant, right, remedy or condition to any obligation of any Party or update the Spinco Disclosure Letter or RMT Partner Disclosure Letter, as applicable.

Section 8.10 Information; Access and Reports.

(a) Subject to applicable Law and the other provisions of this Section 8.10, (i) Remainco shall, and shall cause the Spinco Entities to, upon request by RMT Partner, furnish RMT Partner with all information concerning the Spinco Business, the Spinco Entities and the Spinco Entities' directors, officers and stockholders and such other matters as may be reasonably necessary or advisable in connection with furthering the Transactions, including in connection with the Securities Filings or any other statement, filing, notice or application made by or on behalf of Remainco, Spinco, RMT Partner or any of their respective Subsidiaries to any third party or any Governmental Entity in connection with the Transactions, and shall (and shall cause the Spinco Entities to), upon giving of reasonable notice by RMT Partner, afford RMT Partner's officers and other authorized Representatives reasonable access, during normal business hours following reasonable advance notice throughout the period prior to the First Effective Time, to the Spinco Entities' officers, employees, agents, contracts, books and records (including the work papers of the Spinco Entities' independent accountants upon receipt of any required consents from such accountants), as well as properties, offices and other facilities, and, during such period, Remainco shall (and shall cause the Spinco Entities to) furnish promptly to RMT Partner all information concerning its business, properties and personnel as may reasonably be requested by RMT Partner in furtherance of the Transaction or integration of the Spinco Business with RMT Partner and its Subsidiaries, and (ii) RMT Partner shall, and shall cause its Subsidiaries to, upon request by Remainco, furnish Remainco with all information concerning itself, its Subsidiaries, directors, officers and shareholders and such other matters as may be reasonably necessary or advisable in connection with the Securities Filings or any other statement, filing, notice or application made by or on behalf of Remainco, Spinco, RMT Partner or any of their respective Subsidiaries to any third party or any Governmental Entity in connection with the Transactions, and shall (and shall cause its Subsidiaries to), upon giving of reasonable notice by Remainco, afford Remainco's officers and other authorized Representatives reasonable access, during normal business hours following reasonable advance notice throughout the period prior to the First Effective Time, to its officers, employees, agents, contracts, books and records (including the work papers of RMT Partner's independent accountants upon receipt of any required consents from such accountants), as well as properties, offices and other facilities, and, during such period, RMT Partner shall (and shall cause its Subsidiaries to) furnish promptly to Remainco all information concerning its business, properties and personnel as may reasonably be requested by Remainco in furtherance of the Transaction or integration of the Spinco Business with RMT Partner and its Subsidiaries.

(b) The foregoing provisions of this Section 8.10 shall not require, and shall not be construed to require, either Remainco or RMT Partner to permit any access to any of its officers, employees, agents, contracts, books or records, or its properties, offices or other facilities, or to permit any inspection, review, sampling or audit, or to disclose or otherwise make available any information that in the reasonable judgment of Remainco or RMT Partner, as applicable, would (i) result in the disclosure of any trade secrets of any third parties or violate the terms of any confidentiality provisions in any agreement with a third party entered into prior to the date of this Agreement if the Party shall have used commercially reasonable efforts (without payment of any consideration, fees or expenses) to obtain the consent of such third party to such inspection or disclosure, (ii) result in a violation of applicable Law, including any fiduciary duty, (iii) waive the protection of any attorney-client privilege, or (iv) result in the disclosure of any personal information that would expose the Party to the risk of liability. In the event that Remainco or RMT Partner, as applicable, objects to any request submitted pursuant to and in accordance with this Section 8.10 and withholds information on the basis of the foregoing clauses (i) through (iv), Remainco or RMT Partner, as applicable, shall inform the other Party as to the general nature of what is being withheld and Remainco or RMT Partner shall use commercially reasonable efforts to make appropriate substitute arrangements to permit reasonable disclosure that does not suffer from any of the foregoing impediments, including through the use of commercially reasonable efforts to (A) obtain the required consent or waiver of any third party required to provide such information, and (B) implement appropriate and mutually agreeable measures to permit the disclosure of such information in a manner to remove the basis for the objection, including by arrangement of appropriate clean room procedures, redaction or entry into a customary joint defense agreement with respect to any information to be so provided, if the Parties determine that doing so would reasonably permit the disclosure of such information without violating applicable Law or jeopardizing such privilege. Each of Remainco or RMT Partner, as it deems advisable and necessary, may reasonably designate competitively sensitive material provided to the other as “Outside Counsel Only Material” or with similar restrictions. Such materials and the information contained therein shall be given only to the outside legal counsel of the recipient, or otherwise as the restriction indicates, and be subject to any additional confidentiality or joint defense agreement between the Parties as the parties may mutually agree. All information exchanged or made available shall be governed by the terms of the Confidentiality Agreement.

(c) To the extent that any of the information or material furnished pursuant to this Section 8.10 or otherwise in accordance with the terms of this Agreement may include material subject to the attorney-client privilege, work product doctrine or any other applicable privilege concerning pending or threatened Proceedings, the Parties understand and agree that they have a commonality of interest with respect to such matters and it is their desire, intention and mutual understanding that the sharing of such material is not intended to, and shall not, waive or diminish in any way the confidentiality of such material or its continued protection under the attorney-client privilege, work product doctrine or other applicable privilege. All such information that is entitled to protection under the attorney-client privilege, work product doctrine or other applicable privilege shall remain entitled to such protection under these privileges, this Agreement, and under the joint defense doctrine.

(d) No exchange of information or investigation by RMT Partner or its Representatives or by Remainco, Spinco or their respective Representatives shall affect or be deemed to affect, modify or waive the representations and warranties of any of the Parties set forth in this Agreement.

Section 8.11 Stock Exchange Listing. RMT Partner shall use its commercially reasonable efforts to cause, and Remainco shall reasonably cooperate with RMT Partner in connection with, (a) the shares of RMT Partner Common Stock to be issued in the Merger to be approved for listing on the NYSE, subject to official notice of issuance, prior to the Closing Date, and (b) there to be a period of “when issued” trading of RMT Partner Common Stock on the NYSE prior to the Closing (which solely for purposes of this Section 8.11, commercially reasonable efforts shall include potentially delaying the Closing for no more than five (5) Business Days if required by the NYSE or deemed advisable by RMT Partner and Remainco).

Section 8.12 Publicity. The initial press release with respect to the Transactions shall be a joint press release and thereafter Remainco and RMT Partner shall consult with each other, and provide meaningful opportunity for review and give due consideration to reasonable comment by the other Party, prior to issuing any press releases or otherwise making planned public statements with respect to the Transactions and prior to making any filings with any third party or any Governmental Entity (including any national securities exchange) with respect thereto, except (a) as may be required by applicable Law or by obligations pursuant to any listing agreement with or rules of any national securities exchange, including the NYSE, (b) any consultation that would not be reasonably practicable as a result of requirements of applicable Law, or (c) with respect to any RMT Partner Change of Recommendation made in accordance with this Agreement or Remainco's response thereto. Each of RMT Partner and Remainco may make any public statements in response to questions by the press, analysts, investors or those attending industry conferences or analyst or investor conference calls, so long as such statements are not inconsistent with previous statements made jointly by RMT Partner and Remainco.

Section 8.13 Employee Matters.

(a) Remainco, Spinco and RMT Partner shall cooperate in good faith (including by providing the other Party with reasonable opportunity to review and comment) with respect to any written broad-based notices or communications materials (including website postings) from RMT Partner or its Affiliates to the current or former employees of RMT Partner or its Affiliates or Spinco Employees or former Spinco Employees, or from Remainco, Spinco or its Affiliates to Spinco Employees or former Spinco Employees or to the current or former employees of RMT Partner or its Affiliates, with respect to the transactions contemplated by the Transaction Documents or employment, compensation or benefits matters of such employees that relate to the transactions contemplated by the Transaction Documents or the period following the Closing Date.

(b) Nothing in this Agreement shall confer upon any Person any right to continue in the employ or service of any Spinco Entity, RMT Partner or any of their respective Affiliates, or shall interfere with or restrict in any way the rights of the Spinco Entities or any of their respective Affiliates, which rights are hereby expressly reserved, to discharge or terminate the services of any Person at any time for any reason whatsoever, with or without cause, in accordance with any Collective Bargaining Agreements. Notwithstanding any provision in this Agreement to the contrary, nothing in this Section 8.13(b) shall (i) be deemed or construed to be an amendment or other modification of any Benefit Plans of Remainco, the Spinco Entities, RMT Partner or any plan, program or arrangement of Remainco, the Spinco Entities, RMT Partner or any of their respective Affiliates, or (ii) create any third-party rights in any current or former service provider or employee of Remainco, the Spinco Entities, RMT Partner or any of their respective Affiliates (or any beneficiaries or dependents thereof).

(c) Each Remainco equity award held by a Spinco Employee as of the First Effective Time shall be treated as set forth in the Employee Matters Agreement.

(d) Each of Remainco, Spinco, and RMT Partner agree that (i) the occurrence of the Merger shall be treated as a “change in control” (or term of similar import) for purposes of each Benefit Plan of RMT Partner set forth on Section 8.13(d) of the RMT Partner Disclosure Letter, and (ii) as a result of the Merger, the individuals identified on Section 8.13(d) of the RMT Disclosure Letter will be deemed to have experienced a “Good Reason” event (or term of similar import) as defined under any Benefit Plan of RMT Partner.

Section 8.14 Tax Matters.

(a) This Agreement is intended to constitute a “plan of reorganization” for purposes of Section 368 of the Code and the Parties hereby adopt it as such. From and after the date hereof and until the Merger occurs, each Party shall use its commercially reasonable efforts to ensure that the Contribution, the Spinco Distribution, the Spinco Special Cash Payment, the Initial Spin, the Spin-Off, the Exchange Offer and the Merger qualify for the Intended Tax Treatment and shall not knowingly take any action, cause or permit any action to be taken, fail to take any action or cause any action to fail to be taken, which action or failure to act would reasonably be expected to prevent or impede the Contribution, the Spinco Distribution, the Spinco Special Cash Payment, the Initial Spin, the Spin-Off, the Exchange Offer or the Merger from qualifying for the Intended Tax Treatment.

(b) Each of Remainco, Spinco, and RMT Partner will use its commercially reasonable efforts to cause Remainco to obtain the Remainco Spin Tax Opinion. In delivering the Remainco Spin Tax Opinion, Remainco Tax Counsel shall be entitled to receive and rely upon the RMT Partner Spin Tax Representation Letter, the Spinco Spin Tax Representation Letter and the Remainco Tax Representation Letters.

(c) Each of Remainco, Spinco, and RMT Partner will use its commercially reasonable efforts to cause Remainco to obtain the Remainco Merger Tax Opinion. In delivering the Remainco Merger Tax Opinion, Remainco Tax Counsel shall be entitled to receive and rely upon the Spinco Merger Tax Representation Letter, the Remainco Tax Representation Letters and the RMT Partner Merger Tax Representation Letter.

(d) Unless the Alternative Transaction Structure is adopted pursuant to Section 2.9:

(i) each of RMT Partner and Remainco shall cooperate in good faith and use its commercially reasonable efforts to take or cause to be taken any action within its control reasonably necessary to (A) agree upon and finalize the Remainco Tax Representation Letters, the Spinco Tax Representation Letters and the RMT Partner Tax Representation Letters, and (B) obtain the Private Letter Ruling and the Remainco Tax Opinions;

(ii) immediately prior to the Closing, (A) Remainco shall execute and deliver to Remainco Tax Counsel the Remainco Tax Representation Letters and Spinco shall execute and deliver to Remainco Tax Counsel the Spinco Tax Representation Letters, and (B) RMT Partner shall execute and deliver to Remainco Tax Counsel the RMT Partner Tax Representation Letters, in each case to the extent such tax representation letters have been finalized; and

(iii) As soon as possible after receipt of the Private Letter Ruling, Remainco shall provide RMT Partner with a true copy of the Private Letter Ruling. Prior to the Closing, Remainco shall provide RMT Partner with a true copy of the Remainco Tax Opinions, the Remainco Tax Representation Letters and the Spinco Tax Representation Letters.

Section 8.15 Indemnification; Directors' and Officers' Insurance.

(a) From and after the First Effective Time, RMT Partner agrees that, to the fullest extent permitted under applicable Law and the Organizational Documents of the Spinco Entities in effect as of the date of this Agreement, each of RMT Partner and the Surviving Entity shall indemnify and hold harmless each present and former (determined as of the First Effective Time) director and officer of the Spinco Entities, in each case, when acting in such capacity (collectively, the "Indemnified Parties"), against any costs or expenses (including reasonable attorneys' fees), judgments, fines, losses, claims, damages or liabilities (collectively, "Costs") incurred in connection with, arising out of or otherwise related to any Proceeding, in connection with, arising out of or otherwise related to matters existing or occurring at or prior to the First Effective Time, whether asserted or claimed prior to, at or after the First Effective Time, in each case, in connection with their roles as a director or officer, as applicable, of the Spinco Entities, including in connection with (i) the Transactions, and (ii) actions to enforce this provision or any other indemnification or advancement right of any Indemnified Party, and RMT Partner or the Surviving Entity shall also advance expenses as incurred to the fullest extent permitted to do so under applicable Law and the Organizational Documents of the applicable Spinco Entity in effect as of the date of this Agreement; provided that any Person to whom expenses are advanced provides an undertaking to repay such advances if it is ultimately determined by final adjudication that such Person is not entitled to indemnification. RMT Partner shall not be required to indemnify any Indemnified Party pursuant hereto if it shall be determined that the Indemnified Party acted in bad faith and not in a manner such Indemnified Party believed to be in or not opposed to the best interests of the Spinco Entities.

(b) Prior to the First Effective Time, the Spinco Entities shall cause the Surviving Entity as of the First Effective Time to, obtain and fully pay the premium for "tail" insurance policies for the extension of (i) the directors' and officers' liability coverage of the Spinco Entities' existing directors' and officers' insurance policies, and (ii) the Spinco Entities' existing fiduciary liability insurance policies, in each case for a claims reporting or discovery period of six (6) years from and after the First Effective Time (the "Tail Period") from one or more insurance carriers with the same or better credit rating as the Spinco Entities' insurance carrier as of the date of this Agreement with respect to directors' and officers' liability insurance and fiduciary liability insurance (collectively, "D&O Insurance") with terms, conditions, retentions and limits of liability that are at least as favorable, taken as a whole, to the insureds as the Spinco Entities' existing policies with respect to matters existing or occurring at or prior to the First Effective Time (including in connection with this Agreement or the Transactions). If the Spinco Entities and the Surviving Entity for any reason fail to obtain such "tail" insurance policies as of the First Effective Time, the Surviving Entity shall, and RMT Partner shall cause the Surviving Entity to, continue to maintain in effect for the Tail Period the D&O Insurance in place as of the date of this Agreement with terms, conditions, retentions and limits of liability that are at least as favorable, taken as a whole, to the insureds as provided in the Spinco Entities' existing policies as of the date of this Agreement, or the Surviving Entity shall, and RMT Partner shall cause the Surviving Entity to, purchase comparable D&O Insurance for the Tail Period with terms, conditions, retentions and limits of liability that are at least as favorable, taken as a whole, as provided in the Spinco Entities' existing policies as of the date of this Agreement; provided, however, that in no event shall the aggregate cost of the D&O Insurance exceed during the Tail Period an amount equal to six (6) *multiplied by* three hundred percent (300%) of the current aggregate annual premium paid by the Spinco Entities for such purpose; and provided further, that, if the cost of such insurance coverage exceeds such amount, the Surviving Entity shall obtain a policy with the greatest coverage available for a cost not exceeding such amount.

(c) Any Indemnified Party wishing to claim indemnification under this Section 8.15, upon learning of any such Proceeding, shall promptly notify RMT Partner thereof in writing, but the failure to so notify shall not relieve RMT Partner or the Surviving Entity of any liability it may have to such Indemnified Party except to the extent such failure materially prejudices the indemnifying party. In the event of any Proceeding: (i) RMT Partner or the Surviving Entity shall have the right to assume the defense thereof (it being understood that by electing to assume the defense thereof, neither RMT Partner nor the Surviving Entity will be deemed to have waived any right to object to the Indemnified Party's entitlement to indemnification hereunder with respect thereto or assumed any liability with respect thereto), except that if RMT Partner or the Surviving Entity elects not to assume such defense or legal counsel for the Indemnified Party advises that there are issues which raise conflicts of interest between RMT Partner or the Surviving Entity and the Indemnified Party, the Indemnified Party may retain legal counsel satisfactory to them, and RMT Partner or the Surviving Entity shall pay all reasonable and documented out-of-pocket fees and expenses of such legal counsel for the Indemnified Party promptly as statements therefor are received; provided, however, that RMT Partner and the Surviving Entity shall be obligated pursuant to this Section 8.15(c) to pay for only one firm of legal counsel for all Indemnified Parties in any jurisdiction unless the use of one legal counsel for such Indemnified Parties would present such legal counsel with a conflict of interest (provided that the fewest number of legal counsels necessary to avoid conflicts of interest shall be used); (ii) the Indemnified Parties shall cooperate in the defense of any such matter if RMT Partner or the Surviving Entity elects to assume such defense and RMT Partner and the Surviving Entity shall cooperate in the defense of any such matter if RMT Partner or the Surviving Entity elects not to assume such defense; (iii) the Indemnified Parties shall not be liable for any settlement effected without their prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed) if RMT Partner or the Surviving Entity elects to assume such defense and RMT Partner and the Surviving Entity shall not be liable for any settlement effected without their prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed) if RMT Partner or the Surviving Entity elects not to assume such defense; (iv) RMT Partner and the Surviving Entity shall not have any obligation hereunder to any Indemnified Party if and when a court of competent jurisdiction shall ultimately determine, and such determination shall have become final, that the indemnified action of such Indemnified Party in the manner contemplated hereby is prohibited by applicable Law; and (v) all rights to indemnification in respect of any such Proceedings shall continue until final disposition of all such Proceedings.

(d) During the Tail Period, all rights to indemnification and exculpation from liabilities for acts or omissions occurring at or prior to the First Effective Time and rights to advancement of expenses relating thereto now existing in favor of any Indemnified Party as provided in the Organizational Documents of the Spinco Entities or any indemnification agreement between such Indemnified Party and the Spinco Entities, in each case, as in effect on the date of this Agreement, shall survive the Transactions unchanged and shall not be amended, restated, repealed or otherwise modified in any manner that would adversely affect any right thereunder of any such Indemnified Party.

(e) If RMT Partner or the Surviving Entity or any of their respective successors or assigns (i) shall consolidate with or merge into any other Person and shall not be the continuing or surviving Person of such consolidation or merger, or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of RMT Partner or the Surviving Entity shall assume all of the obligations set forth in this Section 8.15.

(f) The rights of the Indemnified Parties under this Section 8.15 are in addition to any rights such Indemnified Parties may have under the Organizational Documents of the Spinco Entities, or under any applicable Contracts or Laws and nothing in this Agreement is intended to, shall be construed or shall release, waive or impair any rights to directors' and officers' insurance claims under any policy that is or has been in existence with respect to the Spinco Entities for any of their respective directors, officers or other employees (it being understood that the indemnification provided for in this Section 8.15 is not prior to or in substitution of any such claims under such policies).

(g) This Section 8.15 is intended to be for the benefit of, and from and after the First Effective Time shall be enforceable by, each of the Indemnified Parties, who shall be third-party beneficiaries of this Section 8.15.

Section 8.16 Takeover Statutes. If any Takeover Statute is or may become applicable to the Transactions, each of Remainco (including the Remainco Board) and RMT Partner (including the RMT Partner Board), respectively, shall grant such approvals and take such actions as are necessary so that the Transactions may be consummated as promptly as practicable on the terms contemplated by this Agreement and otherwise use commercially reasonable efforts to eliminate or minimize the effects of such statute or regulation on the Transactions.

Section 8.17 Section 16 Matters. RMT Partner, Remainco and Spinco, and the RMT Partner Board and the Remainco Board (or duly formed committees thereof consisting of non-employee directors (as such term is defined for the purposes of Rule 16b-3 promulgated under the Exchange Act)), shall, prior to the First Effective Time, take all such actions as may be necessary or appropriate to cause the Transactions and any other dispositions of equity securities of Remainco or Spinco (including derivative securities) or acquisitions of equity securities of RMT Partner (including derivative securities) in connection with the Transactions by any individual or entity that is subject to the reporting requirements of Section 16(a) of the Exchange Act with respect to Remainco or will become subject to such reporting requirements with respect to RMT Partner, to be exempt under Rule 16b-3 promulgated under the Exchange Act, to the extent permitted by applicable Law.

Section 8.18 Transaction Litigation.

(a) In the event that any litigation related to this Agreement or the Transactions is brought, or, to RMT Partner's Knowledge, threatened, against RMT Partner, any members of the RMT Partner Board from and following the date of this Agreement (such litigation, "RMT Partner Transaction Litigation"), RMT Partner shall promptly notify Remainco of such RMT Partner Transaction Litigation and shall keep Remainco reasonably informed with respect to the status thereof. RMT Partner shall give Remainco a reasonable opportunity to participate in the defense or settlement (at Remainco's sole expense and subject to a customary joint defense agreement) of any RMT Partner Transaction Litigation and shall consider in good faith Remainco's advice with respect to such RMT Partner Transaction Litigation; provided that RMT Partner shall in any event control such defense in its sole discretion and the disclosure of information to Remainco in connection therewith shall be subject to the provisions of Section 8.10; provided further, that RMT Partner shall not settle or agree to settle any RMT Partner Transaction Litigation without prior written consent of Remainco (which consent shall not be unreasonably withheld, conditioned or delayed).

(b) In the event that any litigation related to this Agreement or the Transactions is brought or to Remainco's Knowledge, is threatened, against Remainco or any members of the Remainco Board from and following the date of this Agreement and prior to the First Effective Time for which a Spinco Entity is liable (such litigation, "Spinco Transaction Litigation"), Remainco shall promptly notify RMT Partner of such Spinco Transaction Litigation and shall keep RMT Partner reasonably informed with respect to the status thereof. Remainco shall give RMT Partner a reasonable opportunity to participate in the defense or settlement (at RMT Partner's sole expense and subject to a customary joint defense agreement) of any Spinco Transaction Litigation and shall consider in good faith RMT Partner's advice with respect to such Spinco Transaction Litigation; provided that Remainco shall in any event control such defense in its sole discretion and the disclosure of information to RMT Partner in connection therewith shall be subject to the provisions of Section 8.10; provided further, that Remainco shall not settle or agree to settle any Spinco Transaction Litigation without prior written consent of RMT Partner (which consent shall not be unreasonably withheld, conditioned or delayed).

Section 8.19 Financing.

(a) Spinco shall use commercially reasonable efforts to (i) maintain in effect, until the earlier of the initial funding of the Spinco Financing (as defined below) and the replacement of the Spinco Financing with the Permanent Financing (as defined below), in each case, in an amount sufficient to fund (and in any event not to exceed) the Spinco Special Cash Payment, the Project Grape Commitment Letter, dated as of the date of this Agreement (including: (A) all exhibits, schedules, annexes and amendments to such agreement in effect as of the date hereof; and (B) any associated fee letters (together, as amended, restated, replaced, supplemented or otherwise modified from time to time in accordance with the terms of this Agreement and thereof, the "Spinco Commitment Letter")), from the financing sources party thereto (together with all additional lenders, agents and financing sources added to the Spinco Commitment Letter, the "Spinco Lenders"), pursuant to which, among other things, the Spinco Lenders have committed to provide Spinco with debt financing in the amount set forth therein (the debt financing contemplated by the Spinco Commitment Letter, together with any amendment, modification, supplement, restatement, substitution or waiver thereof in accordance with the terms of this Agreement being referred to as the "Spinco Financing"), (ii) negotiate definitive agreements with respect to the Spinco Financing, on substantially the terms and conditions contained in the Spinco Commitment Letter or on such other terms as are reasonably acceptable to Remainco and RMT Partner (the "Spinco Financing Agreements") and negotiate definitive agreements with respect to the Permanent Financing (as defined below) as directed by the RMT Partner in accordance with the immediately following sentence (the "Permanent Financing Agreements" and, together with the Spinco Financing Agreements, collectively, the "Financing Agreements"), (iii) materially comply with the obligations that are set forth in the Spinco Commitment Letter and the Financing Agreements that are applicable to Spinco and satisfy (or seek a waiver of) on a timely basis all conditions precedent in the Spinco Commitment Letter and the Financing Agreements that are within its control, and (iv) in the event that all conditions to funding in the Spinco Commitment Letter or the Financing Agreements are satisfied at or prior to the Spinco Distribution, consummate the Financing (as defined below) at or prior to the Spinco Distribution. Notwithstanding anything to the contrary in this Section 8.19, RMT Partner shall have the right to direct Spinco to replace all or a portion of the Spinco Financing with (A) the proceeds of consummated capital markets debt or equity (including preferred or other hybrid equity) financing, and/or (B) commitments in respect of other long term debt from the same and/or alternative bona fide third-party financing sources (any such financing, the "Permanent Financing" and, together with the Spinco Financing, the "Financing") so long as (1) all conditions precedent to effectiveness of definitive documentation for such financing have been satisfied and the conditions precedent to funding of such financing are in the aggregate, in respect of certainty of funding, substantially equivalent to (or more favorable to Spinco than) the conditions precedent set forth in the Spinco Commitment Letter, and (2) the terms thereof shall be (I) consistent with the Intended Tax Treatment of the transactions contemplated by the Transaction Documents (as determined by Remainco in good faith in consultation with RMT Partner), and (II) reasonably acceptable to Remainco and Spinco; provided that, if any Financing is proposed to be consummated prior to the date of obtaining the Private Letter Ruling, RMT Partner and Remainco shall jointly agree on when to consummate such Financing and no such Financing shall be issued or incurred prior to the satisfaction of the conditions set forth in ARTICLE IX (other than those that would be satisfied by action at the Closing and other than the condition in Section 9.3(h)) without the consent of each of RMT Partner and Remainco, which in each case shall not be unreasonably withheld, conditioned or delayed. Spinco and Remainco further agree that RMT Partner and Merger Subs may assign their respective rights and obligations hereunder (while remaining liable for their obligations hereunder) to the Financing Sources pursuant to the terms of the Financing for purposes of creating a security interest herein or otherwise assigning as collateral in respect of the Spinco Financing.

(b) In the event any funds in the amounts set forth in the Spinco Commitment Letter or the Financing Agreements, as applicable, or any portion thereof, become unavailable on the terms and conditions contemplated in the Spinco Commitment Letter or the Financing Agreements, as applicable, Spinco (in consultation in good faith with RMT Partner, and, with respect to any Alternative Financing (as defined below) that is in the form of the Permanent Financing, at the direction of RMT Partner) shall use its commercially reasonable efforts to arrange and obtain promptly any such portion from the same or alternative sources, in an amount sufficient, when added to the portion of the Financing that is available, to allow Spinco to fund the Spinco Special Cash Payment (the “Alternative Financing”; it being understood that the amount of any Alternative Financing shall not exceed the Spinco Special Cash Payment), and obtain a new financing commitment that provides for such financing; provided that, in each case, (i) the terms of the Alternative Financing must (A) be consistent with the Intended Tax Treatment of the transactions contemplated by the Transaction Documents (including Section 8.19(k) to the extent applicable) (as determined by Remainco in good faith in consultation with RMT Partner), and (B) be customary and reasonable in light of then-prevailing market terms, (ii) the terms and conditions of the Alternative Financing shall not be materially less favorable, taken as a whole, to Spinco or RMT Partner than those in the Spinco Commitment Letter as in effect on the date hereof (after giving effect to any “market flex” provisions therein), and (iii) none of Spinco or any of its Affiliates shall agree (without the consent of RMT Partner (such consent not to be unreasonably withheld, conditioned or delayed)) to any Alternative Financing that would result in the payment of fees or interest rates applicable to Spinco Financing in excess of those contemplated by the Spinco Commitment Letter. As used herein, the term “Spinco Commitment Letter” shall be deemed to include any new commitment letters entered into in accordance with this Section 8.19(b), and the term “Financing” shall be deemed to include any Alternative Financing obtained in accordance with this Section 8.19(b).

(c) Each of Spinco and RMT Partner shall give the other Party prompt written notice upon it obtaining knowledge of (i) any material breach (or threatened material breach) or default (or any event or circumstance that, with or without notice, lapse of time or both, could reasonably be expected to give rise to any material breach or default) by any party to the Spinco Commitment Letter or the Permanent Financing Agreements, as applicable, (ii) any actual or threatened withdrawal, repudiation or termination of the Financing by any of the Financing Sources, and (iii) any material dispute or disagreement between or among any of the parties to the Spinco Commitment Letter or the Permanent Financing Agreements, as applicable, that could reasonably be expected to delay or prevent or make materially less likely the funding of the Financing on the date of the Spinco Distribution; provided that in no event shall Spinco or RMT Partner be under any obligation to disclose any information pursuant to clauses (i), (ii) or (iii) that would waive the protection of attorney-client or similar privilege if Spinco or RMT Partner shall have used commercially reasonable efforts to disclose such information in a way that would not waive such privilege. Neither Spinco nor RMT Partner shall, without the prior written consent of the other Party, amend, modify, supplement, restate, substitute, replace, terminate, or agree to any waiver under the Spinco Commitment Letter or the Permanent Financing Agreements, as applicable, in a manner that (i) (A) reduces the aggregate amount of the Financing such that the aggregate funds that would be available to Spinco on the date of Spinco Distribution would not be sufficient to provide the funds required to fund the Spinco Special Cash Payment, or (B) increases the aggregate amount of the Financing such that the aggregate funds would exceed the Spinco Special Cash Payment, (ii) adds or expands on the conditions precedent to the funding of the Financing as set forth in the Spinco Commitment Letter as in effect on the date hereof or the Permanent Financing Agreements, as applicable, in a manner that could materially delay or prevent or make materially less likely the funding of the Financing on the date of Spinco Distribution, or (iii) materially adversely affects the ability of Spinco to enforce its rights against the Spinco Lenders under the Spinco Commitment Letter as in effect on the date hereof or against the Financing Sources with respect to the Permanent Financing under the Permanent Financing Agreements, as applicable; provided that notwithstanding the foregoing, Spinco may (i) implement or exercise any of the “market flex” provisions exercised by the Spinco Lenders in accordance with the Spinco Commitment Letter as of the date hereof, or (ii) amend and restate the Spinco Commitment Letter or otherwise execute joinder agreements to the Spinco Commitment Letter solely to add additional Spinco Lenders.

(d) Until the earliest of the Closing, the valid termination of this Agreement in accordance with ARTICLE X and the replacement of the Spinco Financing with Permanent Financing, each of RMT Partner and Merger Subs shall provide to Spinco and the Spinco Lenders, and shall use commercially reasonable efforts to cause RMT Partner's Subsidiaries and RMT Partner's Representatives to provide to Spinco and the Spinco Lenders, on a timely basis, such cooperation that may be reasonably requested by Spinco or the Spinco Lenders in connection with the arrangement and consummation of the Spinco Financing, including: (i) participation in, and assistance with, the marketing efforts related to the Spinco Financing, including causing its management team, with appropriate seniority and expertise, and other representatives and advisors to assist in preparation for and to participate in a reasonable number of meetings, presentations, due diligence sessions, drafting sessions and sessions with the Spinco Lenders, other prospective financing sources and rating agencies, in each case, upon reasonable notice and at mutually agreeable dates and times, provided that any such meeting or communication may be conducted virtually by videoconference or other media; (ii) delivery to Spinco and the Spinco Lenders as promptly as reasonably practicable and in any event at least four (4) Business Days before the date of the Spinco Distribution of documentation and other information reasonably requested by the Spinco Lenders with respect to applicable "know-your-customer" and anti-money laundering rules and regulations at least nine (9) Business Days before the date of the Spinco Distribution; (iii) as promptly as reasonably practicable after the date hereof, providing (A) financial statements of RMT Partner necessary for the satisfaction of the conditions set forth in paragraph (ii) of Exhibit C of the Spinco Commitment Letter (as in effect on the date hereof), (B) pro forma financial statements referred to in paragraph (iii) of Exhibit C of the Spinco Commitment Letter (as in effect on the date hereof) (with the cooperation of Remainco and Spinco and their respective Subsidiaries (including the Spinco Subsidiaries) pursuant to clause (e)(iii) (B) below), and (C) such financial and other information of RMT Partner customarily required in connection with the execution of financings of a type similar to the Spinco Financing as Spinco or the Spinco Lenders shall reasonably request and using commercially reasonable efforts to update such information from time to time as necessary to ensure such information does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements contained therein not misleading; (iv) assisting Spinco and the Spinco Lenders in the preparation of (A) syndication documents and materials, including bank information memoranda (confidential and public), lender and investor presentations and similar documents for the Spinco Financing, and (B) materials for rating agency presentations, and similar documents in connection with the Spinco Financing, and in each case, providing reasonable and customary authorization letters to the Spinco Lenders authorizing the distribution of information to prospective lenders and other financing sources; (v) requesting that its independent accountants provide, and using commercially reasonable efforts to cause them to provide, customary comfort letters (including "negative assurance" comfort), customary agreed upon procedures letters (if required) and consents for use of their reports, on customary terms and consistent with customary practice in connection with any Spinco Financing; (vi) cooperating with any customary due diligence requests by Spinco, the Financing Sources and their respective legal counsel; (vii) consulting in good faith on the terms and conditions of any Spinco Financing; (viii) providing payoff letters in form and substance reasonable acceptable to the Financing Sources and RMT Partner and executed, in each case, by the lenders or other creditors thereunder (the "Payoff Letters") and forms of lien releases (the "Lien Releases") with respect to all Closing Date Indebtedness of the Spinco Entities set forth on Section 6.11(a) of the Spinco Disclosure Letter; and (ix) using reasonable best efforts to facilitate the pledging of, and perfection of security interests in, collateral of the Spinco Entities, including, in the case of any proposed debt financing that includes an asset-based loan facility, by permitting the evaluation or appraisal of assets and the taking of all actions reasonably requested by RMT Partner necessary to (A) permit the Financing Sources and their representatives to evaluate RMT Partner and the Spinco Entities' inventory, current assets, cash management and accounting systems, policies and procedures relating thereto for the purposes of establishing collateral arrangements, including conducting customary "asset based lending" field examinations and appraisals; (B) complete a customary "borrowing base" certificate in connection with any asset-based portion of the Spinco Financing; and (C) establish bank and other accounts and blocked account agreements in connection with the foregoing.

(e) Until the earlier of the Closing and the valid termination of this Agreement in accordance with ARTICLE X, each of Remainco and Spinco and their respective Subsidiaries (including the Spinco Subsidiaries) shall provide to RMT Partner and the Financing Sources, and shall use commercially reasonable efforts to cause the Spinco Subsidiaries and Spinco's and Remainco's Representatives to provide to RMT Partner and the Financing Sources, on a timely basis, such cooperation that may be reasonably requested by RMT Partner or the Financing Sources in connection with the arrangement and consummation of the Permanent Financing, including: (i) participation in, and assistance with, the marketing efforts related to the Permanent Financing, including causing its management team, with appropriate seniority and expertise, and other representatives and advisors to assist in preparation for and to participate in a reasonable number of meetings, presentations, due diligence sessions, drafting sessions and sessions with the Financing Sources, other prospective financing sources and rating agencies, in each case, upon reasonable notice and at mutually agreeable dates and times, provided that any such meeting or communication may be conducted virtually by videoconference or other media; (ii) delivery to RMT Partner and the Financing Sources as promptly as reasonably practicable and in any event at least four (4) Business Days before the date of the Spinco Distribution of documentation and other information reasonably requested by the Financing Sources with respect to applicable "know-your-customer" and anti-money laundering rules and regulations at least nine (9) Business Days before the date of the Spinco Distribution; (iii) as promptly as reasonably practicable after the date hereof, providing (A) financial statements of the Spinco Entities necessary for the satisfaction of the conditions set forth in paragraph (ii) of Exhibit C of the Spinco Commitment Letter (as in effect on the date hereof), (B) historical financial information regarding Spinco and the Spinco Subsidiaries reasonably requested by RMT Partner or the Financing Sources to permit RMT Partner to prepare the pro forma financial statements referred to in paragraph (iii) of Exhibit C of the Spinco Commitment Letter (as in effect on the date hereof), and (C) such other financial and other information of Spinco customarily required in connection with the execution of financings of a type similar to the Permanent Financing, as RMT Partner or the Financing Sources shall reasonably request and using commercially reasonable efforts to update such information from time to time as necessary to ensure such information does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements contained therein not misleading; (iv) assisting RMT Partner and the Financing Sources in the preparation of (A) syndication documents and materials, including bank information memoranda (confidential and public), lender and investor presentations, offering memoranda, exchange offer documentation, private placement memoranda, prospectuses and similar documents for the Permanent Financing, and (B) materials for rating agency presentations, and similar documents in connection with the Permanent Financing, and in each case, providing reasonable and customary authorization letters to the Financing Sources authorizing the distribution of information to prospective lenders and other financing sources; (v) solely with respect to Spinco and the Spinco Subsidiaries, causing the taking of corporate actions reasonably necessary to permit the completion of the Permanent Financing; (vi) solely with respect to Spinco and the Spinco Subsidiaries, executing and delivering definitive financing documents, including guarantee documents (if applicable) as may be reasonably requested by RMT Partner or the Financing Sources in connection with the Permanent Financing; (vii) requesting that its independent accountants provide, and using commercially reasonable efforts to cause them to provide, customary comfort letters (including "negative assurance" comfort), customary agreed upon procedures letters (if required) and consents for use of their reports, on customary terms and consistent with customary practice in connection with any Permanent Financing; (viii) cooperating with any customary due diligence requests by RMT Partner, the Financing Sources and their respective legal counsel; and (ix) consulting in good faith on the terms and conditions of the Permanent Financing.

(f) Notwithstanding anything to the contrary in this Section 8.19, no action contemplated in this Section 8.19 shall be required if any such action shall: (i) require Remainco or any of its Subsidiaries or any of their respective Representatives to provide (or to have provided on its behalf) any certificates, legal opinions or negative assurance letters (other than, in the case of Spinco, the Spinco Subsidiaries and their respective Representatives, certificates, opinions or letters delivered at the closing of the Financing (or “pricing” of any capital markets offerings)); (ii) cause any director, officer or employee of RMT Partner, Remainco, Spinco or any of their respective Subsidiaries (including the Spinco Subsidiaries) to incur any personal liability; (iii) without limiting clause (i) above, require Remainco, Spinco or any of their Subsidiaries (including the Spinco Subsidiaries) to execute and deliver any documentation related to the Financing other than (A) documentation executed and delivered by Spinco and the Spinco Subsidiaries with respect to the Spinco Financing, (B) documentation reasonably requested by RMT Partner in connection with the Permanent Financing to be executed and delivered by Spinco and the Spinco Subsidiaries in accordance with this Section 8.19, (C) customary comfort letters and customary representation letters relating to Spinco, and (D) customary authorization letters relating to Spinco; (iv) (A) jeopardize (in RMT Partner’s reasonable determination) any attorney-client privilege of RMT Partner or any of its Subsidiaries (in which case RMT Partner and such Subsidiaries shall use commercially reasonable efforts to take such action in a manner that would not jeopardize such attorney-client privilege), or (B) jeopardize (in Remainco’s reasonable determination) any attorney-client privilege of Remainco or any of its Subsidiaries (in which case Remainco and such Subsidiaries shall use commercially reasonable efforts to take such action in a manner that would not jeopardize such attorney-client privilege); or (v) result in a material violation or breach of, or a default under any applicable Law or the organizational documents of RMT Partner, Remainco, Spinco, or any of their respective Subsidiaries.

(g) All non-public or otherwise confidential information regarding the businesses of RMT Partner and its Subsidiaries obtained by Remainco, Spinco or any of their respective Representatives pursuant to this Section 8.19 or otherwise shall be kept confidential in accordance with the terms of the Confidentiality Agreement.

(h) All non-public or otherwise confidential information regarding the Spinco Business and the business conducted by Remainco obtained by RMT Partner or its Representatives pursuant to this Section 8.19 or otherwise shall be kept confidential in accordance with the terms of the Confidentiality Agreement.

(i) Notwithstanding any other provision set forth herein or in any other agreement between Remainco and RMT Partner (or their respective Affiliates), Remainco agrees that RMT Partner may, and RMT Partner agrees that Remainco may, share information with respect to RMT Partner, Spinco and the Spinco Business, as applicable, with the Financing Sources, and that RMT Partner, Remainco and such Financing Source may share such information with other potential financing sources in connection with any marketing efforts for the Financing; provided, however, that the recipients of such information and any other information contemplated to be provided by RMT Partner, Remainco, Spinco or any of their respective Subsidiaries pursuant to this Section 8.19, agree to customary confidentiality arrangements, including “click through” confidentiality agreements and/or confidentiality provisions contained in customary bank books and offering memoranda, as applicable. Each of Remainco, Spinco and RMT Partner hereby consents to the use of all of its and its Subsidiaries’ (including the Spinco Subsidiaries’) logos in connection with the Financing, provided that such logos are used solely in a manner that is not intended to or reasonably likely to harm or disparage Remainco, Spinco, RMT Partner or their respective Subsidiaries (including the Spinco Subsidiaries) or the reputation or goodwill of Remainco, Spinco, RMT Partner or any of their respective Subsidiaries (including the Spinco Subsidiaries).

(j) Remainco shall, and shall cause its Subsidiaries to promptly upon request by RMT Partner, reimburse RMT Partner or any of its Subsidiaries for all reasonable and documented out-of-pocket costs and expenses (including reasonable and documented attorneys’ fees) incurred by RMT Partner or any of its respective Subsidiaries in connection with cooperation provided for in this Section 8.19. RMT Partner shall indemnify, defend and hold harmless Remainco, its Subsidiaries and their respective Representatives from and against any and all Costs suffered or incurred by them in connection with information provided by or behalf of RMT Partner or its Subsidiaries utilized in connection with the arrangement of the Financing, except in instances of gross negligence or willful misconduct on the part of Remainco, its Subsidiaries and their respective Representatives (as determined in a final and nonappealable judgment). Remainco shall indemnify, defend and hold harmless RMT Partner, its Subsidiaries and their respective Representatives from and against any and all Costs suffered or incurred by them in connection with any information provided by or on behalf of Remainco or its Subsidiaries utilized in connection with the arrangement of the Financing, except in instances of gross negligence or willful misconduct on the part of RMT Partner, its Subsidiaries and their respective Representatives (as determined in a final and nonappealable judgment). Any amount to be paid or reimbursed by RMT Partner or Remainco, as applicable, pursuant to this Section 8.19 shall be paid or reimbursed within thirty (30) days after presentation of an invoice or a written demand therefor and setting forth, or accompanied by, reasonable documentation or other reasonable explanation supporting such amount.

Section 8.20 Remainco Marks; Corporate Name; Domain Name.

(a) Except as set forth in this Section 8.20, Remainco and its Subsidiaries are not conveying ownership rights or granting the Spinco Entities, RMT Partner, RMT Partner’s Subsidiaries, or the Surviving Entity any right, title or license to use any of the trade names, trademarks, service marks, logos, trade dress, business/corporate names, or domain names of Remainco and its Subsidiaries consisting of the names “Berry,” “Berry Global,” “Berry Plastics,” and any variations thereof, or any trade name, trademark, service mark, logo or domain name incorporating the name “Berry,” “Berry Global,” “Berry Plastics,” or other variations thereof (collectively, the “Remainco Marks”) and, after the Closing, except as necessary to effect the provisions of Section 8.20(c), none of the Spinco Entities, RMT Partner, RMT Partner’s Subsidiaries, or the Surviving Entity shall use in any manner the Remainco Marks or any word that is confusingly similar in sound or appearance to the Remainco Marks.

(b) As promptly as commercially reasonable after the Closing, RMT Partner shall cause the Surviving Entity and each of the other Spinco Entities to change the corporate name of each Spinco Entity with the applicable Governmental Entity to a name which does not include the words “Berry,” “Berry Global,” “Berry Plastics,” or any part thereof.

(c) As promptly as commercially reasonable after the Closing, RMT Partner shall cause the Surviving Entity and each of the other Spinco Entities to take commercially reasonable actions to cause the trade names, trademarks, service marks, logos, trade dress, business/corporate names, or domain names which are owned by the Surviving Entity and each of the other Spinco Entities and affixed to or included in or with any of their assets, to be removed from such asset or changed to a name that does not include the words “Berry,” “Berry Global,” “Berry Plastics,” or other variations thereof; provided, however, that with respect to such assets, Remainco, on behalf of itself and its Subsidiaries, hereby grants the Surviving Entity and each of the other Spinco Entities a non-exclusive, royalty-free license to use the applicable Remainco Marks until (x) with regard to packaging, inventory and raw materials, the depletion of such assets of the Surviving Entity and each of the other Spinco Entities, (y) with regard to all other assets of the Surviving Entity and each of the other Spinco Entities other than inventory, raw materials and exterior signage, one hundred eighty (180) days after the Closing Date, (z) with regard to any exterior signage, three hundred sixty (360) days after the Closing Date.

Section 8.21 Transaction Documents.

(a) RMT Partner shall, or shall cause its applicable Subsidiaries to, execute and deliver to Remainco, at or prior to the Closing, each of the Transaction Documents to which it is or will be a party as of the First Effective Time. Each of Remainco and Spinco shall, or shall cause its applicable Subsidiaries to, execute and deliver, at or prior to the Closing, each of the Transaction Documents to which each is or will be a party as of the First Effective Time.

(b) During the period between the date hereof and Closing, each of the Parties shall cooperate in good faith to continue to prepare Exhibit A schedule of services to the Transition Services Agreement; it being acknowledged that any failure of the Parties to reach final agreement with regard to such Exhibit A shall not constitute a failure of any condition to Closing in Article IX herein, and at Closing, the Parties shall execute either (i) the form of Transition Services Agreement attached hereto as Exhibit D, or (ii) such other modified version of the Transition Services Agreement agreed to, and accepted by, each of the Parties.

Section 8.22 Spinco Financial Information.

(a) As promptly as practicable following the date hereof, Remainco shall engage its auditors to perform an audit of the financial statements of (i) the Spinco Business, and (ii) to the extent required by applicable Law, Spinco (before giving effect to the Separation). Remainco will provide RMT Partner with the audited consolidated financial statements of (A) the Spinco Business, and (B) to the extent required by applicable Law, Spinco (before giving effect to the Separation) (except that for Spinco, only an opening balance sheet shall be required), including the combined and consolidated balance sheets of (1) the Spinco Business, and (2) to the extent required by applicable Law, Spinco (before giving effect to the Separation) as of the Required Periods, and the combined and consolidated statements of earnings, cash flows and parent equity of (I) the Spinco Business, and (II) to the extent required by applicable Law, Spinco (before giving effect to the Separation) for the years ended of the Required Periods, together with an audit report, without qualification or exception thereto, on the financial statements from the independent accountants for the Spinco Business and Spinco (collectively, the “Audited Financial Statements”) (it being understood, however, that the Spinco Business has not been operating historically as a separate “standalone” entity and, therefore, the Audited Financial Statements will reflect certain cost and other allocations made that may not reflect what would have been incurred if the Spinco Business had been a standalone business). Remainco shall use its commercially reasonable efforts to deliver the Audited Financial Statements prepared on a GAAP basis as promptly as reasonably practicable (but in any event within one hundred twenty (120) days) after the date of this Agreement. Remainco will, as promptly as practicable, procure, at its expense, the delivery of the consents of the independent accountants required to be filed with the RMT Partner Registration Statement. RMT Partner will, as promptly as practicable, procure, at its expense, the delivery of the consents of the independent accountants required to be filed with the Distribution Registration Statement.

(b) Remainco shall, from the date hereof until the Closing Date, deliver to RMT Partner, (i) as promptly as reasonably practicable after the end of any fiscal quarter (other than any fourth fiscal quarter) ending after the date hereof copies of the unaudited combined balance sheet of the Spinco Business as of the Required Periods and the related unaudited combined statements of income, comprehensive income, equity and cash flows of the Spinco Business for the Required Periods, together with comparable financial statements for the corresponding periods of the prior fiscal year, in each case, to the extent required to be included or incorporated by reference in the Securities Filings or in connection with the Financing (collectively, the “Subsequent Unaudited Spinco Financial Statements”), which Subsequent Unaudited Spinco Financial Statements shall have been reviewed by the independent accountant for Spinco in accordance with the procedures specified by the Public Company Accounting Oversight Board (United States) in AS 4105, Reviews of Interim Financial Information, and (ii) following the delivery of the Audited Financial Statements and for periods subsequent thereto, as promptly as reasonably practicable after the end of each fiscal year, copies of (A) the audited combined balance sheet of the Spinco Business as of the end of each fiscal year of Spinco and the related audited combined statements of income, comprehensive income, equity and cash flows of the Spinco Business for such fiscal year, together with comparable financial statements for the prior fiscal year, in each case, to the extent required to be included or incorporated by reference in the Securities Filings and subject to the requirements thereof or in connection with the Financing (collectively, the “Subsequent Audited Spinco Financial Statements”), and (B) an audit report, without qualification or exception thereto, on each of the Subsequent Audited Spinco Financial Statements from the independent accountant for Spinco.

(c) In connection with the filing of the Securities Filings, as well as the Financing, Remainco shall use its commercially reasonable efforts prior to and after the Closing to (i) cooperate with RMT Partner in connection with the preparation of pro forma financial statements that comply with the rules and regulations of the SEC to the extent required for the Securities Filings, including the requirements of Regulation S-X, and for the twelve (12)-month period ending on the last day of the most recently completed four fiscal quarter period for which financial statements have been delivered pursuant to this [Section 8.22](#), and (ii) provide and make reasonably available upon reasonable notice and during regular business hours the appropriate senior management employees of Remainco to discuss the materials prepared and delivered pursuant to this [Section 8.22\(c\)](#).

Section 8.23 [Works Council Matters](#). The Parties acknowledge and agree that they will satisfy all notification and consultation obligations in all material respects with respect to the Initial Spin, the Separation and the Merger. The Parties shall reasonably cooperate with each other in connection with such notification and consultation processes, and RMT Partner shall be provided with a reasonable opportunity to review in advance any proposed communications in connection therewith, and any information to be provided related to the Transactions, including the Financing and the expected consequences of the Transactions, shall be mutually agreed to by RMT Partner and Remainco.

Section 8.24 [Employee Non-Solicitation; Non-Competition](#).

(a) For a period of two (2) years following the Closing Date, Remainco shall not, and shall procure that its Subsidiaries do not, directly or indirectly solicit for employment or hire (whether as an employee, consultant or otherwise) any employee of the Spinco Business or of RMT Partner and its Subsidiaries, in each case, as of immediately prior to the Closing; provided that this [Section 8.25\(a\)](#) shall not restrict any (i) general or public solicitations not specifically targeted at employees of the Spinco Business or the RMT Partner Business (including searches by any bona fide search firm that is not directed to solicit such employees), or (ii) solicitations, hiring or other actions with respect to any such Person (A) whose employment is terminated prior to the commencement of employment discussions between such Person and Remainco or any of its Subsidiaries, (B) who responds to general or public solicitation not specifically targeted at employees of the Spinco Business or the RMT Partner Business (including searches by any bona fide search firm that is not directed to solicit such employees), or (C) who initiates discussions regarding such employment without any solicitation by such Party in violation of this [Section 8.25\(a\)](#).

(b) For a period of two (2) years following the Closing Date, RMT Partner shall not, and shall procure that the Spinco Entities do not, directly or indirectly solicit for employment or hire (whether as an employee, consultant or otherwise) any employee of Remainco and its Subsidiaries, in each case, as of immediately prior to the Closing; provided that this [Section 8.25\(b\)](#) shall not restrict any (i) general or public solicitations not specifically targeted at employees of Remainco and its Subsidiaries (including searches by any bona fide search firm that is not directed to solicit such employees), or (ii) solicitations, hiring or other actions with respect to any such Person (A) whose employment is terminated prior to the commencement of employment discussions between such Person and RMT Partner or any Spinco Entity, (B) who responds to general or public solicitation not specifically targeted at employees of Remainco or its Subsidiaries (including searches by any bona fide search firm that is not directed to solicit such employees), or (C) who initiates discussions regarding such employment without any solicitation by such Party in violation of this [Section 8.25\(b\)](#).

(c) During the Restricted Period and in the Territory, Remainco shall not, and shall procure that its Affiliates do not, (i) enter into, conduct, engage in, operate, control, manage or otherwise participate as proprietor, owner, lender, joint venturer, principal or partner in any Person, enterprise or business that engages in or conducts (or is preparing to engage in or conduct) the Restricted Business within the Territory; provided, however, that nothing in this Section 8.24(c) will preclude Remainco or its Subsidiaries from (A) passively owning five percent (5%) or less of the voting stock, capital stock or other equity interest of any Person, even if such Person is engaged in whole or in part in the Restricted Business or (B) acquiring any business having not more than two hundred fifty million dollars (\$250,000,000), in the aggregate, of its sales (based on such business' latest annual consolidated financial statements) attributable to the Restricted Business; provided, further, however, that Remainco shall divest the entirety of any acquired Nonwoven Restricted Business within twenty-four (24) months of the date of the consummation of such acquisition.

(d) If any of the restrictions or covenants contained in this Section 8.24 is held to cover a geographic area or to be for a length of time which is not permitted by applicable Law, or in any way construed to be too broad or to any extent invalid, a court of competent jurisdiction shall construe and interpret or reform this Section 8.24 to provide for a covenant having the maximum enforceable geographic area, time period, and other provisions (not greater than those contained herein) as shall be valid and enforceable under such applicable Law.

(e) Each Party acknowledges and agrees that the provisions of this Section 8.24 are reasonable and necessary to protect the legitimate business interests of Remainco, RMT Partner, the Surviving Entity, and their Subsidiaries, as applicable, and shall be for the benefit of and enforceable by Remainco or RMT Partner and the Surviving Entity, as applicable. Each Party further acknowledges and agrees that the other Parties would not have entered into this Agreement absent the agreement of such Party to be bound by the obligations set forth in this Section 8.24. No Party shall contest that remedies at Law for any breach or threat of breach by such Party or any of its Subsidiaries of the provisions of Section 8.24 will be inadequate, and such Party agrees that the other Parties shall be entitled to seek an injunction or injunctions to prevent breaches of the provisions of this Section 8.24 and to enforce specifically such terms and provisions, in addition to any other remedy to which such other Parties may be entitled at Law or equity, as well as the reasonable attorneys' fees and costs incurred by such party in enforcing the obligations of this Section 8.24. The restrictive covenants contained in this Section 8.24 are covenants independent of any other provision of this Agreement or any other agreement between the Parties.

Section 8.25 Further Assurances. Except as otherwise expressly provided in this Agreement, the Parties shall, and shall cause their respective Affiliates to, use their respective commercially reasonable efforts to take, or cause to be taken, all appropriate action, to do, or cause to be done, and to assist and cooperate with the other Parties in doing, all things necessary, proper or advisable under this Agreement or applicable Law as may be required to carry out the provisions of this Agreement and to consummate and make effective the Merger and the other transactions contemplated hereby and by the Transaction Documents (other than with respect to the matters covered in Section 8.8, which shall be governed by the provisions of Section 8.8 and any consents required in connection with the Separation, which shall solely be governed by the Separation and Distribution Agreement). In furtherance and not in limitation of the foregoing, each Party shall use commercially reasonable efforts to obtain all consents, approvals or waivers from third parties necessary in connection with the Merger (other than with respect to the matters covered in Section 8.8, which shall be governed by the provisions of Section 8.8 and any consents required in connection with the Separation, which shall solely be governed by the Separation and Distribution Agreement); provided that no Party or any of its Affiliates shall be required to offer or pay any money or otherwise grant any accommodation (financial or otherwise) to any third party with respect to the foregoing.

ARTICLE IX

CONDITIONS

Section 9.1 Conditions to Obligation of Each Party. The respective obligation of each Party to consummate the Merger is subject to the satisfaction or waiver at or prior to the Closing of each of the following conditions:

(a) Distribution and Separation. The Initial Spin, the Spinco Distribution and the Separation shall have been consummated in accordance with the terms of the Separation and Distribution Agreement.

(b) Stockholder Approval. The RMT Partner Shareholder Approval shall have been obtained.

(c) Listing. The shares of RMT Partner Common Stock issuable to the holders of shares of Spinco Common Stock pursuant to this Agreement shall have been authorized for listing on the NYSE upon official notice of issuance.

(d) Regulatory Approvals. (i) If applicable, the statutory waiting period (and any extension thereof) applicable to the consummation of the Transactions under the HSR Act shall have expired or been earlier terminated and, to the extent applicable, any agreement between the Parties, on the one hand, and the Federal Trade Commission or the Antitrust Division of the United States Department of Justice or any other applicable Governmental Entity, on the other hand, not to consummate the Transactions shall have expired or otherwise been terminated; and (ii) all other authorizations, consents, orders, approvals, filings and declarations of, and all expirations of waiting periods required from, any Governmental Entity set forth on Section 9.1(d)(ii) of the Spinco Disclosure Letter required for the consummation of the Transactions shall have been filed, occurred or been obtained (all such authorizations, consents, orders, approvals, filings and declarations and the lapse of all such waiting periods, including under the HSR Act, being the “Requisite Regulatory Approvals”). All such Requisite Regulatory Approvals shall be in full force and effect. None of the Regulatory Approvals, including the Requisite Regulatory Approvals, shall have had, or would reasonably be expected to have a Detriment.

(e) Laws or Governmental Orders. No Governmental Entity of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any Law or Governmental Order (whether temporary, preliminary or permanent) that is in effect and restrains, enjoins or otherwise prohibits the consummation of the Transactions.

(f) Registration Statements. Each of the Distribution Registration Statement and the RMT Partner Registration Statement shall have become effective in accordance with the provisions of the Securities Act. No stop order suspending the effectiveness of the Distribution Registration Statement or the RMT Partner Registration Statement shall have been issued and remain in effect, and no Proceedings for that purpose shall have commenced or be threatened in writing by the SEC, unless subsequently withdrawn.

(g) Financing. Spinco shall have received cash proceeds from the borrowing by Spinco under the Spinco Financing Agreements pursuant to Section 8.19(j).

(h) Spinco Special Cash Payment. The Spinco Special Cash Payment shall have been consummated in accordance with the terms of the Separation and Distribution Agreement.

Section 9.2 Conditions to Obligation of RMT Partner and Merger Subs. The respective obligations of RMT Partner and Merger Subs to consummate the Merger is also subject to the satisfaction or waiver by RMT Partner at or prior to the Closing of the following conditions:

(a) Representations and Warranties. On the date of this Agreement and at the Closing (in each case except to the extent that any representation and warranty speaks as of a particular date, in which case as of such particular date) the representations and warranties of Remainco set forth in (i) Section 5.1 (*Organization, Good Standing and Qualification*), Section 5.2 (*Corporate Authority and Approval*), Section 5.6 (*Brokers and Finders*), Section 6.1 (*Organization, Good Standing and Qualification*), Section 6.2(a) (*Capital Structure*), Section 6.3 (*Corporate Authority and Approval*) and Section 6.18 (*Brokers and Finders*) shall be true and correct in all material respects (without giving effect to any materiality, Remainco Material Adverse Effect, Spinco Material Adverse Effect or similar qualification), (ii) Section 6.6(c) (*Absence of Certain Changes*) shall be true and correct in all respects and (iii) the other sections and subsections of ARTICLE V and ARTICLE VI shall be true and correct unless the failure of such representations and warranties of Remainco referred to in this clause (iii) to be so true and correct (without giving effect to any materiality, Remainco Material Adverse Effect, Spinco Material Adverse Effect or similar qualification), individually or in the aggregate, has had or would reasonably be expected to have a Spinco Material Adverse Effect.

(b) Performance of Obligations of Remainco and Spinco. Each of Remainco and Spinco shall have performed in all material respects all obligations required to be performed by it under this Agreement and the other Transaction Documents at or prior to the Closing Date.

(c) No Spinco Material Adverse Effect. Since the date of this Agreement, there shall not have occurred any Effect that, individually or in the aggregate, has had or would reasonably be expected to have a Spinco Material Adverse Effect.

(d) Closing Certificate. RMT Partner and Merger Subs shall have received a certificate signed on behalf of Remainco and Spinco by an executive officer of Remainco and Spinco certifying that the conditions set forth in Section 9.2(a), Section 9.2(b) and Section 9.2(c) have been satisfied.

(e) Tax Opinions. RMT Partner shall have received a true copy of the Remainco Tax Opinions, and the Remainco Tax Opinions shall not have been withdrawn or rescinded (provided, that the condition in this Section 9.2(e) shall not apply with respect to any Remainco Tax Opinion to the extent that any such matters are addressed by the Private Letter Ruling).

(f) Private Letter Ruling. RMT Partner shall have received a true copy of the Private Letter Ruling, and the Private Letter Ruling shall continue to be valid and in full force and effect as of the Closing Date.

Section 9.3 Conditions to Obligation of Remainco and Spinco. The obligation of Remainco and Spinco to consummate the Merger is also subject to the satisfaction or waiver by Remainco at or prior to the Closing of the following conditions:

(a) Representations and Warranties. On the date of this Agreement and at the Closing (in each case except to the extent that any representation and warranty speaks as of a particular date, in which case as of such particular date) the representations and warranties of RMT Partner set forth in (i) Section 7.1 (Organization, Good Standing and Qualification), Section 7.2 (Capital Structure), Section 7.3 (Corporate Authority and Approval) and Section 7.18 (Brokers and Finders) shall be true and correct in all material respects (without giving effect to any materiality, RMT Partner Material Adverse Effect or similar qualification), (ii) Section 7.6(c) (Absence of Certain Changes) shall be true and correct in all respects, and (iii) the other sections and subsections of ARTICLE VII shall be true and correct unless the failure of such representations and warranties of RMT Partner referred to in this clause (iii) to be so true and correct (without giving effect to any materiality, RMT Partner Material Adverse Effect or similar qualification), individually or in the aggregate, has had or would reasonably be expected to have an RMT Partner Material Adverse Effect.

(b) Performance of Obligations of RMT Partner and Merger Subs. Each of RMT Partner and Merger Subs shall have performed in all material respects all obligations required to be performed by it under this Agreement and the other Transaction Documents at or prior to the Closing Date.

(c) No RMT Partner Material Adverse Effect. Since the date of this Agreement, there shall not have occurred any Effect that, individually or in the aggregate, has had or would reasonably be expected to have an RMT Partner Material Adverse Effect.

(d) Regulatory Approvals. None of the Regulatory Approvals, including the Requisite Regulatory Approvals, shall have had, or would reasonably be expected to have a Remainco Detriment.

(e) RMT Partner and Merger Subs Closing Certificate. Remainco shall have received a certificate signed on behalf of RMT Partner and Merger Subs by an executive officer of RMT Partner and Merger Subs certifying that the conditions set forth in Section 9.3(a), Section 9.3(b) and Section 9.3(c) have been satisfied.

(f) Tax Opinions. Remainco shall have received the Remainco Tax Opinions, and the Remainco Tax Opinions shall not have been withdrawn or rescinded (provided that the condition in this Section 9.3(f) shall not apply with respect to any Remainco Tax Opinion to the extent that any such matters are addressed by the Private Letter Ruling).

(g) Private Letter Ruling. Remainco shall have received the Private Letter Ruling, and the Private Letter Ruling shall continue to be valid and in full force and effect as of the Closing Date.

ARTICLE X

TERMINATION

Section 10.1 Termination by Mutual Written Consent. This Agreement may be terminated and the Merger and the other Transactions may be abandoned at any time prior to the First Effective Time by mutual written consent of Remainco and RMT Partner.

Section 10.2 Termination by Either Remainco or RMT Partner. This Agreement may be terminated and the Merger and the other Transactions may be abandoned at any time prior to the First Effective Time by either RMT Partner or Remainco, if:

(a) the Merger shall not have been consummated by the earlier of (i) eighteen (18) months following the date of this Agreement, and (ii) forty-five (45) days prior to the one (1)-year anniversary of the expiration or termination of the waiting period under the HSR Act with respect to the Transactions (the "Outside Date");

(b) the RMT Partner Shareholder Approval shall not have been obtained at the RMT Partner Shareholders Meeting or at any adjournment or postponement thereof taken in accordance with this Agreement; or

(c) any Law or Governmental Order permanently restraining, enjoining or otherwise prohibiting consummation of the Merger shall become final and non-appealable; provided that the right to terminate this Agreement pursuant to this Section 10.2(c) shall not be available to any Party that has breached in any material respect its obligations under this Agreement or the other Transaction Documents if such breach is the primary cause of such Law or Governmental Order to have been enacted or issued.

Section 10.3 Termination by Remainco. This Agreement may be terminated and the Merger may be abandoned by Remainco:

(a) following a Threshold Event, but prior to the time the RMT Partner Shareholder Approval is obtained, if Remainco enters into a Spinco Alternative Acquisition Agreement in response to a Spinco Superior Proposal, to the extent permitted by and in accordance with the terms and subject to the conditions of Section 8.2(d)(ii), and Remainco, immediately prior to or concurrently with such termination, pays to RMT Partner in immediately available funds any fees required to be paid pursuant to Section 10.5;

(b) prior to the time the RMT Partner Shareholder Approval is obtained, if the RMT Partner Board shall have made an RMT Partner Change of Recommendation or at any time following receipt of an RMT Partner Acquisition Proposal that has been publicly disclosed, the RMT Partner Board shall have failed to reaffirm its approval or recommendation of this Agreement and the Merger and the other Transactions within ten (10) Business Days of such public disclosure (and if the RMT Partner Shareholders Meeting is scheduled to be held within ten (10) Business Days, then within two (2) Business Days of such public disclosure); or

(c) if at any time prior to the First Effective Time, there has been a breach by RMT Partner or either Merger Sub of any representation, warranty, covenant or agreement set forth in this Agreement, or if any representation or warranty of RMT Partner or Merger Subs shall have become untrue, in either case, such that the conditions in Section 9.3(a) or Section 9.3(b) would not be satisfied (and such breach or failure to be true and correct is not curable prior to the Outside Date, or if curable prior to the Outside Date, has not been cured within the earlier of (i) thirty (30) days after the giving of notice thereof by Remainco to RMT Partner, or (ii) three (3) Business Days prior to the Outside Date); provided, however, that the right to terminate this Agreement pursuant to this Section 10.3(c) shall not be available to Remainco if it has breached in any material respect its obligations set forth in this Agreement or any other Transaction Document if such breach is the primary cause of the occurrence of the failure of a condition to the consummation of the Merger.

Section 10.4 Termination by RMT Partner. This Agreement may be terminated and the Merger may be abandoned by RMT Partner:

(a) Prior to the time the RMT Partner Shareholder Approval is obtained, if the RMT Partner Board authorizes RMT Partner to enter into an RMT Partner Alternative Acquisition Agreement in response to a RMT Partner Superior Proposal, to the extent permitted by and in accordance with the terms and subject to the conditions of Section 8.3(d)(ii), and the RMT Partner, immediately prior to or concurrently with such termination, pays to Remainco in immediately available funds any fees required to be paid pursuant to Section 10.5; or

(b) if at any time prior to the First Effective Time, there has been a breach by Remainco or Spinco of any representation, warranty, covenant or agreement set forth in this Agreement, or if any representation or warranty of Remainco or Spinco shall have become untrue, in either case, such that the conditions in Section 9.2(a) or Section 9.2(b) would not be satisfied (and such breach or failure to be true and correct is not curable prior to the Outside Date, or if curable prior to the Outside Date, has not been cured within the earlier of (i) thirty (30) days after the giving of notice thereof by RMT Partner to Remainco, or (ii) three (3) Business Days prior to the Outside Date); provided, however, that the right to terminate this Agreement pursuant to this Section 10.4(b) shall not be available to RMT Partner if it has breached in any material respect its obligations set forth in this Agreement or any other Transaction Document if such breach is the primary cause of the occurrence of the failure of a condition to the consummation of the Merger.

Section 10.5 Effect of Termination and Abandonment.

(a) Except to the extent provided in Section 10.5(b) below, in the event of termination of this Agreement and the abandonment of the Merger and the other Transactions pursuant to this ARTICLE X, this Agreement shall become void and of no effect with no liability to any Person on the part of any Party (or any of its Representatives or Affiliates); provided, however, and notwithstanding anything in this Agreement to the contrary, (i) no such termination shall relieve any Party of any liability or damages to any other Party resulting from any Willful Breach of this Agreement, and (ii) the provisions set forth in this Section 10.5 and ARTICLE XI (other than Section 11.12 thereof) shall survive the termination of this Agreement.

(b) In the event that this Agreement is terminated:

(i) by Remainco or RMT Partner pursuant to Section 10.2(a), and (A) prior to such termination, an RMT Partner Acquisition Proposal shall have been publicly announced or otherwise becomes publicly known after the date of this Agreement (and in any such case, such RMT Partner Acquisition Proposal is not publicly withdrawn at least four (4) Business Days prior to the RMT Partner Shareholders Meeting), and (B) on or prior to the date that is twelve (12) months after the date of such termination, an RMT Partner Acquisition Proposal is consummated or RMT Partner enters into RMT Partner Alternative Acquisition Agreement, then RMT Partner shall be obligated to pay a termination fee of Ten Million dollars (\$10,000,000) (the "RMT Partner Termination Fee") to Remainco by wire transfer of immediately available cash funds on the third (3rd) Business Day following the earlier of the date that RMT Partner (1) enters into a RMT Partner Alternative Acquisition Agreement, and (2) consummates such RMT Partner Acquisition Proposal; provided that solely for purposes of this Section 10.5(b)(i), that references to twenty percent (20%) in the definition of "RMT Partner Acquisition Proposal" shall be deemed to be references to fifty percent (50%);

(ii) by Remainco pursuant to Section 10.3(a), then Remainco shall be obligated to pay a termination fee of Ten Million dollars (\$10,000,000) (the "Spinco Termination Fee") to RMT Partner by wire transfer of immediately available cash funds immediately prior to or concurrently with such termination;

(iii) by Remainco pursuant Section 10.3(b), then RMT Partner shall be obligated to pay the RMT Partner Termination Fee to Remainco by wire transfer of immediately available cash funds immediately prior to or concurrently with such termination; or

(iv) by RMT Partner pursuant to Section 10.4(a), then RMT Partner shall be obligated to pay the RMT Partner Termination Fee to Remainco by wire transfer of immediately available cash funds immediately prior to or concurrently with such termination.

(c) In no event shall RMT Partner be required to pay the RMT Partner Termination Fee on more than one occasion. In no event shall Remainco be required to pay the Spinco Termination Fee on more than one occasion.

(d) The Parties hereby acknowledge and agree that the agreements contained in this Section 10.5 are an integral part of the Transactions, and that, without these agreements, the Parties would not enter into this Agreement; accordingly, if RMT Partner fails to promptly pay the amount due pursuant to this Section 10.5, and, in order to obtain such payment, Remainco or Spinco commences a suit that results in a judgment against RMT Partner for the fees set forth in this Section 10.5 or any portion of such fees, RMT Partner shall pay to Remainco or Spinco its costs and expenses (including attorneys' fees) in connection with such suit, together with interest on the amount of the fee at the prime rate as published in the Wall Street Journal, Eastern Edition, in effect on the date such payment was required to be made from the date such payment was required to be made through the date of payment.

ARTICLE XI

MISCELLANEOUS AND GENERAL

Section 11.1 Survival. The representations, warranties, covenants and agreements in this Agreement or in any instrument or other document delivered pursuant to this Agreement, including rights arising out of any breach of such representations, warranties, covenants and agreements, shall not survive the Second Effective Time or the termination of this Agreement pursuant to ARTICLE X, except as set forth in Section 8.18, Section 10.5 and except for those covenants and agreements contained in this Agreement that by their terms are to be performed in whole or in part after the Second Effective Time (or termination of this Agreement, as applicable), which shall survive until they are fully effectuated or performed.

Section 11.2 Modification or Amendment; Waiver.

(a) Subject to the provisions of applicable Law and the provisions of, at any time prior to the Second Effective Time, this Agreement may be amended, modified or waived if such amendment, modification or waiver is in writing and signed, in the case of an amendment or modification, by each Party, or in the case of a waiver, by the Party against whom the waiver is to be effective; provided that any amendments or modifications to Section 8.19, this Section 11.2(a), Section 11.4(b), Section 11.4(c), Section 11.8 and Section 11.9, to the extent materially adversely affecting any of the Spinco Lenders or any of the other Financing Sources, shall not be effective with respect to such affected Spinco Lenders or Financing Sources unless such affected Financing Sources party to the Spinco Commitment Letter or any other applicable Financing Agreement provide their prior written consent to such amendment or modification. The conditions to each of the Parties' respective obligations to consummate the Transactions are for the sole benefit of such Party and may be waived by such Party in whole or in part to the extent permitted by applicable Law; provided, however, that any such waiver shall only be effective if made in writing and executed by the Party against whom the waiver is to be effective.

(b) No failure or delay by any Party in exercising any right, power or privilege hereunder or under applicable Law shall operate as a waiver of such rights and, except as otherwise expressly provided herein, no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Law.

Section 11.3 Counterparts. This Agreement may be executed in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 11.4 Governing Law and Venue; Submission to Jurisdiction; Selection of Forum; Waiver of Trial by Jury.

(a) THIS AGREEMENT SHALL BE DEEMED TO BE MADE IN AND IN ALL RESPECTS SHALL BE INTERPRETED, CONSTRUED AND GOVERNED BY AND IN ACCORDANCE WITH THE LAW OF THE STATE OF DELAWARE WITHOUT REGARD TO THE CONFLICT OF LAW PRINCIPLES THEREOF (OR ANY OTHER JURISDICTION) TO THE EXTENT THAT SUCH PRINCIPLES WOULD DIRECT A MATTER TO ANOTHER JURISDICTION.

(b) Each of the Parties agrees that: (i) it shall bring any Proceeding in connection with, arising out of or otherwise relating to this Agreement, any instrument or other document delivered pursuant to this Agreement or the Transactions exclusively in the courts of the State of Delaware in the Court of Chancery of the State of Delaware, or (and only if) such court finds it lacks subject matter jurisdiction, the Superior Court of the State of Delaware (Complex Commercial Division), provided that if subject matter jurisdiction over the matter that is the subject of the Proceeding is vested exclusively in the United States federal courts, such Proceeding shall be heard in the United States District Court for the District of Delaware (the "Chosen Courts"); and (ii) solely in connection with such Proceedings, (A) it irrevocably and unconditionally submits to the exclusive jurisdiction of the Chosen Courts, (B) it waives any objection to the laying of venue in any Proceeding in the Chosen Courts, (C) it waives any objection that the Chosen Courts are an inconvenient forum or do not have jurisdiction over any Party, (D) mailing of process or other papers in connection with any such Proceeding in the manner provided in Section 11.6 or in such other manner as may be permitted by applicable Law shall be valid and sufficient service thereof, and (E) it shall not assert as a defense, any matter or claim waived by the foregoing clauses (A) through (D) of this Section 11.4(b) or that any Governmental Order issued by the Chosen Courts may not be enforced in or by the Chosen Courts. Notwithstanding anything to the contrary contained in this Agreement, each Party on behalf of itself and its controlled Affiliates: (w) agrees that it will not bring or support any legal proceeding against any of the Spinco Lenders or any of the other Financing Sources in any way relating to the Financing in any forum other than the federal and New York state courts located in the Borough of Manhattan within the City of New York; (x) agrees that, except as specifically set forth in the Spinco Commitment Letter or the other Financing Agreements, all claims or causes of action (whether at law, in equity, in contract, in tort or otherwise) against any of the Spinco Lenders or any of the other Financing Sources relating to this Agreement, the Merger, or any of the transactions contemplated by this Agreement or the performance of services related hereto, including any dispute arising out of or relating in any way to the Financing, shall be exclusively governed by and construed in accordance with the internal Laws of the State of New York; (y) agrees to waive and hereby waives, irrevocably and unconditionally, any right to a trial by jury in any such legal action, suit or proceeding against any of the Spinco Lenders or any of the other Financing Sources relating to the Financing; and (z) agrees to waive and hereby waives, to the fullest extent permitted by applicable Law, any objection which such Party may now or hereafter have to the laying of venue of, and the defense of an inconvenient forum to the maintenance of, any such legal action, suit or proceeding against any of the Spinco Lenders or any of the other Financing Sources relating to the Financing in any such court. Nothing herein contained shall be deemed to affect the right of any party to serve process in any manner permitted by Law or to commence any Proceeding or otherwise proceed against any other party in any other jurisdiction, in each case, to enforce judgments obtained in any Proceeding brought pursuant to this Section 11.4(b).

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY BE IN CONNECTION WITH, ARISE OUT OF OR OTHERWISE RELATE TO THIS AGREEMENT, ANY INSTRUMENT OR OTHER DOCUMENT DELIVERED PURSUANT TO THIS AGREEMENT OR OTHER DOCUMENT DELIVERED PURSUANT TO THIS AGREEMENT OR THE TRANSACTIONS, IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY PROCEEDING DIRECTLY OR INDIRECTLY, IN CONNECTION WITH, ARISING OUT OF OR OTHERWISE RELATING TO THIS AGREEMENT, ANY INSTRUMENT OR OTHER DOCUMENT DELIVERED PURSUANT TO THIS AGREEMENT OR THE TRANSACTIONS. EACH PARTY HEREBY ACKNOWLEDGES AND CERTIFIES (I) THAT NO REPRESENTATIVE OF THE OTHER PARTIES HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTIES WOULD NOT, IN THE EVENT OF ANY ACTION OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER, (II) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (III) IT MAKES THIS WAIVER VOLUNTARILY, AND (IV) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS, ACKNOWLEDGMENTS AND CERTIFICATIONS CONTAINED IN THIS SECTION 11.4(c).

Section 11.5 Specific Performance. Each of the Parties acknowledges and agrees that the rights of each Party to consummate the Transactions are special, unique and of extraordinary character and that if for any reason any of the provisions of this Agreement are not performed in accordance with their specific terms or are otherwise breached, immediate and irreparable harm or damage would be caused for which money damages would not be an adequate remedy. Accordingly, each Party agrees that, in addition to any other available remedies a Party may have in equity or at law, each Party shall be entitled to enforce specifically the terms and provisions of this Agreement and to obtain an injunction restraining any breach or violation or threatened breach or violation of the provisions of this Agreement without necessity of posting a bond or other form of security. In the event that any Proceeding should be brought in equity to enforce the provisions of this Agreement, no Party shall allege, and each Party hereby waives the defense, that there is an adequate remedy at law.

Section 11.6 Notices. All notices, requests, instructions, consents, claims, demands, waivers, approvals and other communications to be given or made hereunder by one or more Parties to one or more of the other Parties shall be in writing and shall be deemed to have been duly given or made on the date of receipt by the recipient thereof if received prior to 5:00 p.m. in the place of receipt and such day is a Business Day (or otherwise on the next succeeding Business Day) if (a) served by personal delivery or by a nationally recognized overnight courier service upon the Party or Parties for whom it is intended, (b) delivered by registered or certified mail, return receipt requested, or (c) sent by email; provided that the email transmission is promptly confirmed by telephone or in writing by the recipient thereof (excluding out-of-office replies or other automatically generated responses). Such communications shall be sent to the respective Parties at the following street addresses or email addresses or at such other street address or email address for a Party as shall be specified for such purpose in a notice given in accordance with this Section 11.6:

If to Remainco or Spinco:

Berry Global Group, Inc.
101 Oakley Street
Evansville, Indiana 47710
Attention: Jason K. Greene
Email: jasongreene@berryglobal.com

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

Bryan Cave Leighton Paisner LLP
One Atlantic Center, Fourteenth Floor
1201 West Peachtree Street, NW
Atlanta, Georgia 30309
Attention: Louis C. Spelios
Email: louis.spelios@bcplaw.com

If to RMT Partner or Merger Subs:

Glatfelter Corporation
4350 Congress Street
Suite 600
Charlotte, NC 28209
Attention: Jill L. Urey
Email: jill.urey@glatfelter.com

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

King & Spalding LLP
1100 Louisiana St., Suite 4100
Houston, TX 77002
Attention: Jonathan Newton
Rob Leclerc
Email: jnewton@kslaw.com
Rleclerc@KSLAW.com

Section 11.7 Entire Agreement.

(a) This Agreement (including the exhibits and annexes hereto), the Spinco Disclosure Letter, the RMT Partner Disclosure Letter, the Transaction Documents and the Confidentiality Agreement constitute the entire agreement among the Parties with respect to the subject matter hereof and thereof and supersede all prior and contemporaneous agreements, negotiations, understandings, and representations and warranties, whether oral or written, with respect to such matters.

(b) Each Party acknowledges and agrees that the provisions set forth in Section 6.22 and Section 7.22 and, without limiting such provisions, additionally acknowledges and agrees that, except for the representations and warranties expressly set forth in this Agreement or any instrument or other document delivered pursuant to this Agreement, (i) no Party has made or is making any other representations, warranties, statements, information or inducements, (ii) no Party has relied on or is relying on any other representations, warranties, statements, information or inducements, and (iii) each Party hereby disclaims reliance on any other representations, warranties, statements, information or inducements, oral or written, express or implied, or as to the accuracy or completeness of any statements or other information, made by, or made available by, itself or any of its Representatives, in each case with respect to, or in connection with, the negotiation, execution or delivery of this Agreement, any instrument or other document delivered pursuant to this Agreement or the Transactions, and notwithstanding the distribution, disclosure or other delivery to the other or the other's Representatives of any documentation or other information with respect to any one or more of the foregoing, and waives any claims or causes of action relating thereto, other than those for intentional fraud in connection with, arising out of or otherwise related to the express representations and warranties set forth in this Agreement or any instrument or other document delivered pursuant to this Agreement.

Section 11.8 Third-Party Beneficiaries. Except, from and after the Second Effective Time, the Indemnified Parties with respect to the provisions of Section 8.15, the Parties hereby agree that their respective representations, warranties and covenants set forth in this Agreement are solely for the benefit of the other Parties on the terms and subject to the conditions set forth in this Agreement, and this Agreement is not intended to, and does not, confer upon any Person other than the Parties and their respective successors, legal representatives and permitted assigns any rights or remedies, express or implied, hereunder, including, without limiting the generality of Section 11.7(b), the right to rely upon the representations and warranties set forth in this Agreement. The representations and warranties in this Agreement are the product of negotiations among the Parties. Any inaccuracies in such representations and warranties are subject to waiver by the Parties in accordance with Section 11.2 without notice or liability to any other Person. In some instances, the representations and warranties in this Agreement may represent an allocation among the Parties of risks associated with particular matters regardless of the knowledge of any of the Parties. Consequently, Persons other than the Parties may not rely upon the representations and warranties in this Agreement as characterizations of actual facts or circumstances as of the date of this Agreement or as of any other date. Notwithstanding the foregoing, the Spinco Lenders and the other Financing Sources are third-party beneficiaries of Section 8.19, Section 11.2(a), Section 11.4(b), Section 11.4(c), this Section 11.8 and Section 11.9.

Section 11.9 Non-Recourse. Unless expressly agreed to otherwise by the Parties in writing, this Agreement may only be enforced against, and any Proceeding in connection with, arising out of or otherwise resulting from this Agreement, or any instrument or other document delivered pursuant to this Agreement or the Transactions, may only be brought against the Persons expressly named as Parties (or any of their respective successors, legal representatives and permitted assigns) and then only with respect to the specific obligations set forth herein with respect to such Party. No (a) past, present or future director, employee (including any officer), incorporator, manager, member, partner, stockholder, other equity holder or persons in a similar capacity, Spinco Lenders or other Financing Sources controlling person, Affiliate or other Representative of any Party or any of their respective successors and permitted assigns, or (b) past, present or future director, employee (including any officer), incorporator, manager, member, partner, stockholder, other equity holder or persons in a similar capacity, controlling person, Affiliate or other Representative of any of the Persons set forth in the foregoing clause (a) or any of their respective successors and permitted assigns (unless, for the avoidance of doubt, such Person is a Party), shall have any liability or other obligation for any obligation of any Party under this Agreement or for any Proceeding in connection with, arising out of or otherwise resulting from this Agreement, or any instrument or other document delivered pursuant to this Agreement or the Transactions; provided, however, that nothing in this Section 11.9 shall limit any liability or other obligation of the Parties for breaches of the terms and conditions of this Agreement. This Section 11.9 shall not affect the rights of any Person as a party to the Spinco Commitment Letter to enforce the Spinco Commitment Letter or any other applicable Financing Agreement in accordance with its terms.

Section 11.10 Fulfillment of Obligations. Whenever this Agreement requires a Subsidiary of Remainco to take any action, such requirement shall be deemed to include an undertaking on the part of Remainco to cause such Subsidiary to take such action. Whenever this Agreement requires a Subsidiary of Spinco to take any action, such requirement shall be deemed to include an undertaking on the part of Spinco to cause such Subsidiary to take such action. Whenever this Agreement requires a Subsidiary of RMT Partner (including after the Second Effective Time, the Surviving Entity and its Subsidiaries) to take any action, such requirement shall be deemed to include an undertaking on the part of RMT Partner to cause such Subsidiary (including after the Second Effective Time, the Surviving Entity and its Subsidiaries) to take such action. Any obligation of one Party to any other Party under this Agreement or any of the other Transaction Documents, which obligation is performed, satisfied or properly fulfilled by an Affiliate of such Party, shall be deemed to have been performed, satisfied or fulfilled by such Party.

Section 11.11 Expenses. Except as otherwise expressly provided in this Agreement and the other Transaction Documents and whether or not the Transactions are consummated, all costs and expenses (including fees and expenses of counsel and financial advisors, if any) incurred in connection with this Agreement and the Transactions shall be paid by the Party incurring such costs and expenses.

Section 11.12 Transfer Taxes. All sales, use, privilege, transfer (including real property transfer), intangible, recordation, registration, documentary, stamp, duty or similar Taxes ("Transfer Taxes") imposed on Spinco or Merger Subs upon the consummation of the Merger shall be borne equally by Remainco and Spinco. Remainco and Spinco shall reasonably cooperate to prepare and timely file any Tax Returns relating to Transfer Taxes. This Section 11.12 shall not apply to Transfer Taxes the payment or reimbursement of which is expressly addressed by any Transaction Document or to Transfer Taxes imposed in respect of the Internal Restructuring, the Separation, the Contribution, the Initial Spin, or the Spinco Distribution, which shall be the sole responsibility of Remainco.

Section 11.13 Severability. The provisions of this Agreement shall be deemed severable and the illegality, invalidity or unenforceability of any provision shall not affect the legality, validity or enforceability of the other provisions of this Agreement. If any provision of this Agreement, or the application of such provision to any Person or any circumstance, is illegal, invalid or unenforceable, (a) a suitable and equitable provision to be negotiated by the Parties, each acting reasonably and in good faith shall be substituted therefor in order to carry out, so far as may be legal, valid and enforceable, the intent and purpose of such illegal, invalid or unenforceable provision, and (b) the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected by such illegality, invalidity or unenforceability, nor shall such illegality, invalidity or unenforceability affect the legality, validity or enforceability of such provision, or the application of such provision, in any other jurisdiction.

Section 11.14 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties (and any of their respective successors, legal representatives and permitted assigns). Except as may be required to satisfy the obligations contemplated by Section 8.15, no Party may assign any of its rights or delegate any of its obligations under this Agreement, in whole or in part, by operation of Law or otherwise, without the prior written consent of the other Parties, except as provided for in Section 11.10, and any attempted or purported assignment or delegation in violation of this Section 11.14 shall be null and void.

Section 11.15 Definitions.

(a) Certain Definitions. For purposes of this Agreement, the capitalized terms (including, with correlative meaning, their singular and plural variations) have the meanings ascribed to such terms in Annex A or as otherwise defined elsewhere in this Agreement.

(b) Terms Defined Elsewhere. For purposes of this Agreement, the following terms shall have the meaning specified in the Section set forth opposite to such term:

<u>Term</u>	<u>Section</u>
Additional Consents Agreement	8.8(f)
Alternative Financing	Preamble
Alternative Transaction Structure	8.19(b)
Applicable Date	2.9
Audited Financial Statements	ARTICLE V
Bankruptcy and Equity Exception	8.22(a)
BGI	5.2(a)
CEO Designee	Recitals
Certificates of Merger	2.8(a)
Charter	2.3
Charter Amendment Effective Time	2.4
Chosen Courts	1.2
Closing	11.4(b)
Closing Date	2.2
Continuing Remainco Designee	2.2
Continuing RMT Partner Designee	2.8(d)
Costs	2.8(e)
D&O Insurance	8.15(a)
Delayed RMT	8.15(b)
Detriment	2.9
DGCL	8.8(e)(i)
DLLCA	2.1(a)
Exchange Agent	2.1(b)
Exchange Fund	4.2
Exchange Offer	4.2
	Recitals

<u>Term</u>	<u>Section</u>
Financing	8.19(a)
Financing Agreements	8.19(a)
First Certificate of Merger	2.3
First Effective Time	2.3
First Merger	Recitals
First Merger Sub	Preamble
First Merger Surviving Corporation	2.1(a)
Inbound RMT Partner Intellectual Property Licenses	7.13(a)
Inbound Spinco Intellectual Property Licenses	6.14(a)
Indemnified Parties	8.15(a)
Infringe	6.14(c)
Initial Spin	Recitals
Latest Spinco P&L	6.5(a)
Leased RMT Partner Real Property	7.16(b)
Leased Spinco Real Property	6.17(b)
Lien Releases	8.18(d)
Merger	Recitals
Merger Consideration	3.1(a)
Merger Subs	Preamble
Operating Agreement	2.5
Original Date	8.5(b)
Outside Date	10.2(a)
Owned RMT Partner Real Property	7.16(a)
Owned Spinco Real Property	6.17(a)
Party or Parties	Preamble
Payoff Letters	8.18(d)
PBCL	1.2
Permanent Financing	8.19(a)
Permanent Financing Agreements	8.19(a)
Proxy Statement	8.4(a)
Remainco	Preamble
Remainco Board	Recitals
Remainco Designees	2.8(a)
Remainco Detriment	8.8(e)(ii)
Remainco Marks	8.20(a)
Remainco Reports	ARTICLE V
Requisite Regulatory Approvals	9.1(d)
RMT Partner	Preamble
RMT Partner Alternative Acquisition Agreement	8.3(d)(i)(D)
RMT Partner Board	Recitals
RMT Partner Change of Recommendation	8.3(d)(i)(D)
RMT Partner Charter Amendment	1.1
RMT Partner Designees	2.8(a)
RMT Partner Disclosure Letter	ARTICLE VII
RMT Partner Insurance Policies	7.14

<u>Term</u>	<u>Section</u>
RMT Partner Leases	7.16(b)
RMT Partner Material Contracts	7.10(a)
RMT Partner Product	7.18(a)
RMT Partner Real Property	7.16(c)
RMT Partner Reports	ARTICLE VII
RMT Partner Shareholders Meeting	8.5(a)
RMT Partner Stock Plans	7.2(a)
RMT Partner Termination Fee	10.5(b)(i)
RMT Partner Transaction Litigation	8.18(a)
Sanctioned Jurisdiction	6.9(b)
Sanctioned Person	6.9(b)
Second Effective Time	2.3
Second Certificate of Merger	2.3
Second Merger	Recitals
Second Merger Sub	Preamble
Securities Filings	8.4(a)
Spinco	Preamble
Spinco Alternative Acquisition Agreement	8.2(d)(i)
Spinco Board	Recitals
Spinco Commitment Letter	8.19(a)
Spinco Disclosure Letter	ARTICLE V
Spinco Financial Statements	6.5(a)
Spinco Financing	8.19(a)
Spinco Financing Agreements	8.19(a)
Spinco Insurance Policies	6.15
Spinco Leases	6.17(b)
Spinco Lenders	8.19(a)
Spinco Material Contracts	6.11(a)
Spinco Product	6.19(a)
Spinco Real Property	6.17(c)
Spinco Termination Fee	10.5(b)(ii)
Spinco Transaction Litigation	8.18(b)
Spin-Off	Recitals
Subsequent Audited Spinco Financial Statements	8.22(b)
Subsequent Unaudited Spinco Financial Statements	8.22(b)
Surviving Entity	2.1(b)
Tail Period	8.15(b)
Transactions	Recitals
Transfer Taxes	11.12

Section 11.16 Interpretation and Construction.

(a) The table of contents and headings herein are for convenience of reference only, do not constitute part of this Agreement and shall not be deemed to limit or otherwise affect any of the provisions hereof.

(b) The Preamble, and all Recital, Article, Section, Subsection, Schedule, Annex and Exhibit references used in this Agreement are to the recitals, articles, sections, subsections, schedules, annexes and exhibits to this Agreement unless otherwise specified herein.

(c) Except as otherwise expressly provided herein, for purposes of this Agreement: (i) the terms defined in the singular have a comparable meaning when used in the plural and *vice versa*; (ii) words importing the masculine gender shall include the feminine and neutral genders and *vice versa*; (iii) whenever the words “includes” or “including” are used, they shall be deemed to be followed by the words “including without limitation”; (iv) the word “or” is not exclusive; (v) the words “hereto,” “hereof,” “hereby,” “herein,” “hereunder” and similar terms in this Agreement shall refer to this Agreement as a whole and not any particular provision of this Agreement; and (vi) 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”.

(d) All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP.

(e) Except as otherwise expressly provided herein, the term “dollars” and the symbol “\$” mean United States Dollars.

(f) Except as otherwise expressly provided herein, all references in this Agreement to any statute include the rules and regulations promulgated thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted, consolidated or replaced provision and shall also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith.

(g) The Spinco Disclosure Letter and RMT Partner Disclosure Letter may include items and information the disclosure of which is not required either in response to an express disclosure requirement contained in a provision of this Agreement or as an exception to one or more representations or warranties contained in ARTICLE V, ARTICLE VI or ARTICLE VII, as applicable, or to one or more covenants contained in this Agreement. Inclusion of any items or information in the Spinco Disclosure Letter or RMT Partner Disclosure Letter, as applicable, shall not be deemed to be an acknowledgement or agreement that any such item or information (or any non-disclosed item or information of comparable or greater significance) is “material” or that, individually or in the aggregate, has had or would reasonably be expected to have a Spinco Material Adverse Effect, Remainco Material Adverse Effect or RMT Partner Material Adverse Effect, as applicable, or to affect the interpretation of such term for purposes of this Agreement.

(h) The Parties have participated jointly in negotiating and drafting this Agreement. In the event that an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement.

[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this RMT Transaction Agreement has been duly executed and delivered by duly authorized officers of the parties hereto as of the date first written above.

BERRY GLOBAL GROUP, INC.

By /s/ Jason K. Greene

Name: Jason K. Greene

Title: Chief Legal Officer

TREASURE HOLDCO, INC.

By /s/ Jason K. Greene

Name: Jason K. Greene

Title: Chief Legal Officer

GLATFELTER CORPORATION

By /s/ Thomas M. Fahnemann

Name: Thomas M. Fahnemann

Title: President and Chief Executive Officer

TREASURE MERGER SUB I, INC.

By /s/ David C. Elder

Name: David C. Elder

Title: President

TREASURE MERGER SUB II, LLC

By /s/ David C. Elder

Name: David C. Elder

Title: President

[Signature Page to RMT Transaction Agreement]

Annex A
Certain Definitions

“**Affiliate**” means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with such Person (for purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of capital stock, voting securities or other equity interests, by Contract or otherwise). It is expressly agreed that, solely for purposes of this Agreement and the other Transaction Documents, from and after the Spinco Distribution (a) each Spinco Entity shall be deemed not to be an Affiliate of Remainco and its Subsidiaries, and (b) Remainco and its Subsidiaries shall be deemed not to be an Affiliate of any Spinco Entity.

“**Anti-Corruption Laws**” means Laws relating to anti-bribery or anti-corruption (governmental or commercial), including without limitation the United States Foreign Corrupt Practices Act, the U.K. Bribery Act, any national and international Law enacted to implement the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions.

“**Antitrust Law**” means the Sherman Antitrust Act of 1890, the Clayton Act of 1914, the HSR Act and all other United States or non-United States antitrust, competition or other Laws that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening of competition through merger or acquisition.

“**Benefit Plan**” means each employee benefit plan, including each (a) pension plan or post-retirement or employment health, medical, sick leave, disability, group insurance, life insurance, Code Section 125 or other benefit plan, program, policy or arrangement, (b) bonus, incentive or deferred compensation, stock purchase, phantom stock, stock option, or other equity-based compensation plan, program, policy or arrangement, (c) employment, severance, change in control, clawback or retention plan, program, policy, practice, agreement or arrangement, or (d) relocation, repatriation, employee loan, or other fringe benefit compensation, benefit or employee loan plan, program, policy, practice, agreement or arrangement (i) sponsored, maintained, contributed to or required to be maintained, sponsored or contributed to by (A) the Spinco Entities for the benefit of any Spinco Employee or Service Provider to Spinco, or (B) RMT Partner and its Subsidiaries for the benefit of any RMT Partner Employee or Service Provider to RMT Partner and its Subsidiaries (as context dictates), or (ii) with respect to which the Spinco Entities or RMT Partner and its Subsidiaries (as context dictates) have any direct or indirect liability, whether contingent or otherwise, but in either case, other than any plan, program, practice, agreement or arrangement required by any Governmental Entity.

“**Business Day**” means any day other than a Saturday or Sunday or a day on which banks in the City of New York, New York is required or authorized or required by Law to close.

“**Clean-Up Spin-Off**” has the meaning set forth in the Separation and Distribution Agreement.

“Code” means the U.S. Internal Revenue Code of 1986, as amended.

“Collective Bargaining Agreement” means any collective bargaining agreement or other recognition agreement or Contract with a labor organization, trade union, staff forum or employee representative body, or non-U.S. works council contract or arrangement.

“Combined Contract” has the meaning set forth in the Separation and Distribution Agreement.

“Commingled Contract” has the meaning set forth in the Separation and Distribution Agreement.

“Commitment Fees” means fees and expenses related to the Financing, including (a) any underwriting fee, upfront fee, commitment fee, takedown fee, placement fees or discounts, underwriting fees or discounts, purchase fees or discounts or similar fees or discounts payable in connection with the Financing, (b) any interest payable with respect to the Financing funded prior to the Closing Date, (c) prepayment or redemption premiums with respect to the Financing funded prior to the Closing Date required to be prepaid or redeemed in the event the Closing does not occur, and (d) those related to any reimbursement and indemnification obligations set forth in the Financing or any related agreement (including (i) any underwriting or purchase agreement, and (ii) any such fees and expenses paid prior to the Closing).

“Confidentiality Agreement” means the Confidentiality Agreement, entered into between BGI and RMT Partner, dated August 28, 2023.

“Continuing Arrangements” has the meaning set forth in the Separation and Distribution Agreement.

“Contract” means any written or oral contract, agreement, indenture, note, bond, instrument, lease, conditional sales contract, mortgage, license, binding commitment or other agreement.

“Contribution” has the meaning set forth in the Separation and Distribution Agreement.

“Copyrights” means any and all works of authorship fixed in a tangible medium, mask works, copyrights and all registrations and applications for registration of the foregoing.

“Distribution Registration Statement” means the registration statement on Form 10 or on Forms S-1/S-4, as applicable, to be filed by Spinco with the SEC to effect the registration under the Securities Act or the Exchange Act, as applicable, of the shares of Spinco Common Stock that will be received by holders of Remainco Common Stock in connection with the Spinco Distribution, as such registration statement may be amended or supplemented from time to time prior to the Spinco Distribution.

“Effect” means any effect, event, development, change, state of facts, condition, circumstance or occurrence.

“Employee Matters Agreement” means the Employee Matters Agreement, dated as of the date hereof, among Remainco, Spinco and RMT Partner, attached as Exhibit C to this Agreement.

“Environmental Law” means all Laws (including common law) relating to pollution or the protection of human health or the environment (including ambient air, surface water, ground water, land surface, indoor air or subsurface strata), including Laws relating to Releases or threatened Releases of Hazardous Substances, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Affiliate” means, with respect to any Spinco Entity, or RMT Partner and its Subsidiaries (as context dictates), any trade or business, whether or not incorporated, that together with any other Person would be deemed a “single employer” within the meaning of Section 414 of the Code or Section 4001(b)(1) of ERISA or that is a member of the same “controlled group” as any Spinco Entity, or RMT Partner and its Subsidiaries (as context dictates), pursuant to Section 4001(a)(14) of ERISA.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Exchange Ratio” means the New Issuance divided by the number of shares of Spinco Common Stock issued and outstanding immediately prior to the First Effective Time, subject to adjustment as set forth herein.

“Existing RMT Partner Charter” means the articles of incorporation of RMT Partner, as amended as of the date of this Agreement.

“Film Restricted Business” means the business of selling and manufacturing (a) films that are to be laminated to nonwoven materials, which are intended as components of products for the healthcare and hygiene markets, and (b) silicone-coated films for the healthcare and hygiene markets; provided, however that the Film Restricted Business shall not include the Retained Business.

“Financing Sources” means any agent, arranger, lender, underwriter, initial purchaser, placement agent or other entity that has committed to provide, arrange, underwrite or place, or has entered into definitive agreements related to, any Financing, including the Spinco Lenders and the parties to any commitment letters, engagement letters, joinder agreements, indentures or credit agreements entered into pursuant thereto or relating thereto, together with their respective Affiliates and their and their Affiliates’ respective officers, directors, employees, agents, representatives and their respective successors or permitted assigns, in each case, solely in their respective capacities as such.

“Foreign Plan” means each Benefit Plan maintained outside the jurisdiction of the United States that provides benefits in respect of any Service Provider that is primarily based outside the United States, including any such plan required to be maintained or contributed to by applicable Law, custom or rule of the relevant jurisdiction.

“Foreign Regulators” means foreign and transnational Governmental Entities with jurisdiction over Foreign Regulatory Laws.

“Foreign Regulatory Laws” mean (i) foreign and transnational Laws regarding foreign direct investments, and (ii) the requirement of notification and consultation with the Social and Economic Committee of each of the Spinco Entities domiciled in France in accordance with article L. 2312-8 of the French Labor Code.

“Fully Diluted RMT Partner Shares” means the number of outstanding shares of RMT Partner Common Stock as of immediately prior to the First Effective Time on a fully diluted, as converted and as exercised basis in accordance with the treasury stock method, including shares of RMT Partner Common Stock underlying outstanding options and any other outstanding securities or obligations of RMT Partner and its Subsidiaries convertible into or exercisable for shares of RMT Partner Common Stock, but excluding options and other equity awards that are to be settled in RMT Partner Common Stock (assuming target level performance), in each case that have been granted pursuant to RMT Partner Stock Plans and are, as of the First Effective Time, out-of-the-money.

“GAAP” means United States generally accepted accounting principles.

“Government Official” means an employee, officer, or representative of, or any Person otherwise acting in an official capacity for or on behalf of a Governmental Entity, whether elected or appointed, including an officer or employee of a state-owned or state-controlled enterprise, a political party, political party official or employee, candidate for public office, or an officer or employee of a public international organization (such as the World Bank, United Nations, International Monetary Fund, or Organization for Economic Cooperation and Development).

“Governmental Entity” means any government, any agency, bureau, board, commission, court, department, official, political subdivision, tribunal or other instrumentality of any government, whether foreign, federal, state, provincial, local or municipal, any self-regulatory organization (including any securities exchange) or any arbitral tribunal.

“Governmental Order” means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Entity.

“Hazardous Substance” means any material, substance, chemical, waste, hazardous waste, pollutant, contaminant, or hazardous or toxic substance as to which liabilities, restrictions or standards of conduct are imposed pursuant to any Laws, including asbestos, formaldehyde, polychlorinated biphenyls, per- and polyfluoroalkyl substances, lead based paint, radioactive materials, waste oil and other petroleum products, waste water, and any other such substances which constitute a nuisance or hazard to the environment or to the public health, safety, or welfare.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvement Act of 1976, as amended, and the rules and regulations promulgated thereunder.

“Indebtedness” means, with respect to any Person and without duplication, all obligations and other liabilities of such Person in respect of (a) any indebtedness evidenced by a note, bond, debenture or other similar instrument or debt security, (b) performance bonds, letters of credit, bankers’ acceptances and similar facilities (but solely to the extent drawn), (c) indebtedness for borrowed money (including lines of credit, term loans, mortgage loans and amounts outstanding under overdraft facilities), whether current, short-term or long-term and whether secured or unsecured, and (d) leases classified as capital or finance leases in accordance with GAAP.

“Intellectual Property” means, collectively, all U.S. and foreign intellectual property rights, and any and all intellectual property and other similar proprietary rights, as they exist anywhere in the world, whether registered or unregistered, including Trademarks, Patents, Copyrights, and Trade Secrets.

“Intended Initial Spin Tax Treatment” shall have the meaning set forth in the Separation and Distribution Agreement.

“Intended Merger Tax Treatment” means the treatment of the First Merger and the Second Merger, taken together, as an integrated transaction described in Rev. Rul. 2001-46, 2001-2 C.B. 321, that qualifies for U.S. federal income tax purposes as a “reorganization” within the meaning of Section 368(a) of the Code in which no income, gain or loss will be recognized by Remainco, Spinco, RMT Partner, Merger Subs, or the holders of Spinco Common Stock (except with respect to the receipt of cash in lieu of fractional shares of RMT Partner Common Stock).

“Intended Spinco Distribution Tax Treatment” shall have the meaning set forth in the Separation and Distribution Agreement.

“Intended Tax Treatment” means the Intended Initial Spin Tax Treatment, the Intended Merger Tax Treatment, and the Intended Spinco Distribution Tax Treatment.

“Internal Restructuring” has the meaning set forth in the Tax Matters Agreement.

“International Trade Laws” means any of the following: (a) any Laws concerning the importation of merchandise, items (including technology, services, and software), including but not limited to those administered by U.S. Customs and Border Protection or the U.S. Department of Commerce, (b) any Laws concerning the exportation or re-exportation of items (including technology, services, and software), including but not limited to those administered by the U.S. Department of Commerce or the U.S. Department of State, or (c) any economic sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department (“OFAC”), the U.S. State Department, the United Nations, Canada, the European Union, or the United Kingdom.

“Intervening Event” means any Effect that was not known by nor was reasonably foreseeable to the RMT Partner Board as of the date of this Agreement; provided, that in no event shall any Effect that (a) involves or relates to an RMT Partner Acquisition Proposal or a RMT Partner Superior Proposal or any inquiry or communications or matters relating thereto, (b) results from the announcement or pendency of this Agreement or any actions expressly required to be taken or to be refrained from being taken pursuant to this Agreement, or (c) relates to the fact that Remainco, the Spinco Business or RMT Partner, as applicable, meets or exceeds any internal or analysts’ expectations or projections be taken into account for purposes of determining whether an Intervening Event has occurred (it being understood that, with respect to the foregoing clause (b), the facts or occurrences giving rise or contributing to such Effect may be taken into account when determining whether an Intervening Event has occurred).

“IRS” means the United States Internal Revenue Service.

“Knowledge” when used in this Agreement (a) with respect to Remainco, means the actual knowledge of the Persons listed on Section 11.15(a) of the Spinco Disclosure Letter, and (b) with respect to RMT Partner, means the actual knowledge of the Persons listed on Section 11.15(a) of the RMT Partner Disclosure Letter.

“Laws” means any domestic or foreign federal, state, provincial, local or municipal statute, law, common law, ordinance, rule, regulation, order, writ, injunction, directive, judgment, decree, ruling, Governmental Order or other legally binding requirement of a Governmental Entity.

“Lien” means any lien, encumbrance, security interest, pledge, mortgage, hypothecation, charge, option, right of first refusal or first offer, lease, encroachment, restriction on transfer of title or other similar encumbrance.

“Multiemployer Plan” means any “multiemployer plan” within the meaning of Section 4001(a)(3) of ERISA.

“Multiple Employer Plan” means an employee benefit plan maintained by more than one employer within the meaning of Section 413(c) of the Code or that is or has been subject to Section 4063 or 4064 of ERISA.

“New Issuance” means (a) the Fully Diluted RMT Partner Shares multiplied by (b) the quotient of 90 divided by 10.

“Nonwoven Restricted Business” means the business of selling and manufacturing nonwoven materials; provided, however that the Nonwoven Restricted Business shall not include the Retained Business.

“NYSE” means the New York Stock Exchange, Inc.

“OFAC” has the meaning set forth in the definition of International Trade Laws.

“Open Source Software” means software that is distributed as “free and open source software”, “open source software” or under similar licensing or distribution terms (including any license approved by the Open Source Initiative and listed at opensource.org/licenses).

“Ordinary Course” means, with respect to an action taken by any Party, that such action is consistent with the ordinary course of business and past practices of such Party, excluding any deviations therefrom due to action taken consistent with trends in the industry in which the Party operates its business.

“Organizational Documents” means (a) with respect to any person that is a corporation, its articles or certificate of incorporation, memorandum and articles of association, as applicable, and bylaws, or comparable documents, (b) with respect to any person that is a partnership, its certificate of partnership and partnership agreement, or comparable documents, (c) with respect to any Person that is a limited liability company, its certificate of formation and limited liability company or operating agreement, or comparable documents, (d) with respect to any Person that is a trust or other entity, its declaration or agreement of trust or other constituent document or comparable documents, and (e) with respect to any other Person that is not an individual, its comparable organizational documents.

“Patents” means patents and patent applications, including divisionals, continuations, continuations-in-part, reissues, reexaminations, interferences and any extensions thereof, and including all inventions claimed by any such patents and patent applications.

“Permits” means all permits, certifications, approvals, registrations, consents, authorizations, franchises, variances, exemptions and orders issued or granted by a Governmental Entity necessary to own, lease and operate the assets of such Person, its business and the assets thereof, and to conduct its business as presently conducted.

“Permitted Encumbrances” means the following Liens: (a) Liens specifically disclosed in the Spinco Financial Statements or RMT Partner Reports; (b) Liens for Taxes, assessments or other governmental charges or levies that are not yet due or payable or that are being contested in good faith or that may thereafter be paid without penalty; (c) statutory and contractual Liens of landlords, lessors or renters and Liens of carriers, warehousemen, mechanics, materialmen, workmen, repairmen and other Liens imposed by Law; (d) Liens incurred or deposits made in the Ordinary Course in connection with workers’ compensation, unemployment insurance or other types of social security; (e) Liens incurred in the Ordinary Course securing obligations or liabilities that are not material to the operations of the business of the Person in question taken as a whole; (f) defects or imperfections of title, encroachments, easements, declarations, conditions, covenants, rights-of-way, restrictions and other charges, instruments or encumbrances or other defects affecting title to real estate (including any leasehold or other interest therein); (g) Liens not created by the Person in question that affect the underlying fee interest of any leased real property, including master leases or ground leases; (h) zoning ordinances, variances, conditional use permits and similar regulations, permits, approvals and conditions; and (i) any set of facts that an accurate up-to-date survey would show.

“Person” means an association, a corporation, an individual, a partnership, a limited liability company, an unlimited liability company, a trust or any other entity or organization, including a Governmental Entity.

“Personal Data” means information and data concerning an identified or identifiable natural person (including any information specifically identified in any entity privacy policy as “personally identifiable information”) in paper, electronic or any other form, including PHI.

“PHI” means protected health information, as defined by the Health Insurance Portability and Accountability Act of 1996, and any other information concerning the health (physical or mental) or medical condition of an identified or identifiable individual.

“Private Letter Ruling” means a private letter ruling from the IRS regarding the qualification of the Contribution, the Initial Spin, the Spinco Distribution, and the Spinco Special Cash Payment for the Intended Initial Spin Tax Treatment, which may be subject to reasonable and customary assumptions, representations or covenants (or, in the case of a Delayed RMT, such other private letter ruling (if any) as may be requested from the IRS in accordance with the penultimate sentence of Section 2.9).

“Proceeding” means any action, claim, complaint, suit, mediation, arbitration, audit or other proceeding, whether civil or criminal, at Law or in equity, by or before any Governmental Entity.

“Processing” (or its conjugates) means any operation or set of operations that is performed upon Personal Data, whether or not by automatic means, such as the receipt, access, acquisition, collection, recording, organization, structuring, transfer, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, or combination, restriction, erasure or destruction, relating to such data or combination thereof.

“Record Date” has the meaning set forth in the Separation and Distribution Agreement.

“Regulatory Approvals” shall mean all Permits, expirations of waiting periods and authorizations required to be obtained prior to the First Effective Time by any of the Parties or their respective Affiliates from, any Governmental Entity in connection with the execution and delivery of this Agreement and the consummation of the Transactions, excluding for the avoidance of doubt, any Tax Ruling.

“Release” means any release, spill, emission, leaking, injection, pouring, dumping, escaping, deposit, disposal, discharge, dispersal, leaching or migration of any Hazardous Substance into or in the air, soil, surface water, groundwater, or environment.

“Remainco Common Stock” means the common shares, par value of \$0.01 per share, of Remainco.

“Remainco Material Adverse Effect” means any Effect that prevents or would reasonably be expected to prevent, materially delay or materially impair the ability of Remainco to consummate the Transactions by the Outside Date.

“Remainco Merger Tax Opinion” means the opinion of Remainco Tax Counsel, addressed to Remainco and dated as of the Closing Date, substantially in the form attached hereto as Exhibit H, to the effect that the Merger will qualify for the Intended Merger Tax Treatment.

“Remainco Spin Tax Opinion” means the opinion of Remainco Tax Counsel, addressed to Remainco and dated as of the Closing Date, to the effect that: the Contribution, the Initial Spin, the Spinco Distribution and the Spinco Special Cash Payment will qualify for the Intended Initial Spin Tax Treatment.

“Remainco Tax Counsel” means Bryan Cave Leighton Paisner LLP or, in the event Bryan Cave Leighton Paisner LLP is unable or unwilling to provide the Remainco Tax Opinions, such other counsel reasonably satisfactory to Remainco.

“Remainco Tax Opinions” mean the Remainco Spin Tax Opinion and the Remainco Merger Tax Opinion.

“Remainco Tax Representation Letters” means one or more Tax representation letters containing customary representations and covenants relevant to the qualification of the Contribution, the Initial Spin, the Spinco Distribution, the Spinco Special Cash Payment, and the Merger for the Intended Tax Treatment, and with customary assumptions, exceptions and modifications thereto, reasonably satisfactory in form and substance to Remainco Tax Counsel, executed by Remainco and dated and effective as of the Closing Date.

“Representative” means with respect to any Person, any of such Person’s officers, directors, managers, employees, shareholders, members, partners, controlling persons, agents, consultants, advisors, and other representatives, including legal counsel, accountants and financial advisors.

“Required Periods” means, in the case of a balance sheet, such date or dates, or, in the case of statements of earnings, cash flows and equity, such periods or periods, as are required to be provided by applicable Law (in each case, after giving effect to any waiver, amendment, modification, interpretation, guidance, or other form of relief made available by the applicable Governmental Entity) in connection with the Securities Filings and to effectuate the transactions contemplated by this Agreement.

“Retained Business” means the business of designing, manufacturing, selling, and/or distributing (a) rigid and flexible packaging, (b) tape products, (c) medical devices and pharmaceutical delivery and dispensing devices and related consumables, (d) films other than those captured in Spinco Business, (e) mulch films, and (f) products that have been manufactured by facilities not listed on Section 6.17 of the Spinco Disclosure Letter in the 365 days prior to signing.

“Restricted Business” means the Nonwoven Restricted Business and the Film Restricted Business.

“Restricted Period” means the period commencing on the Closing Date and ending on the third (3rd) anniversary of the Closing Date; provided, that solely with respect to the Nonwoven Restricted Business, “Restricted Period” shall mean the fifth (5th) anniversary of the Closing Date.

“RMT Partner Acquisition Proposal” means any proposal or offer of a third party relating to a merger, joint venture, partnership, consolidation, dissolution, liquidation, tender offer, recapitalization, reorganization, spin-off, share exchange, business combination or similar transaction involving RMT Partner or any of its Subsidiaries or any acquisition by any Person or group, or any proposal or offer that if consummated would, in each case, result in, any Person or group becoming the beneficial owner of, directly or indirectly, in one or a series of related transactions, twenty (20%) or more of the total voting power of RMT Partner or twenty (20%) or more of the consolidated total assets (taken as a whole, it being understood that total assets include equity securities of Subsidiaries) of RMT Partner, in each case other than the Transactions.

“RMT Partner Business” means the business of designing, manufacturing, selling, and/or distributing (a) cellulose-based airlaid nonwoven materials, primarily used to manufacture consumer products for healthcare and hygiene markets and other consumer and industrial applications, (b) specialty long fibers, primarily from natural sources such as abaca, and other materials to create products for food and beverage, technical specialties, wallcover, composite laminates, and metallized products, and (c) spunlace nonwovens for critical cleaning, high-performance materials, personal care, hygiene, and medical applications.

“RMT Partner Common Stock” means the shares of a single class of capital stock of RMT Partner designated as common stock as of immediately following the Charter Amendment Effective Time.

“RMT Partner Credit Facilities” means the revolving and term loan facilities provided for under that certain Fourth Amended and Restated Credit Agreement, dated as of May 9, 2022, by and among RMT Partner, certain of its subsidiaries, the lenders party thereto, and PNC Bank, National Association, in its capacity as administrative agent.

“RMT Partner Employee” means each individual employed by the RMT Partner or any of its Subsidiaries immediately prior to the First Effective Time.

“RMT Partner Intellectual Property” means any and all Intellectual Property owned or purported to be owned by RMT Partner and its Subsidiaries.

“RMT Partner IT Assets” means the computers, software and software platforms, databases, hardware, websites, servers, routers, hubs, switches, circuits, networks, data communications lines and all other information technology infrastructure and equipment that are owned or controlled by RMT Partner and its Subsidiaries and used in connection with the operation of the RMT Partner Business.

“RMT Partner Material Adverse Effect” means any Effect that, individually or in the aggregate with any other Effect is, or would reasonably be expected to be, materially adverse to the condition (financial or otherwise), properties, assets, operations, liabilities, business or results of operations of RMT Partner and its Subsidiaries taken as a whole; provided, however, that none of the following, alone or in combination, shall be deemed to constitute, or be taken into account in determining whether an RMT Partner Material Adverse Effect has occurred or would reasonably be expected to occur:

(a) Effects generally affecting the economy, credit, capital, securities or financial markets or political, regulatory or business conditions in any jurisdiction in which RMT Partner or its Subsidiaries has material operations or in which products or services of RMT Partner or its Subsidiaries are sold;

(b) Effects that are the result of factors generally affecting the industries, markets or geographical areas in which RMT Partner or its Subsidiaries have material operations;

(c) any changes in the relationship of the RMT Partner or its Subsidiaries, contractual or otherwise, with customers, employees, talent, unions, suppliers, distributors, financing sources, partners or similar relationship or any resulting Effect that was caused by the entry into, announcement, pendency or performance of the Transactions, or resulting or arising from the identity of Remainco or the Spinco Entities or the Spinco Business or any actions expressly required to be taken or to be refrained from being taken pursuant to this Agreement (provided that this clause (c) does not apply in the context of any representation or warranty that is intended to address the consequences of the execution, delivery or performance of this Agreement or the other Transaction Documents, the consummation of the Merger or the other Transactions contemplated hereby);

(d) changes or modifications in accounting standards applicable to RMT Partner or its Subsidiaries, including GAAP, or in any Law of general applicability, including the repeal thereof, or in the interpretation or enforcement thereof, after the date of this Agreement;

(e) any failure by RMT Partner or its Subsidiaries to meet any internal or public projections or forecasts or estimates of revenues or earnings for any period; provided that the exception in this clause (e) shall not prevent or otherwise affect a determination that any Effect underlying such failure has resulted in, or contributed to, or would reasonably be expected to result in, or contribute to, an RMT Partner Material Adverse Effect;

(f) any Effect resulting from acts of war (whether or not declared), civil disobedience, hostilities, sabotage, terrorism, military actions, any hurricane, flood, tornado, earthquake or other weather or natural disaster, or any epidemic, pandemic, outbreak of illness or other public health event or any other force majeure event, or any national or international calamity or crisis or the escalation or worsening of any of the foregoing;

(g) any actions expressly required to be taken or omitted by RMT Partner or its Subsidiaries pursuant to this Agreement; or

(h) any Effect or announcement of an Effect affecting the credit rating or other rating of financial strength of RMT Partner or any of its Subsidiaries or any of their respective securities; provided that the exception in this clause (h) shall not prevent or otherwise affect a determination that any Effect underlying such Effect, announcement of an Effect has resulted in, or contributed to, or would reasonably be expected to result in, or contribute to, an RMT Partner Material Adverse Effect;

provided further that, with respect to clauses (a), (b), (d) and (f), such Effect shall be taken into account in determining whether an “RMT Partner Material Adverse Effect” has occurred or is occurring to the extent it materially and disproportionately adversely affects RMT Partner and its Subsidiaries (taken as a whole) compared to other companies operating in the industries or markets in which RMT Partner and its Subsidiaries operate (in which case only the incremental disproportionate impact may be taken into account, and only to the extent otherwise permitted by this definition).

“RMT Partner Merger Tax Representation Letter” means the representation letter substantially in the form of Exhibit G, with such changes, updates or refinements, consented to by RMT Partner and Remainco (such consent not to be unreasonably withheld, conditioned or delayed), as may be reasonably necessary to reflect any changes in, or clarifications of, facts or Law prior to the Closing, executed by RMT Partner and Merger Subs and dated and effective as of the Closing Date.

“RMT Partner Recommendation” means the recommendation by the RMT Partner Board of the approval by the shareholders of RMT Partner of the RMT Partner Share Issuance and the RMT Partner Charter Amendment.

“RMT Partner Registration Statement” means the registration statement on Form S-4 to be filed by RMT Partner with the SEC to effect the registration under the Securities Act of the issuance of the shares of RMT Partner Common Stock that will be received by holders of Spinco Common Stock pursuant to the Merger.

“RMT Partner Share Issuance” means the issuance of the shares of RMT Partner Common Stock in accordance with Section 3.1 in an amount equal to the New Issuance.

“RMT Partner Shareholder Approval” means the approval of the RMT Partner Share Issuance and the RMT Partner Charter Amendment, in each case by the affirmative vote of a majority of the votes cast by holders of RMT Partner capital stock entitled to vote on such matter at a shareholders meeting duly called and held for such purpose.

“RMT Partner Spin Tax Representation Letter” means a Tax representation letter containing customary representations and covenants relevant to the qualification of the Contribution, the Initial Spin, the Spinco Distribution, and the Spinco Special Cash Payment, for the Intended Initial Spin Tax Treatment and Intended Spinco Distribution Tax Treatment, and with customary assumptions, exceptions and modifications thereto, reasonably satisfactory in form and substance to RMT Partner and Remainco Tax Counsel, executed by RMT Partner and Merger Subs and dated and effective as of the Closing Date.

“RMT Partner Superior Proposal” means a unsolicited, *bona fide* written RMT Partner Acquisition Proposal made after the date of this Agreement that would result in a Person or group, other than Remainco or any of its Subsidiaries or controlled Affiliates (including the Spinco Entities), becoming the beneficial owner of, directly or indirectly, at least fifty percent (50%) of the total voting power of the equity securities of RMT Partner (or of the surviving entity in a merger involving RMT Partner, as applicable) or at least fifty percent (50%) of the consolidated total assets (taken as a whole, including equity securities of its Subsidiaries), of RMT Partner that the RMT Partner Board has determined in good faith, after consultation with RMT Partner’s outside legal counsel and financial advisor that (a) if consummated, would result in a transaction more favorable to RMT Partner’s shareholders from a financial point of view than the Merger (after taking into account any revisions to the terms of this Agreement proposed by Remainco pursuant to Section 8.3(d)(ii) and the time likely to be required to consummate such RMT Partner Acquisition Proposal), and (b) is reasonably likely to be consummated on the terms proposed, taking into account any legal, financial and regulatory requirements, the likelihood of termination, the timing of closing, and the identity of the Person or Persons making the proposal.

“RMT Partner Tax Representation Letters” means the RMT Partner Merger Tax Representation Letter and RMT Partner Spin Tax Representation Letter.

“SEC” means the Securities and Exchange Commission.

“Securities Act” means the Securities Act of 1933.

“Separation” has the meaning set forth in the Separation and Distribution Agreement.

“Separation and Distribution Agreement” means the Separation and Distribution Agreement, dated as of the date hereof, among Remainco, Spinco and RMT Partner, attached as Exhibit A to this Agreement.

“Service Provider” means (a) with respect to the Spinco Entities, any current or former Spinco Employee, officer, director, consultant or individual independent contractor of the Spinco Entities, and (b) with respect to RMT Partner, any current or former RMT Partner Employee, officer, director, consultant or individual independent contractor of RMT Partner and its Subsidiaries.

“Spinco Acquisition Proposal” means any proposal or offer relating to a merger, joint venture, partnership, consolidation, dissolution, liquidation, tender offer, recapitalization, reorganization, spin-off, share exchange, business combination or similar transaction involving any of the Spinco Entities or any acquisition by any Person or group, or any proposal or offer that if consummated would, in each case, result in, any Person or group becoming the beneficial owner of, directly or indirectly, in one or a series of related transactions, twenty percent (20%) or more of the consolidated total assets (taken as a whole, it being understood that total assets include equity securities of Subsidiaries) of the Spinco Business, in each case other than (a) the Transactions, and (b) any proposal or offer relating to a merger, joint venture, partnership, consolidation, dissolution, liquidation, tender offer, recapitalization, reorganization, spin-off, share exchange, business combination or any other transaction involving Remainco or any acquisition by any Person or group of, or any proposal or offer involving, the securities of Remainco.

“Spinco Business” means business of designing, manufacturing, selling, and/or distributing (a) nonwoven materials, (b) films that are to be laminated to nonwoven materials and silicone-coated films, which in each case are intended as components of products for the healthcare and hygiene markets, (c) flexible intermediate bulk containers and other woven fabrics, and (d) mulch films as produced in Washington, GA; provided, however, that “Spinco Business” specifically excludes the Retained Business.

“Spinco Common Stock” shall mean all of the issued and outstanding shares of common stock, par value \$0.01 per share, of Spinco.

“Spinco Distribution” has the meaning set forth in the Separation and Distribution Agreement.

“Spinco Distribution Date” has the meaning set forth in the Separation and Distribution Agreement.

“Spinco Employee” has the meaning set forth in the Employee Matters Agreement.

“Spinco Entities” means Spinco and the Spinco Subsidiaries after giving effect to the Separation.

“Spinco Intellectual Property” means any and all Intellectual Property owned or purported to be owned by the Spinco Entities.

“Spinco IT Assets” means the computers, software and software platforms, databases, hardware, websites, servers, routers, hubs, switches, circuits, networks, data communications lines and all other information technology infrastructure and equipment that are owned or controlled by the Spinco Entities and used in connection with the operation of the Spinco Business.

“Spinco Material Adverse Effect” means any Effect that, individually or in the aggregate with any other Effect is, or would reasonably be expected to be, materially adverse to the condition (financial or otherwise), properties, assets, operations, liabilities, business or results of operations of the Spinco Business or the Spinco Entities, taken as a whole; provided, however, that none of the following, alone or in combination, shall be deemed to constitute, or be taken into account in determining whether a Spinco Material Adverse Effect has occurred or would reasonably be expected to occur:

(a) Effects generally affecting the economy, credit, capital, securities or financial markets or political, regulatory or business conditions in any jurisdiction in which Spinco, the Spinco Business or the Spinco Subsidiaries has material operations or in which products or services of Spinco, the Spinco Business or the Spinco Subsidiaries are sold;

(b) Effects that are the result of factors generally affecting the industries, markets or geographical areas in which Spinco, the Spinco Business or the Spinco Subsidiaries have material operations;

(c) any changes in the relationship of Spinco, the Spinco Business or any Spinco Subsidiaries, contractual or otherwise, with customers, employees, talent, unions, suppliers, distributors, financing sources, partners or similar relationship or any resulting Effect that was caused by the entry into, announcement, pendency or performance of the Transactions, or resulting or arising from the identity of RMT Partner or its Subsidiaries or any actions expressly required to be taken or to be refrained from being taken pursuant to this Agreement (provided, that this clause (c) does not apply in the context of any representation or warranty that is intended to address the consequences of the execution, delivery or performance of this Agreement or the other Transaction Documents, the consummation of the Merger or the other Transactions contemplated hereby);

(d) changes or modifications in accounting standards applicable to Spinco, the Spinco Business or any Spinco Subsidiary, including GAAP, or in any Law of general applicability, including the repeal thereof, or in the interpretation or enforcement thereof, after the date of this Agreement;

(e) any failure by Spinco, the Spinco Business or any Spinco Subsidiary to meet any internal or public projections or forecasts or estimates of revenues or earnings for any period; provided that the exception in this clause (e) shall not prevent or otherwise affect a determination that any Effect underlying such failure has resulted in, or contributed to, or would reasonably be expected to result in, or contribute to, a Spinco Material Adverse Effect;

(f) any Effect resulting from acts of war (whether or not declared), civil disobedience, hostilities, sabotage, terrorism, military actions or the escalation of any of the foregoing, any hurricane, flood, tornado, earthquake or other weather or natural disaster, or any epidemic, pandemic, outbreak of illness or other public health event or any other force majeure event, or any national or international calamity or crisis or the escalation or worsening of any of the foregoing;

(g) any actions expressly required to be taken or omitted by Remainco or any of its Subsidiaries (including the Spinco Entities) pursuant to this Agreement; or

(h) any Effect or announcement of an Effect affecting the credit rating or other rating of financial strength of Spinco, the Spinco Business or the Spinco Subsidiaries or any of their respective securities; provided that the exception in this clause (h) shall not prevent or otherwise affect a determination that any Effect underlying such Effect, announcement of an Effect has resulted in, or contributed to, or would reasonably be expected to result in, or contribute to, a Spinco Material Adverse Effect;

provided further that, with respect to clauses (a), (b), (d) and (f), such Effect shall be taken into account in determining whether a “Spinco Material Adverse Effect” has occurred or is occurring to the extent it materially and disproportionately adversely affects the Spinco Business or Spinco and the Spinco Entities (taken as a whole) compared to other companies operating in the industries or markets in which Spinco, the Spinco Business or the Spinco Entities operate (in which case only the incremental disproportionate impact may be taken into account, and only to the extent otherwise permitted by this definition).

“Spinco Merger Tax Representation Letter” means the representation letter substantially in the form of Exhibit F, with such changes, updates or refinements, consented to by RMT Partner and Remainco (such consent not to be unreasonably withheld, conditioned or delayed), as may be reasonably necessary to reflect any changes in, or clarifications of, facts or Law prior to the Closing, executed by Spinco and dated and effective as of the Closing Date.

“Spinco Special Cash Payment” has the meaning set forth in the Separation and Distribution Agreement.

“Spinco Spin Tax Representation Letter” means a Tax representation letter containing customary representations and covenants relevant to the qualification of the Contribution, the Initial Spin, the Spinco Distribution, and the Spinco Special Cash Payment, for the Intended Initial Spin Tax Treatment and the Intended Spinco Distribution Tax Treatment, and with customary assumptions, exceptions and modifications thereto, reasonably satisfactory in form and substance to Remainco Tax Counsel, executed by Spinco and dated and effective as of the Closing Date.

“Spinco Subsidiaries” means all direct and indirect Subsidiaries of Spinco after giving effect to the Separation.

“Spinco Superior Proposal” means an unsolicited, *bona fide* written Spinco Acquisition Proposal made after the date of this Agreement that would result in a Person or group, other than RMT Partner or any of its Subsidiaries or controlled Affiliates, becoming the beneficial owner of, directly or indirectly, at least fifty percent (50%) of the total assets (taken as a whole, including equity securities of any Spinco Entities) of the Spinco Business that Remainco has determined in good faith, after consultation with its financial advisor, that (a) if consummated, would result in a transaction more favorable to Remainco from a financial point of view than the Merger (after taking into account any revisions to the terms of this Agreement proposed by RMT Partner pursuant to Section 8.2(d)(ii) and the time likely to be required to consummate such Spinco Acquisition Proposal), and (b) is reasonably likely to be consummated on the terms proposed, taking into account any legal, financial and regulatory requirements, the likelihood of termination, the timing of closing, and the identity of the Person or Persons making the proposal.

“Spinco Tax Representation Letters” means the Spinco Merger Tax Representation Letter and Spinco Spin Tax Representation Letter.

“Subsidiary” means, with respect to any Person, any other Person of which at least a majority of the securities or ownership interests having by their terms voting power to elect a majority of the board of directors or other persons performing similar functions is directly or indirectly owned or controlled by, or is, such Person or by one or more of its Subsidiaries.

“Takeover Statute” means a “fair price”, “moratorium”, “control share acquisition” or other similar anti-takeover statute or regulation.

“Tax” or “Taxes” has the meaning set forth in the Tax Matters Agreement.

“Tax Law” has the meaning set forth in the Tax Matters Agreement.

“Tax Matters Agreement” means the Tax Matters Agreement entered into by and among Remainco, Spinco and RMT Partner on the date hereof, attached as Exhibit B to this Agreement.

“Tax Return” has the meaning set forth in the Tax Matters Agreement.

“Tax Ruling” means the Private Letter Ruling or any other private letter ruling or similar advance ruling or clearance from a Taxing authority concerning the transactions contemplated by the Transaction Documents.

“Tender Offer Statement” means the tender offer statement on Schedule TO to be filed by Remainco with the SEC if the Spinco Distribution is effected in whole or in part as an exchange offer.

“Territory” means worldwide.

“Threshold Event” means the provisions of this Agreement that obligate RMT Partner to hold the RMT Partner Shareholders Meeting are materially and adversely limited or invalidated for any reason, including as a result of a judicial determination that (a) is either a final or interim order, and (b) has been entered and has remained in effect for a period of ten (10) days without being reversed or stayed pending appeal (or, in the case of an order that is not subject to further appeal, on the first (1st) Business Day following the entry of the order).

“Trade Secrets” means any and all trade secrets, know-how and other confidential information.

“Trademarks” means any and all trademarks, service marks, trade names, trade dress, logos, business names, Internet domain names, and social media account handles, together with the goodwill associated with any of the foregoing, and all registrations and applications for registration of the foregoing.

“Transaction Documents” means this Agreement, the Separation and Distribution Agreement, the Tax Matters Agreement, the Employee Matters Agreement, and the Transition Services Agreement, including all annexes, Exhibits, Schedules, attachments and appendices thereto.

“Transition Services Agreement” means that certain Transition Services Agreement by and between BGI and the Surviving Entity dated as of the Closing Date, substantially in the form of Exhibit D hereto.

“Willful Breach” means, with respect to any Party, (a) intentional (and not constructive) fraud with respect to the representations, warranties, covenants or other agreements of such Party set forth in this Agreement, or (b) a willful act or a willful failure to act by such party that actually causes or results in a material breach of this Agreement.

EXHIBIT A
SEPARATION AND DISTRIBUTION AGREEMENT

EXHIBIT B
TAX MATTERS AGREEMENT

EXHIBIT C
EMPLOYEE MATTERS AGREEMENT

EXHIBIT D
TRANSITION SERVICES AGREEMENT

EXHIBIT E

RMT PARTNER CHARTER AMENDMENT

EXHIBIT F

SPINCO MERGER TAX REPRESENTATION LETTER

EXHIBIT G

RMT PARTNER MERGER TAX REPRESENTATION LETTER

EXHIBIT H
REMAINCO MERGER TAX OPINION

EXHIBIT I
SPINCO COMMITMENT LETTER

SEPARATION AND DISTRIBUTION AGREEMENT

by and among

BERRY GLOBAL GROUP, INC.,

TREASURE HOLDCO, INC.,

and

GLATFELTER CORPORATION

Dated as of February 6, 2024

TABLE OF CONTENTS

	Page	
ARTICLE I		
THE SEPARATION		
Section 1.1	Transfer of Assets and Assumption of Liabilities	5
Section 1.2	Separation Plan; Separation Committee	8
Section 1.3	Commingled Contracts; Combined Contracts	9
Section 1.4	Intergroup Accounts; Intercompany Accounts	11
Section 1.5	Intergroup Contracts	12
Section 1.6	Further Assurances	12
Section 1.7	Guarantees; Credit Support Instruments	13
Section 1.8	Delayed Assets and Liabilities	15
Section 1.9	Wrong Pockets	17
Section 1.10	Novation of Liabilities	18
Section 1.11	Conditions to the Separation	18
Section 1.12	Disclaimer of Representations and Warranties	19
Section 1.13	Works Council Matters	19
ARTICLE II		
CERTAIN ACTIONS AT OR PRIOR TO THE INITIAL SPIN		
Section 2.1	Securities Law Matters	20
Section 2.2	Certain Resignations	21
Section 2.3	Spinco Financing; Minimum Cash Amount	21
Section 2.4	Ancillary Agreements	21
Section 2.5	Distribution Agent	21
Section 2.6	Transaction Expense Payoff Instructions	22
Section 2.7	Payoff Letters	22
ARTICLE III		
THE INITIAL SPIN AND THE SPINCO DISTRIBUTION		
Section 3.1	Form of Spinco Distribution	22
Section 3.2	Manner of Distribution	22
Section 3.3	Conditions to Distribution	24
Section 3.4	Additional Matters	25
Section 3.5	Tax Withholding	25
Section 3.6	Delivery of Shares	25
Section 3.7	Release of Liens	25

ARTICLE IV

CERTAIN COVENANTS

Section 4.1	Auditors and Audits; Annual and Quarterly Financial Statements and Accounting	26
Section 4.2	Separation of Information	28
Section 4.3	Nonpublic Information	30
Section 4.4	Cooperation	30
Section 4.5	IT Assets Separation	31
Section 4.6	Operational Matters	31

ARTICLE V

INDEMNIFICATION

Section 5.1	Release of Pre-Distribution Claims	31
Section 5.2	Indemnification by Remainco	35
Section 5.3	Indemnification by Spinco and RMT Partner	35
Section 5.4	Procedures for Third Party Claims	36
Section 5.5	Procedures for Direct Claims	38
Section 5.6	Cooperation in Defense and Settlement	39
Section 5.7	Indemnification Payments	40
Section 5.8	Indemnification Obligations Net of Insurance Proceeds and Other Amounts	40
Section 5.9	Ancillary Agreements	41
Section 5.10	Limitation on Liability	41
Section 5.11	No Duplication; No Double Recovery	42
Section 5.12	Additional Matters; Survival of Indemnities	42

ARTICLE VI

CONFIDENTIALITY; ACCESS TO INFORMATION

Section 6.1	Preservation of Corporate Records	42
Section 6.2	Provision of Corporate Records	43
Section 6.3	Disposition of Information	45
Section 6.4	Witness Services; Access to Personnel	46
Section 6.5	Reimbursement; Other Matters	46
Section 6.6	Confidentiality; Non-Use	46
Section 6.7	Privileged Matters	48
Section 6.8	Conflicts Waiver	51
Section 6.9	Ownership of Information	52
Section 6.10	Prior Contracts	52

ARTICLE VII

DISPUTE RESOLUTION

Section 7.1	Disputes	52
Section 7.2	Escalation; Mediation	52
Section 7.3	Continuity of Service and Performance	53

ARTICLE VIII

INSURANCE

Section 8.1	Insurance Matters	53
-------------	-------------------	----

ARTICLE IX

MISCELLANEOUS

Section 9.1	Survival	55
Section 9.2	Ancillary Agreements	55
Section 9.3	Modification or Amendment; Waiver	55
Section 9.4	Counterparts	55
Section 9.5	Governing Law and Venue; Submission to Jurisdiction; Selection of Forum; Waiver of Trial by Jury	55
Section 9.6	Specific Performance	56
Section 9.7	Notice	57
Section 9.8	Entire Agreement	58
Section 9.9	Third-Party Beneficiaries	58
Section 9.10	Definitions	58
Section 9.11	Termination	58
Section 9.12	Payment Terms	59
Section 9.13	Obligations of RMT Partner and Remainco	59
Section 9.14	Severability	59
Section 9.15	Successors and Assigns	60
Section 9.16	Tax Treatment of Payments	60
Section 9.17	Interpretation and Construction	60

SEPARATION AND DISTRIBUTION AGREEMENT

This SEPARATION AND DISTRIBUTION AGREEMENT (this “Agreement”), dated as of February 6, 2024, by and among BERRY GLOBAL GROUP, INC., a Delaware corporation (“Remainco”), TREASURE HOLDCO, INC., a Delaware corporation and a wholly owned indirect Subsidiary of Remainco (“Spinco”), and GLATFELTER CORPORATION, a Pennsylvania corporation (“RMT Partner”). Each of Remainco, Spinco, and RMT Partner is sometimes referred to herein as a “Party” and collectively, as the “Parties.”

WITNESSETH:

WHEREAS, Remainco, acting through itself, its direct wholly-owned Subsidiary, Berry Global, Inc., a Delaware corporation (“BGI”), and other direct and indirect Subsidiaries, currently conducts the Remainco Business and the Spinco Business;

WHEREAS, Remainco intends to cause the separation of the Spinco Business from the Remainco Business, and to cause the assignment, transfer, conveyance and delivery (collectively, “Transfer”) of the Spinco Assets to Spinco and other members of the Spinco Group (all such Transfers collectively referred to as the “Contribution”), such that, after the Contribution, the Spinco Business is solely held by members of the Spinco Group;

WHEREAS, in connection with the Contribution, but prior to the Initial Spin, Spinco will make the Spinco Special Cash Payment to BGI;

WHEREAS, following the Contribution and pursuant to this Agreement, BGI will undertake the Initial Spin by distributing 100% of the Spinco Common Stock to Remainco;

WHEREAS, following the Initial Spin, Remainco will distribute (the “Spinco Distribution”) to the holders of Remainco Common Stock all of the issued and outstanding shares of Spinco Common Stock received in the Initial Spin (a) by means of a pro rata distribution (the “Spin-Off”), and/or (b) with the consent of RMT Partner, by way of an offer to exchange shares of Spinco Common Stock for outstanding shares of Remainco Common Stock (the “Exchange Offer”) (to be followed by a Clean-Up Spin-Off);

WHEREAS, immediately following the Spinco Distribution and pursuant to the RMT Transaction Agreement, (a) First Merger Sub shall be merged with and into Spinco, with Spinco continuing as the surviving corporation and a wholly owned Subsidiary of RMT Partner (the “First Merger”), and (b) immediately following the First Merger and as part of the same overall transaction, Spinco will merge with and into Second Merger Sub (the “Second Merger”, and together with the First Merger, the “Merger”), with Second Merger Sub being the surviving limited liability company and wholly owned Subsidiary of RMT Partner, all upon the terms and subject to the conditions set forth in the RMT Transaction Agreement;

WHEREAS, for U.S. federal income Tax purposes, it is intended that (a) the Contribution, the Spinco Special Cash Payment, and the Initial Spin undertaken on the terms and conditions set forth in this Agreement shall constitute a plan of reorganization in support of the Intended Initial Spin Tax Treatment, (b) the Spinco Distribution and the Clean-Up Spin-Off, if required, on the terms set forth in this Agreement shall qualify for the Intended Spinco Distribution Tax Treatment, (c) the Merger shall qualify for the Intended Merger Tax Treatment, and (d) this Agreement together with the RMT Transaction Agreement shall constitute a “plan of reorganization” for purposes of Section 368 of the Code in support of the Intended Tax Treatment;

WHEREAS, the board of directors of Spinco (the “Spinco Board”) has unanimously (a) approved and declared advisable this Agreement, the RMT Transaction Agreement and the transactions contemplated hereby and thereby, including the Separation, the Initial Spin, the Spinco Distribution and the Merger, (b) determined that this Agreement, the RMT Transaction Agreement and the transactions contemplated hereby and thereby, including the Separation, the Initial Spin, the Spinco Distribution and the Merger, are in the best interest of Spinco and its sole stockholder, and (c) resolved to recommend the adoption of the RMT Transaction Agreement by BGI, as the sole stockholder of Spinco; and

WHEREAS, the board of directors of Remainco (the “Remainco Board”) has unanimously approved this Agreement, the RMT Transaction Agreement and the transactions contemplated hereby and thereby, including the Separation, the Initial Spin, the Spinco Distribution and the Merger, subject to such further action of the Remainco Board required, if applicable, to determine the structure of Initial Spin and the Spinco Distribution, establish the Record Date and the Spinco Distribution Date, and the effectiveness of the declaration of the Initial Spin and the Spinco Distribution by the Remainco Board (which is subject to the satisfaction or, to the extent permitted by applicable Law, waiver of the conditions set forth in this Agreement).

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements, provisions and covenants contained in this Agreement, each of the Parties hereby agree as follows:

ARTICLE I

THE SEPARATION

Section 1.1 Transfer of Assets and Assumption of Liabilities.

(a) Subject to the terms of this Agreement, and substantially in accordance with the Separation Plan (as finally determined pursuant to Section 1.2), prior to the Initial Spin:

(i) *Spinco Assets.* Remainco shall Transfer (or will cause each of its applicable Subsidiaries to Transfer) to Spinco or the applicable member(s) of the Spinco Group (which shall accept) all of Remainco’s and its applicable Subsidiaries’ respective right, title and interest in and to all Spinco Assets;

(ii) *Spinco Assumed Liabilities.* Spinco shall, and shall cause the other members of the Spinco Group to accept, assume and agree to perform, discharge and fulfill the Spinco Assumed Liabilities in accordance with their respective terms. Spinco and each other member of the Spinco Group shall be responsible for all Spinco Assumed Liabilities, regardless of when or where such Spinco Assumed Liabilities arose or arise, or the legal entity that incurred or holds the Spinco Assumed Liability (provided, however, that nothing contained herein shall preclude or inhibit Spinco from asserting against Third Parties any defense available to the Person that incurred or holds such Spinco Assumed Liability), or whether the facts on which they are based occurred prior to, at or subsequent to the Spinco Distribution, regardless of where or against whom such Spinco Assumed Liabilities are asserted or determined or whether asserted or determined prior to the date of this Agreement;

(iii) *Excluded Assets*. Spinco shall cause the members of the Spinco Group to assign, transfer, convey and deliver to Remainco or one or more of its other Subsidiaries designated by Remainco (other than any member of the Spinco Group), and Remainco or such other Subsidiaries shall accept from such applicable members of the Spinco Group, such applicable Person's respective direct or indirect right, title and interest in and to any Excluded Assets; and

(iv) *Excluded Liabilities*. Remainco and/or its Subsidiaries designated by Remainco (other than any member of the Spinco Group) shall accept and assume from the members of the Spinco Group and agree to perform, discharge and fulfill the Excluded Liabilities of such Persons, and Remainco and/or its applicable Subsidiaries shall be responsible for all Excluded Liabilities, regardless of when or where such Excluded Liabilities arose or arise, or the legal entity that incurred or holds the Excluded Liability (provided, however, that nothing contained herein shall preclude or inhibit Remainco from asserting against Third Parties any defense available to the Person that incurred or holds such Excluded Liability), or whether the facts on which they are based occurred prior to, at or subsequent to the Spinco Distribution, regardless of where or against whom such Excluded Liabilities are asserted or determined or whether asserted or determined prior to the date of this Agreement.

(b) In exchange for the Contribution and assumption of the Liabilities of Spinco set forth in Section 1.1(a), Spinco shall issue to BGI additional shares of Spinco Common Stock such that the number of shares of Spinco Common Stock then outstanding shall be equal to the number of shares of Spinco Common Stock necessary to effect the Initial Spin and the Spinco Distribution.

(c) The Parties acknowledge and agree that, except for such rights as are otherwise expressly provided in this Agreement or any Ancillary Agreements, none of Spinco or any member of the Spinco Group shall acquire or be permitted to retain any direct or indirect right, title or interest in any Excluded Asset through the Transfer of the Spinco Assets to Spinco pursuant to Section 1.1(a), and that if any of the members of the Spinco Group owns any such Excluded Assets, all such rights, title and interests in such Excluded Assets shall be Transferred, as further set forth in this Agreement.

(d) In furtherance of the Transfer of the Spinco Assets and assumption of the Spinco Assumed Liabilities provided for in Section 1.1(a), prior to the Initial Spin, (i) Remainco shall prepare, execute, deliver and record (as applicable), and shall cause the applicable members of its Group to prepare, execute, deliver and record (as applicable), such Conveyancing and Assumption Instruments as and to the extent reasonably necessary or appropriate to evidence the Transfer of all of Remainco's and the members of the Remainco Group's right, title and interest in and to the Spinco Assets to the applicable members of the Spinco Group (it being agreed and understood that no such Conveyancing and Assumption Instruments shall require Remainco or any of its Affiliates to make any representations or warranties, express or implied, not contained in this Agreement or any other Ancillary Agreement or agree to any covenants or other obligations effective after the Spinco Distribution (except to the extent required to comply with applicable Law, and in which case the Parties and the parties to such Conveyancing and Assumption Instrument(s) shall enter into such supplemental agreements or arrangements as are effective to preserve the allocation of economic benefits and burdens contemplated by this Agreement and the Ancillary Agreements)), including an agreement not to bring any claims against each other under or relating to such Conveyancing and Assumption Instruments other than pursuant to this Agreement or an Ancillary Agreement and (ii) Spinco shall prepare, execute, deliver and record (as applicable) such Conveyancing and Assumption Instruments (in each case in a form that is consistent with the terms and conditions of this Agreement, required by applicable Law to record or register transfer of title in each applicable jurisdiction, or otherwise customary in the jurisdiction in which the relevant Liabilities are located and reasonably acceptable to the Parties) as and to the extent reasonably necessary to evidence the valid and effective assumption of the Spinco Assumed Liabilities by the applicable members of the Spinco Group (it being agreed and understood that no such Conveyancing and Assumption Instruments shall require Spinco or any of its Affiliates to make any representations or warranties, express or implied, not contained in this Agreement or the Ancillary Agreements or agree to any covenants or other obligations effective after the Spinco Distribution (except to the extent required to comply with applicable Law, and in which case the Parties and the parties to such Conveyancing and Assumption Instrument(s)) shall enter into such supplemental agreements or arrangements as are effective to preserve the allocation of economic benefits and burdens contemplated by this Agreement and the Ancillary Agreements). Notwithstanding anything herein to the contrary, no quitclaim deed shall be used as a Conveyancing and Assumption Instrument.

(e) In furtherance of the Transfer of Excluded Assets and the assumption of Excluded Liabilities provided for in Section 1.1(a), prior to the Initial Spin, (i) Spinco shall execute and deliver, and shall cause any applicable members of the Spinco Group to prepare, execute, deliver and record (as applicable), such Conveyancing and Assumption Instruments as and to the extent reasonably necessary or appropriate to evidence the Transfer of all of Spinco's and the members of its Group's right, title and interest in and to the Excluded Assets to the applicable members of the Remainco Group (other than Spinco and the Spinco Group) (it being agreed and understood that no such Conveyancing and Assumption Instrument shall require Spinco or any of its Affiliates to make any representations or warranties, express or implied, not contained in this Agreement or any other Ancillary Agreement, or agree to any covenants or other obligations effective after the Spinco Distribution (except to the extent required to comply with applicable Law, and in which case the Parties and the parties to such Conveyancing and Assumption Instrument(s) shall enter into such supplemental agreements or arrangements as are effective to preserve the allocation of economic benefits and burdens contemplated by this Agreement and the Ancillary Agreements)), including an agreement not to bring any claims against each other under or relating to such Conveyancing and Assumption Instruments other than pursuant to this Agreement or an Ancillary Agreement and (ii) Remainco shall prepare, execute, deliver and record (as applicable) such Conveyancing and Assumption Instruments (in each case in a form that is consistent with the terms and conditions of this Agreement, required by applicable Law to record or register transfer of title in each applicable jurisdiction, and otherwise customary in the jurisdiction in which the relevant Liabilities are located and reasonably acceptable to the Parties) as and to the extent reasonably necessary to evidence the valid and effective assumption of the Excluded Liabilities by the applicable members of the Remainco Group (it being agreed and understood that no such Conveyancing and Assumption Instruments shall require Remainco or any of its Affiliates to make any representations or warranties express or implied, not contained in this Agreement or the Ancillary Agreements or agree to any covenants or other obligations effective after the Spinco Distribution (except to the extent required to comply with applicable Law, and in which case the Parties and the parties to such Conveyancing and Assumption Instrument(s) shall enter into such supplemental agreements or arrangements as are effective to preserve the allocation of economic benefits and burdens contemplated by this Agreement and the Ancillary Agreements)). Notwithstanding anything herein to the contrary, no quitclaim deed shall be used as a Conveyancing and Assumption Instrument.

(f) For a period ending on the earlier of (i) twenty-four (24) months after the Spinco Distribution and (ii) thirty-six (36) months after the date of this Agreement, each Party shall, and shall cause each member of its respective Group to, use commercially reasonable efforts to obtain, as promptly as practicable, the required Consents for the Transfer of any Spinco Asset or Excluded Asset as contemplated by this Agreement. In connection with the foregoing, Remainco, Spinco and RMT Partner agree to provide such evidence as to financial capability, resources, and creditworthiness of Remainco, Spinco and RMT Partner as may be reasonably requested by any Third Party whose Consent is sought hereunder. In no event shall (A) any of Remainco or RMT Partner (or any of their respective Affiliates) be required to make any non-de minimis payment, incur any non-de minimis Liability, commence any litigation or make any non-de minimis concession (financial or otherwise) to obtain any Consents of Third Parties contemplated by this Agreement and (B) prior to the Spinco Distribution, Spinco or any of its Subsidiaries be required to make any material payments, incur any material Liability, commence any litigation or make any material financial concessions to obtain any Consents of Third Parties contemplated by this Agreement.

Section 1.2 Separation Plan; Separation Committee.

(a) Attached as Schedule I to this Agreement is the preliminary plan and structure for the Separation, Initial Spin, Spin-Off and Merger, as contemplated by this Agreement and the Ancillary Agreement (the "Preliminary Separation Plan"). As promptly as reasonably practicable after the date hereof (and no later than twenty (20) days after the date hereof), Remainco shall deliver to RMT Partner an updated Preliminary Separation Plan depicting (i) each material internal restructuring step Remainco proposes to undertake in connection with the Separation, (ii) a list and copies (to the extent such Contracts are in written form) of any Commingled Contracts, Combined Contracts and Intergroup Contracts, and (iii) a list of the Credit Support Instruments that, pursuant to Section 1.7, will be replaced by the Parties (the "Updated Preliminary Separation Plan"). RMT Partner shall have a period of twenty (20) days from the date Remainco delivers the Updated Preliminary Separation Plan to review and comment on such Updated Preliminary Separation Plan (the "Separation Plan Review Period"). In the twenty (20)-day period following the Separation Plan Review Period, Remainco and RMT Partner shall negotiate in good faith regarding any amendments, modifications or supplements to the Updated Preliminary Separation Plan, and Remainco and RMT Partner shall consider, in each case, (A) operational considerations, (B) Tax efficiencies, and (C) the relative benefits and burdens to each of them in connection with the proposed amendment, modification or supplement thereto (including considering the cumulative effects of each restructuring step on each of RMT Partner and Remainco); provided, that the Parties shall not be required to agree to any change that would reasonably be expected to prevent, materially delay or materially impair the receipt of the Private Letter Ruling or that would be inconsistent with the covenants set forth in the Tax Matters Agreement. At the end of the twenty (20)-day period following the Separation Plan Review Period, Remainco shall revise the Updated Preliminary Separation Plan to reflect any modifications or supplements to the Updated Preliminary Separation Plan as have been agreed to by the Parties in writing (such updated plan, and such plan as it may be further amended, modified or supplemented in accordance with this Section 1.2(a), the "Separation Plan"). The Separation Plan may thereafter be amended, modified or supplemented only with the prior written consent of RMT Partner (not to be unreasonably withheld, conditioned or delayed). In furtherance of the evaluation, development and implementation of the Updated Preliminary Separation Plan or the Separation Plan and any amendments, modifications or supplements thereto, Remainco shall provide RMT Partner with all Information reasonably requested by RMT Partner in connection with its review thereof.

(b) To the extent permitted by applicable Law, as promptly as reasonably practicable after the date hereof Remainco and RMT Partner shall form a separation committee (the “Separation Committee”) comprised of three (3) members appointed by Remainco and three (3) members appointed by RMT Partner, which Separation Committee shall discuss and monitor the implementation of the transactions set forth in the Separation Plan. The members of the Separation Committee appointed by Remainco shall ensure that the members of the Separation Committee appointed by RMT Partner are kept reasonably informed with respect to the implementation of the Separation Plan and with the overall progress of the Separation, and Remainco shall consult in good faith with RMT Partner regarding any timely and reasonable input from the members of the Separation Committee appointed by RMT Partner with respect thereto. Following the appointment of the members after the date hereof, and until the Spinco Distribution, the Separation Committee will meet at least once every two weeks on a date mutually acceptable to the members, and the Separation Committee may have additional meetings from time to time if the members so elect. All such meetings will be held telephonically or virtually by video conference unless otherwise agreed between the members. The Separation Committee shall put in place all such processes as may be required to ensure that no information is exchanged that would be prohibited by applicable Law.

Section 1.3 Commingled Contracts; Combined Contracts.

(a) *Treatment of Commingled Contracts.* Prior to the Spinco Distribution and until the date that is twenty-four (24) months after the Spinco Distribution, to the extent (i) the rights and obligations (or comparable services) under such Commingled Contract have not been or are not contemplated to be provided to the Spinco Group pursuant to an Ancillary Agreement, (ii) replacement contracts, contract rights, bids, purchase orders or other agreements for such Commingled Contract have not yet been obtained or are not contemplated to be obtained pursuant to the Ancillary Agreements or this Agreement, and (iii) requested by Spinco or RMT Partner, as applicable, Remainco shall notify the Third Party that is the counterparty to each Commingled Contract and use its commercially reasonable efforts to assist Spinco (in each case with effect following the Spinco Distribution) (A) to establish replacement contracts, contract rights, bids, purchase orders or other agreements with respect to the Spinco Business with any Third Party which is a counterparty to any Commingled Contract, (B) to assign to a member of the Spinco Group the rights and obligations under such Commingled Contract to the extent related to the Spinco Business, so that Remainco and Spinco or the members of their respective Groups shall be entitled to the rights and benefits, and shall assume the related portion of any Liabilities, inuring to their respective Businesses, or (C) to establish reasonable and lawful arrangements (including subcontracting, sublicensing, subleasing or back-to-back agreements) designed to provide the Spinco Group with the rights and obligations under such Commingled Contract as of the Spinco Distribution and to the extent related to the Spinco Business; provided, however, that Remainco makes no representation or warranty that any Third Party shall consent to any such assignment or agree to enter into any such contract, contract right, bid, purchase order or other agreement with any member of the Spinco Group on the existing terms of the applicable Commingled Contract or at all. Neither Remainco nor its Affiliates shall be required to expend any non-de minimis unreimbursed money, commence any litigation or offer or grant any non-de minimis unreimbursed accommodation (financial or otherwise) to any Third Party to fulfill its obligation under this Section 1.3(a).

(b) *Treatment of Combined Contracts.* Prior to the Spinco Distribution and until the date that is twenty-four (24) months after the Spinco Distribution, to the extent (i) the rights and obligations (or comparable services) under any Combined Contract have not been or are not contemplated to be provided to Remainco pursuant to an Ancillary Agreement, (ii) replacement contracts, contract rights, bids, purchase orders or other agreements for such Combined Contract to the extent related to the Remainco Business have not yet been obtained or are not contemplated to be obtained pursuant to the Ancillary Agreements or this Agreement, and (iii) requested by Remainco, Spinco shall notify the Third Party that is the counterparty to each Combined Contract and shall use its commercially reasonable efforts to assist Remainco (in each case with effect following the Spinco Distribution) (A) to establish replacement contracts, contract rights, bids, purchase orders or other agreements with respect to the Remainco Business with any Third Party which is a counterparty to any Combined Contract, (B) to assign to Remainco or its Affiliates (other than any member of the Spinco Group) the rights and obligations under any Combined Contract to the extent related to the Remainco Business, so that Remainco and Spinco or the members of their respective Groups shall be entitled to the rights and benefits, and shall assume the related portion of any Liabilities, inuring to their respective Businesses, or (C) to establish reasonable and lawful arrangements (including subcontracting, sublicensing, subleasing or back-to-back agreements) designed to provide the Remainco Group with the rights and obligations under such Combined Contract as of the Spinco Distribution and to the extent related to the Remainco Business; provided, however, that Spinco makes no representation or warranty that any Third Party shall consent to any such assignment or agree to enter into any such contract, contract right, bid, purchase order or other agreement with Remainco or such an Affiliate thereof on the existing terms of the applicable Combined Contract or at all. Neither Spinco nor its Affiliates shall be required to expend any non-de minimis unreimbursed money, commence any litigation or offer or grant any non-de minimis unreimbursed accommodation (financial or otherwise) to any Third Party to fulfill its obligation under this Section 1.3(b).

(c) From and after the Spinco Distribution, any Party (or member of such Party's Group) that is party to a Commingled Contract or Combined Contract shall, or shall cause the other members of its Group to (i) use commercially reasonable efforts to enforce at another Party's (or relevant member of its Group's) request, or allow another Party's Group to enforce in a commercially reasonable manner, any rights of the Party or its Group under such Commingled Contract or Combined Contract against any other Persons, (ii) not waive any rights under such Commingled Contract or Combined Contract to the extent related to the Business, assets or Liabilities of such other Party's Group, (iii) subject to the terms and conditions of such underlying Contract (A) not terminate (or consent to be terminated by the counterparty) such Commingled Contract or Combined Contract except in connection with (1) the expiration of such Contract in accordance with its terms in the ordinary course, or (2) a partial termination of such Contract in the ordinary course that would not reasonably be expected to impact any rights under such Contract related to the Business, assets or Liabilities of such other Party, (B) not amend, modify or supplement such Contract in a manner that is materially adverse (relative to the existing rights and obligations related to such other Party's Business, assets or Liabilities under such Contract) to the Business, assets or Liabilities of such other Party or any member of its Group, and (C) provide written notice to the applicable other Party as soon as reasonably practicable after receipt of any notice of any breach or other violation received from a counterparty to any Contract that constitutes such Commingled Contract or Combined Contract and that would reasonably be expected to be materially adverse to the Business, assets or Liabilities of such other Party or any member of its Group. From and after the Spinco Distribution, as applicable, if a member of a Group delivers a notice pursuant to clause (C) of the preceding sentence, the Parties shall consult with respect to the actions proposed to be taken regarding the alleged breach. If a Group (the "Notifying Party") sends to a counterparty to a Commingled Contract or Combined Contract a formal notice of breach of such Commingled Contract or Combined Contract that would reasonably be expected to be materially adverse to the Business, assets or Liabilities of such other Party or any member of its Group, the Notifying Party shall provide written notice to the other Party as soon as reasonably practicable, and the Parties shall consult with each other regarding such alleged breach. In addition, the Party to any Commingled Contract or Combined Contract or any Liability thereunder (or relevant member of its Group) shall or shall cause such member of its Group to treat such Commingled Contract, Combined Contract or Liability in the ordinary course of business in accordance with past practice.

(d) The Party (or relevant member of its Group) to any Commingled Contract or Combined Contract or any Liability pursuant to this Section 1.3 shall not be obligated, in connection with the foregoing, to expend any money unless the necessary funds are advanced, assumed, or agreed in advance to be reimbursed by the Party (or relevant member of its Group) entitled to the benefits of such Commingled Contract or Combined Contract or the Person intended to be subject to such Liabilities, other than reasonable attorneys' fees and recording or similar or other incidental fees, all of which shall be reasonably promptly reimbursed by the Party (or relevant member of its Group) entitled to the benefits such Commingled Contract or Combined Contract or the Person intended to be subject to such Liability.

Section 1.4 Intergroup Accounts; Intercompany Accounts. Except as set forth in Section 5.1(c), any and all intercompany receivables, payables, loans and balances between any member of the Remainco Group, on the one hand, and the Spinco Group, on the other hand (collectively, the "Intergroup Accounts"), as of immediately prior to the Spinco Distribution shall be satisfied and/or settled in full by means of the Spinco Special Cash Payment, and such other cash payments, dividends, capital contributions, a combination of the foregoing, or otherwise cancelled and terminated or extinguished, in each case, substantially in accordance with the Separation Plan (to the extent expressly contemplated thereby), prior to the Spinco Distribution. Each Party shall, at the reasonable request of any other Party, take, or cause to be taken, such other actions as may be reasonably necessary to implement the foregoing in this Section 1.4. For the avoidance of any doubt, any and all Liabilities arising from an Intergroup Account that are not so satisfied and/or settled in full in cash or otherwise cancelled and terminated or extinguished as contemplated by this Section 1.4 will constitute Excluded Liabilities for the purposes hereof.

Section 1.5 Intergroup Contracts.

(a) Except as set forth in Section 1.5(b), no Party or any other member of its Group shall be liable to any other Party or any other member of such other Party's Group based upon, arising out of or resulting from any Contract, arrangement, course of dealing or understanding existing on or prior to the Spinco Distribution (other than the Transaction Documents and the Conveyancing and Assumption Instruments) and each Party (on behalf of itself and each other member of its Group) hereby terminates, substantially in accordance with the Separation Plan (to the extent expressly contemplated thereby), any and all Contracts, arrangements, course of dealings or understandings between or among it or any of its other Group members, on the one hand, and any other Party or any of its respective Group members, on the other hand (collectively, the "Intergroup Contracts"), effective as of the Spinco Distribution (other than the Transaction Documents and the Conveyancing and Assumption Instruments). For the avoidance of doubt, Intergroup Contracts shall include Contracts solely between a member of the Spinco Group and Remainco or an Affiliate of Remainco (other than a member of the Spinco Group). No such terminated Contract, arrangement, course of dealing or understanding (including any provision thereof which purports to survive termination) shall be of any further force or effect after the Spinco Distribution. The Parties shall, and shall cause the other members of their respective Groups to, execute and deliver such agreements, instruments and other papers as may be required to evidence the termination of any such Contract, arrangement, course of dealing or understanding pursuant to this Section 1.5(a) if so requested by a Party.

(b) The provisions of Section 1.5(a) shall not apply to any Contracts, arrangements, or course of dealing to which any Person other than the Parties and their respective Affiliates is a Party, including Commingled Contracts and Combined Contracts.

(c) If any Contract, arrangement, course of dealing or understanding is terminated in whole or in part pursuant to Section 1.5(a), and, but for the mistake or oversight of any Party (excluding, for the avoidance of doubt, any intentional omission), is reasonably necessary for such affected Party to be able to continue to operate its Business in substantially the same manner in which such Businesses were operated immediately prior to the Spinco Distribution, then, at the request of such affected Party made within twelve (12) months following the Spinco Distribution Date, the Parties shall negotiate in good faith for a period of thirty (30) days (or such longer period as the Parties may agree) to determine in good faith whether and to what extent (including the terms and conditions relating thereto), if any, notwithstanding such termination, such Contract, arrangement, course of dealing or understanding should continue, or as appropriate, be re-instated, following the Spinco Distribution.

Section 1.6 Further Assurances. On the terms and subject to the conditions set forth herein, from time to time on and after the time of the Spinco Distribution, each Party agrees to use commercially reasonable efforts to promptly execute, acknowledge and deliver, and to cause its Affiliates to promptly execute, acknowledge and deliver, any assurances, documents or instruments of Transfer, conveyance, assignment and assumption, reasonably requested by the other Party and necessary for the requesting Party (or the relevant member of its Group) to satisfy its obligations hereunder or to obtain the benefits of the Initial Spin, the Spinco Distribution and the transactions contemplated by this Agreement and the Ancillary Agreements.

Section 1.7 Guarantees; Credit Support Instruments.

(a) (i) Remainco shall, and shall cause the other members of its Group to (with the reasonable cooperation of the applicable other Party) use commercially reasonable efforts to (A) cause a member of the Remainco Group to be substituted in all respects for a member of the Spinco Group, as applicable, and (B) have all members of the Spinco Group removed or released as guarantor of or obligor for any Liability of Remainco (including any credit agreement, guarantee, indemnity, surety bond, letter of credit, banker acceptance and letter of comfort given or obtained by any member of the Spinco Group for the benefit of any member of the Remainco Group) to the fullest extent permitted by applicable Law, and (ii) Spinco shall, and shall cause the other members of its Group to (with the reasonable cooperation of the applicable Party), use commercially reasonable efforts to (A) cause a member of the Spinco Group to be substituted in all respects for a member of the Remainco Group, as applicable, and (B) have all members of the Remainco Group removed as guarantor of or obligor for any Liability of Spinco (including any credit agreement, guarantee, indemnity, surety bond, letter of credit, banker acceptance and letter of comfort given or obtained by any member of the Remainco Group for the benefit of any member of the Spinco Group) to the fullest extent permitted by applicable Law, in each case (clauses (i)-(ii)), on the Spinco Distribution Date or as soon as reasonably practicably thereafter. Except as otherwise provided in Section 1.7(b), no member of the Spinco Group, or Remainco Group or any of their respective Affiliates from time to time shall be required to commence any litigation or offer or pay any non-de minimis amount of money or otherwise grant any non-de minimis accommodation (financial or otherwise) to any Third Party with respect to any such guarantees.

(b) On the Spinco Distribution Date or as soon as reasonably practicable thereafter, to the extent required to obtain a release of any member of the Spinco Group from a guaranty for the benefit of any member of the Remainco Group, Remainco shall, and shall cause the other members of its Group to, as applicable, execute a guaranty agreement in the form of the existing guaranty, except to the extent that such existing guaranty contains representations, covenants or other terms or provisions either (i) with which any member of the Remainco Group, as the case may be, would be reasonably unable to comply, or (ii) which would be reasonably expected to be breached in any material respect. On or prior to the Spinco Distribution Date or as soon as reasonably practicable thereafter, to the extent required to obtain a release of any member of the Remainco Group from a guaranty for the benefit of any member of the Spinco Group, Spinco (and if necessary, RMT Partner) shall, and shall cause the other members of its respective Group to, as applicable, execute a guaranty agreement in the form of the existing guaranty, except to the extent that such existing guaranty contains representations, covenants or other terms or provisions either (i) with which any member of the Spinco Group, as the case may be, would be reasonably unable to comply or (ii) which would be reasonably expected to be breached in any material respect.

(c) If either of Spinco or Remainco is unable to obtain, or to cause to be obtained, any such required removal as set forth in clauses (a) and (b) of this Section 1.7, (i) the Party whose Group is the relevant beneficiary of such guarantee or Credit Support Instrument shall indemnify, defend and hold harmless the unreleased guarantor or obligor for any Indemnifiable Loss arising from or relating thereto and shall or shall cause one of the other members of its Group, as agent or subcontractor for such unreleased guarantor or obligor to pay, perform and discharge fully all the obligations or other Liabilities of such unreleased guarantor or obligor thereunder, and (ii) each of Spinco and Remainco agree not to (and to cause the members of their respective Groups not to) renew or extend the term of, increase its obligations under, or Transfer to a Third Party, any unreleased guarantees or Credit Support Instruments, for which such unreleased Party is or may be liable, without the prior written consent of such other Party (such consent not to be unreasonably withheld, delayed or conditioned), unless all obligations of such other unreleased Party and the other members of such Party's Group with respect thereto are thereupon terminated by documentation reasonably satisfactory in form and substance to such Party.

(d) Each Party shall, and shall cause the other members of their respective Groups to cooperate and (y) Remainco shall, and shall cause the other members of its Group to, use commercially reasonable efforts to replace all Credit Support Instruments issued by Spinco or other members of the Spinco Group on behalf of or in favor of any member of the Remainco Group or the Remainco Business (the "Remainco CSIs") as promptly as reasonably practicable with Credit Support Instruments from Remainco or a member of the Remainco Group as of the Spinco Distribution, and (z) Spinco shall, and shall cause the other members of its Group to, use commercially reasonable efforts to replace all Credit Support Instruments issued by Remainco or other members of the Remainco Group on behalf of or in favor of any member of the Spinco Group or the Spinco Business (the "Spinco CSIs") as promptly as reasonably practicable with Credit Support Instruments from Spinco or a member of the Spinco Group (or if necessary, RMT Partner) as of the Spinco Distribution.

(i) With respect to any Remainco CSIs that remain outstanding after the Spinco Distribution (A) Remainco shall, and shall cause the members of the Remainco Group to, jointly and severally indemnify, defend and hold harmless the Spinco Group for any Liabilities arising from or relating to such Remainco CSIs, 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 Remainco CSIs in accordance with the terms thereof, and (B) without the prior written consent of RMT Partner, Remainco shall not, and shall not permit any member of the Remainco 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 Spinco or any member of the Spinco Group, respectively, has issued any Credit Support Instruments which remain outstanding. None of Spinco or the members of the Spinco Group will have any obligation to renew any Credit Support Instruments issued on behalf of or in favor of any member of the Remainco Group or the Remainco Business after the expiration of such Remainco CSI.

(ii) With respect to any Spinco CSIs that remain outstanding after the Spinco Distribution (A) Spinco shall, and shall cause the members of the Spinco Group to, jointly and severally indemnify, defend and hold harmless the Remainco Group for any Liabilities arising from or relating to such Spinco CSIs, 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 Spinco CSIs in accordance with the terms thereof, and (B) without the prior written consent of Remainco, 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 Remainco or any member of the Remainco Group, respectively, has issued any Credit Support Instruments which remain outstanding. None of Remainco or the members of the Remainco 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 such Spinco CSI.

Section 1.8 Delayed Assets and Liabilities.

(a) Notwithstanding anything to the contrary set forth herein, except with respect to Commingled Contracts and Combined Contracts (which are addressed in Section 1.3), to the extent that the Transfer or attempted Transfer or assumption or attempted assumption of Liability contemplated by Article I is (i) prohibited by any applicable Law or (ii) without a Consent would (A) constitute a breach or other contravention of such Asset or Liability, (B) subject a Party or any of their respective officers, directors, agents or Affiliates, to civil or criminal liability, or (C) be ineffective, void or voidable and such Consent has not been obtained prior to the Spinco Distribution, then, in each case, subject to the conditions to the Spinco Distribution set forth in Section 3.3, the Spinco Distribution shall proceed without such Transfer or assumption of Liability. In the event the Spinco Distribution proceeds without such Transfer or assumption of Liability, then such Transfer or assumption of Liability shall nevertheless be regarded as having occurred for purposes of the calculations required under Section 1.11.

(b) From and after the Spinco Distribution, with respect to (i) any Asset whose Transfer pursuant to Article I (other than Commingled Contracts or Combined Contracts (which are addressed in Section 1.3)) is delayed (each, a “Delayed Asset”) or (ii) any Liability whose assumption pursuant to Article I (other than Liabilities under Commingled Contracts or Combined Contracts (which are addressed in Section 1.3)) is delayed (each, a “Delayed Liability”), the Party (or relevant member of its Group) (A) retaining such Delayed Asset shall thereafter hold for the use and benefit of the Party or relevant member of its Group entitled thereto (at the expense of the Person entitled thereto) and use their commercially reasonable efforts to cooperate with the intended recipient to agree to any reasonable and lawful arrangements designed to provide the applicable Party or relevant member of its Group with the economic claims, rights, benefits and control over such Delayed Asset and assume the economic burdens and obligations with respect thereto in accordance with this Agreement, including by subcontracting, sublicensing or subleasing arrangements to the extent legally permissible, (B) intended to assume such Delayed Liability shall, or shall cause the applicable member of its Group to, pay or reimburse the Party (or relevant member of its Group) retaining such Delayed Liability for all amounts paid or incurred by such Party in connection with the retention of such Delayed Liability. In addition, the Party retaining any Delayed Asset or Delayed Liability (or relevant member of its Group) shall or shall cause such member of its Group to treat such Delayed Asset or Delayed Liability in the ordinary course of business in accordance with past practice. In furtherance of the foregoing, and subject to applicable Law, each Party shall, or cause any relevant member of its Group to, (w) use commercially reasonable efforts to enforce at another Party’s (or relevant member of its Group’s) request, or allow another Party’s Group to enforce in a commercially reasonable manner, any rights of the Party or its Group under such Delayed Assets and Delayed Liabilities against any other Persons, (x) not waive any rights related to such Delayed Assets or Delayed Liabilities to the extent related to the Business, Assets or Liabilities of another Party’s Group, (y) subject to Section 1.3 and the terms and conditions of such underlying Contract, (1) not terminate (or consent to be terminated by the counterparty) any Contract that constitutes such Delayed Asset except in connection with (i) the expiration of such Contract in accordance with its terms (it being understood, for the avoidance of doubt, that sending a notice of non-renewal to the counterparty to such Contract in accordance with the terms of such Contract is expressly permitted) or (ii) a partial termination of such Contract that would not reasonably be expected to impact any rights under such Contract related to the Business, Assets or Liabilities of such other Party, (2) not amend, modify or supplement any Contract that constitutes such Delayed Asset in a manner material (relative to the existing rights and obligations related to such other Party’s Business, Assets or Liabilities under such Contract) and adverse to the Business, Assets or Liabilities of such other Party or any member of its Group or (3) provide written notice to the applicable other Party as soon as reasonably practicable after receipt of any notice of breach received from a counterparty to any Contract that constitutes such Delayed Asset and that would reasonably be expected to impact the other Group, and (z) take (or refrain from taking) such actions as reasonably requested by the Party to which such Delayed Asset or Delayed Liability is to be Transferred or assumed Liability in order to place such Party in the same position as if such Delayed Asset or Delayed Liability had been Transferred as of the Spinco Distribution so that all the benefits and burdens relating to such Delayed Asset or Delayed Liability, including possession, use, risk of loss, potential for income and gain, and dominion, control and command over such Delayed Asset or Delayed Liability, are to inure from and after the Spinco Distribution to the relevant member or members of the Remainco Group or Spinco Group entitled to the receipt of such Delayed Asset or required to assume such Delayed Liability.

(c) Once the required Consent is obtained, condition satisfied, or potential violation, conflict, or other circumstance that caused the deferral of the Transfer of the Delayed Asset or assumption of the Delayed Liability is resolved, the Parties shall, or shall cause their relevant Affiliates to, Transfer such Asset and all earnings to the extent arising from such Asset from the time of the Spinco Distribution until the time of such Transfer or assumption of such Liability at no additional cost, which shall be treated as having been Transferred (as part of the Contribution, where applicable) or assumed prior to the Spinco Distribution and owned by such Group for U.S. federal (and applicable state or local) income Tax purposes from and after the Spinco Distribution, to the extent allowable by applicable Law. Subject to the terms and conditions hereof (including compliance with the terms of this Section 1.8), no Party shall have any Liability to the other Party (or its respective Affiliates) arising out of or relating to the failure to obtain any such Consent that may be required in connection with the transactions contemplated by this Agreement, despite otherwise complying with this Section 1.8, or the transactions contemplated by the Ancillary Agreements. For so long as any Party (or member of its Group) holds any Assets allocated to the other Group pursuant to this Agreement or the Ancillary Agreements and provides to the other Group any claims, rights and benefits of any such Assets pursuant to an arrangement described in this Section 1.8, the Party whose Group receives such claims, rights and benefits shall indemnify and hold harmless the members of the other Group from and against all Indemnifiable Losses incurred as a result thereof in accordance with this Agreement, other than as a result of the gross negligence, fraud or willful misconduct of the members of the Group providing such claims, rights and benefits.

(d) The Party (or relevant member of its Group) retaining any Asset or Liability due to the deferral of the Transfer of such Asset or the deferral of the assumption of such Liability pursuant to this Section 1.8 or otherwise shall not be obligated, in connection with the foregoing, to expend any money unless the necessary funds are advanced, assumed, or agreed in advance to be reimbursed by the Party (or relevant member of its Group) entitled to such Asset or the Person intended to be subject to such Liability, other than reasonable attorneys' fees and recording or similar or other incidental fees, all of which shall be reasonably promptly reimbursed by the Party (or relevant member of its Group) entitled to such Asset or the Person intended to be subject to such Liability. None of Spinco or Remainco or any of their respective Affiliates shall be required to commence any litigation or offer or pay any non-de minimis amount of money or otherwise grant any non-de minimis accommodation (financial or otherwise) to any Third Party with respect to any Assets or Liabilities not Transferred or assumed, respectively, as of the Spinco Distribution.

Section 1.9 Wrong Pockets. Subject to Section 1.8, (i) if, within twenty-four (24) months after the Spinco Distribution, any Party discovers that any Spinco Asset is held by any member of the Remainco Group or any of their respective then-Affiliates, Remainco shall, and shall cause the other members of its respective Group and its respective then-Affiliates to, use their respective reasonable best efforts to promptly procure the Transfer of the relevant Spinco Asset and all earnings to the extent arising from such Spinco Asset from the time of the Spinco Distribution until the time of such Transfer to Spinco or an Affiliate of Spinco designated by Spinco for no additional consideration or (ii) if at any time within twenty-four (24) months after the Spinco Distribution, any Party discovers that any Excluded Asset is held by any member of the Spinco Group or any of their respective then-Affiliates, Spinco shall, and shall cause the other members of its respective Group and its respective then-Affiliates to, use their respective reasonable best efforts to promptly procure the Transfer of the relevant Excluded Asset and all earnings to the extent arising from such Excluded Asset from the time of the Spinco Distribution until the time of such Transfer to Remainco or an Affiliate of Remainco designated by Remainco for no additional consideration; provided that in the case of clause (i), neither Remainco nor any of its respective Affiliates, or in the case of clause (ii), neither Spinco nor any of its respective Affiliates, shall be required to commence any litigation or offer or pay any non-de minimis amount of money or otherwise grant any non-de minimis accommodation (financial or otherwise) to any Third Party. If reasonably practicable and permitted under applicable Law, such Transfer may be effected by rescission of the applicable portion of a Conveyancing and Assumption Instrument as may be agreed by the relevant Parties. Any Spinco Asset or Excluded Asset or earnings arising therefrom that is Transferred under this Section 1.9 shall be treated as having been Transferred (as part of the Contribution) or assumed prior to the Spinco Distribution and owned by the Spinco Group for U.S. federal (and applicable state or local) income Tax purposes from and after the Spinco Distribution, to the extent allowable by applicable Law.

Section 1.10 Novation of Liabilities.

(a) Each Party, at the request of another Party (such other Party, the “Other Party”), shall use commercially reasonable efforts for twenty-four (24) months after the time of the Spinco Distribution to obtain, or to cause to be obtained, any Consent, release, substitution or amendment required to novate or assign to the fullest extent permitted by Law all obligations under Contracts (other than Commingled Contracts and Combined Contracts, which shall be governed by Section 1.3 and Delayed Assets, which shall be governed by Section 1.8), and other obligations or Liabilities (other than with regard to guarantees or Credit Support Instruments, which shall be governed by Section 1.7 and Delayed Liabilities, which shall be governed by Section 1.8) for which a member of such Party’s Group and a member of the Other Party’s Group are jointly or severally liable and that do not constitute Liabilities of such Other Party as provided in this Agreement, or to obtain in writing the unconditional release of the applicable Other Party to such arrangements (other than any member of the Group who assumed or retained such Liability as set forth in this Agreement), so that, in any such case, the members of the applicable Group will be solely responsible for such Liabilities; provided, however, that no Party (or any of their respective Affiliates) shall be obligated to pay any non-de minimis consideration, grant any non-de minimis accommodations (financial or otherwise) or commence any litigation therefor to any Third Party from whom any such Consent, substitution or amendment is requested (unless such Party or Affiliate is fully reimbursed by the requesting Party or its Affiliates); provided, further, that such instruments shall not impose additional or substantially different obligations on either Spinco or Remainco or grant rights, through representations or otherwise, beyond those set forth in this Agreement or the underlying Contract (but shall merely implement the obligations herein), other than customary obligations with respect to due execution, title and similar matters.

(b) If the Parties are unable to obtain, or to cause to be obtained, any such required Consent, release, substitution or amendment, the Other Party or a member of such Other Party’s Group shall continue to be bound by such Contract or other obligation that does not constitute a Liability of such Other Party as provided in this Agreement and, unless not permitted by Law or the terms thereof, as agent or subcontractor for such Party, the Party or member of such Party’s Group who assumed or retained such Liability as set forth in this Agreement (the “Liable Party”) shall, or shall cause a member of its Group to, directly pay, perform and discharge fully all the obligations or other Liabilities of such Other Party or member of such Other Party’s Group thereunder from and after the Spinco Distribution. The Other Party shall, without further consideration, promptly pay and remit, or cause to be promptly paid or remitted, to the Liable Party or to another member of the Liable Party’s Group, all money, rights and other consideration received by it or any member of its Group in respect of such performance by the Liable Party (unless any such consideration is an asset of such Other Party pursuant to this Agreement). If and when any such Consent, release, substitution or amendment shall be obtained or such agreement, lease or other rights or obligations shall otherwise become assignable or able to be novated, the Other Party shall promptly Transfer all rights, obligations and other Liabilities thereunder of any member of such Other Party’s Group to the Liable Party or to another member of the Liable Party’s Group without payment of any further consideration and the Liable Party, or another member of such Liable Party’s Group, without the payment of any further consideration, shall assume such rights and Liabilities. Each of the applicable Parties shall, and shall cause their respective Subsidiaries to, take all actions and do all things reasonably necessary on its part, or such Subsidiaries’ part, under applicable Law or contractual obligations to consummate and make effective the transactions contemplated by this Section 1.10.

Section 1.11 Conditions to the Separation. The obligations of Remainco pursuant to this Agreement to effect the Separation are subject to each of the parties to the RMT Transaction Agreement having irrevocably confirmed to each other that each conditions in Article IX of the RMT Transaction Agreement to such party’s respective obligations to effect the Merger (a) has been satisfied, (b) will be satisfied at the time of the Initial Spin, or (c) subject to applicable Laws, is or has been waived by such party, as the case may be.

Section 1.12 Disclaimer of Representations and Warranties. EACH OF SPINCO (ON BEHALF OF ITSELF AND EACH MEMBER OF THE SPINCO GROUP), REMAINCO (ON BEHALF OF ITSELF AND EACH MEMBER OF THE REMAINCO GROUP) AND RMT PARTNER UNDERSTANDS AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, RMT TRANSACTION AGREEMENT OR IN ANY ANCILLARY AGREEMENT, NO PARTY TO THIS AGREEMENT, THE RMT TRANSACTION AGREEMENT, ANY ANCILLARY AGREEMENT OR ANY OTHER AGREEMENT OR DOCUMENT CONTEMPLATED BY THIS AGREEMENT, ANY ANCILLARY AGREEMENTS OR OTHERWISE, IS REPRESENTING OR WARRANTING IN ANY WAY AS TO THE ASSETS, EQUITY INTERESTS, BUSINESSES, INFORMATION OR LIABILITIES CONTRIBUTED, TRANSFERRED OR ASSUMED AS CONTEMPLATED HEREBY OR THEREBY, AS TO ANY CONSENTS REQUIRED IN CONNECTION HERewith OR THEREWITH, AS TO THE VALUE OR FREEDOM FROM ANY LIENS OF, AS TO NONINFRINGEMENT, VALIDITY OR ENFORCEABILITY OR ANY OTHER MATTER CONCERNING, ANY ASSETS OF SUCH PARTY, OR AS TO THE ABSENCE OF ANY DEFENSES OR RIGHT OF SETOFF OR FREEDOM FROM COUNTERCLAIM WITH RESPECT TO ANY ACTION OR OTHER ASSET, INCLUDING ACCOUNTS RECEIVABLE, OF ANY PARTY, OR AS TO THE LEGAL SUFFICIENCY OF ANY CONTRIBUTION, ASSIGNMENT, DOCUMENT, CERTIFICATE OR INSTRUMENT DELIVERED HEREUNDER TO CONVEY TITLE TO ANY ASSET OR THING OF VALUE UPON THE EXECUTION, DELIVERY AND FILING HEREOF OR THEREOF. FOR THE AVOIDANCE OF DOUBT, THIS SECTION 1.12 SHALL HAVE NO EFFECT ON ANY REPRESENTATION OR WARRANTY MADE IN THIS AGREEMENT, IN THE RMT TRANSACTION AGREEMENT OR IN ANY ANCILLARY AGREEMENT OR ANY OTHER AGREEMENT OR DOCUMENT CONTEMPLATED BY THIS AGREEMENT, THE RMT TRANSACTION AGREEMENT OR ANY ANCILLARY AGREEMENT.

Section 1.13 Works Council Matters. Remainco, Spinco and RMT Partner acknowledge and agree that, under French labor Laws, one or more works councils of one or more members of the Spinco Group domiciled in France (collectively, the "French Spinco Entities") will need to be informed and consulted with respect to the Separation, the Initial Spin, the Spinco Distribution and the Merger. Notwithstanding anything to the contrary in this Agreement, Remainco shall not, and shall cause its Subsidiaries not to undertake any action with respect to the French Spinco Entities pursuant to the Separation Plan unless and until Remainco (or the relevant French Spinco Entity) has received French Regulatory Consultation. Remainco shall initiate or cause its relevant Subsidiaries to initiate the information and consultation process as promptly as practicable after the date hereof. Remainco shall conduct and cause its relevant Subsidiaries to conduct the information and consultation process in the most expedient way practicable. Remainco, Spinco and RMT Partner shall, and shall cause their respective Subsidiaries to, reasonably cooperate with each other in connection with the applicable consultation process described in this Section 1.13, including Remainco keeping Spinco and RMT Partner informed of the status of such consultation and any material developments so far as they relate to the French Spinco Entities. Remainco undertakes that it will not, and will cause its relevant Subsidiaries not to make or accept any commitment whatsoever with respect to the Spinco Employees assigned to the French Spinco Entities or their representative bodies, save for such commitments which Spinco and RMT Partner have agreed in writing to provide to such Spinco Employees or their representative bodies.

ARTICLE II

CERTAIN ACTIONS AT OR PRIOR TO THE INITIAL SPIN

Section 2.1 Securities Law Matters.

(a) Spinco and RMT Partner shall cooperate with Remainco to accomplish the Initial Spin and the Spinco Distribution, including in connection with the preparation of all documents and the making of all filings required in connection with the Initial Spin and the Spinco Distribution. Remainco shall be permitted to reasonably direct and control the efforts of the Parties in connection with the Initial Spin and the Spinco Distribution, and Spinco shall take, or cause to be taken, all actions and to do, or cause to be done, all other things necessary to facilitate the Initial Spin and the Spinco Distribution as directed by Remainco in good faith and in accordance with the applicable terms and subject to the conditions of this Agreement, the RMT Transaction Agreement and the other Ancillary Agreements. Without limiting the generality of the foregoing, Spinco shall, and shall cause the members of its Group and its and their respective employees, advisors, agents, accountants, counsel and other representatives to, as reasonably directed by Remainco, reasonably cooperate in and take the following actions: (i) participating in meetings, drafting sessions, due diligence sessions, management presentation sessions, “road shows” and similar meetings or sessions in connection with the Initial Spin and the Spinco Distribution (including any marketing efforts); (ii) furnishing to any dealer manager or other similar agent participating in the Initial Spin and the Spinco Distribution (A) “cold comfort” letters from independent public accountants in customary form and covering such matters as are customary for an underwritten public offering (including with respect to events subsequent to the date of financial statements included in any offering document), and (B) opinions and negative assurance letters of counsel in customary form and covering such matters as may be reasonably requested; and (iii) furnishing all historical and forward-looking financial and other financial and other information that is available to Spinco and is reasonably required in connection with the Initial Spin and the Spinco Distribution.

(b) In furtherance and not in limitation of the obligations set forth in Section 2.1(a), Spinco shall file the Distribution Disclosure Documents and any amendments or supplements thereto as may be necessary or advisable in order to cause the Distribution Disclosure Documents to become and remain effective as required by the SEC or federal, state or other applicable securities Laws (but shall not make any such filing prior to the Initial Spin without the prior written consent of Remainco). Remainco and Spinco shall prepare and mail or otherwise make available, prior to any Spinco Distribution Date, to the holders of Remainco Common Stock, such information concerning Spinco, RMT Partner, their respective businesses, operations and management, the Initial Spin, the Spinco Distribution and such other matters as Remainco shall reasonably determine and as may be required by Law. Remainco and Spinco will prepare, and Remainco or Spinco will file with or submit to the SEC, any such documentation to the extent required by applicable Law (and, if filed or submitted by Spinco, previously consented to in writing by Remainco) and any no-action letters which Remainco determines are necessary or desirable to effectuate the Initial Spin and the Spinco Distribution, and Remainco and Spinco shall use their respective reasonable best efforts to obtain all necessary approvals from the SEC with respect thereto as soon as practicable. Remainco and Spinco shall take all such actions as may be necessary or appropriate under the securities or “blue sky” Laws of states or other political subdivisions of the United States and shall use commercially reasonable efforts to comply with all applicable foreign securities Laws in connection with the transactions contemplated by this Agreement and the other Ancillary Agreements.

Section 2.2 Certain Resignations. At or prior to the Spinco Distribution Date, Remainco shall cause each employee and director of Remainco or any member of the Remainco Group who is not a Spinco Employee to resign, effective not later than the Spinco Distribution, from all boards of directors or similar governing bodies of Spinco and the other members of the Spinco Group on which they serve, and from all positions as officers of Spinco and the other members of the Spinco Group in which they serve.

Section 2.3 Spinco Financing; Minimum Cash Amount.

(a) On or before the Initial Spin, subject to the terms and conditions of the RMT Transaction Agreement, Spinco shall enter into the Spinco Financing Agreements providing for the Spinco Financing, incur the Spinco Financing, and receive the proceeds thereof. From and after Spinco or any other member of the Spinco Group's receipt of the proceeds of the Spinco Financing, Spinco shall contribute the proceeds of the Spinco Financing to one or more of its Subsidiaries. Thereafter, the proceeds of the Spinco Financing shall be distributed as follows: (a) first, the Spinco Special Cash Payment shall be made to BGI in accordance with the terms of this Agreement; (b) second, the portion of the proceeds of the Spinco Financing that is required to pay the Indebtedness of RMT Partner set forth on Schedule VII shall be paid to such creditor of RMT Partner on behalf of RMT Partner in order to pay such Indebtedness in accordance with the terms of the applicable Payoff Letters (the "RMT Partner Debt Repayment"), and (c) finally, Spinco shall pay the Transaction Expenses on behalf of Remainco, Spinco, and RMT Partner in accordance with the Transaction Expense Invoices (the "Transaction Expense Payment").

(b) Notwithstanding anything herein to the contrary, (A) as of immediately prior to the Spinco Distribution (and after giving effect to the Spinco Special Cash Payment, the RMT Partner Debt Repayment, and the Transaction Expense Payment), the aggregate amount of Cash and Cash Equivalents held by or in the name of the members of the Spinco Group shall not be less than the Minimum Cash Amount, (B) the amount of any Transaction Expenses incurred by RMT Partner with respect to Set-Up Costs shall not exceed Five Million Dollars (\$5,000,000), and (C) if the RMT Transaction Agreement is terminated, each Party shall be responsible for its own incurred Transaction Expenses and Set-Up Costs.

Section 2.4 Ancillary Agreements. On or prior to the Initial Spin, each of Remainco and Spinco shall enter into, and/or (where applicable) shall cause the applicable member or members of its respective Group to enter into, the Ancillary Agreements and any other Contracts in respect of the Initial Spin and the Spinco Distribution reasonably necessary or appropriate in connection with the transactions contemplated hereby and thereby.

Section 2.5 Distribution Agent. Remainco shall enter into a distribution agent agreement with the Distribution Agent or otherwise provide instructions to the Distribution Agent regarding the Spinco Distribution in furtherance of the terms of this Agreement and the RMT Transaction Agreement.

Section 2.6 Transaction Expense Payoff Instructions. At least three (3) Business Days prior to the making of the Spinco Special Cash Payment, RMT Partner and Remainco shall deliver to Spinco, and Spinco shall deliver to RMT Partner and Remainco, an itemized list of all Transaction Expenses incurred by such Party, including the identity of each payee, dollar amounts owed, wire instructions and any other information necessary to effect the final payment in full thereof, and to the extent applicable, copies of final invoices from each such payee acknowledging the invoiced amounts as full and final payment for all services rendered to RMT Partner, Spinco, and Remainco (collectively, the “Transaction Expense Invoices”).

Section 2.7 Payoff Letters. At least three (3) Business Days prior to the making of the Spinco Special Cash Payment, RMT Partner shall deliver to Spinco payoff letters with respect to the Indebtedness of RMT Partner set forth on Schedule VII, including the identity of each payee, dollar amounts owed, wire instructions and any other information necessary to effect the final payment in full thereof (collectively, the “Payoff Letters”).

ARTICLE III

THE INITIAL SPIN AND THE SPINCO DISTRIBUTION

Section 3.1 Form of Spinco Distribution. Remainco may elect to effect the Spinco Distribution as (a) a Spin-Off or (b) with the prior written consent of RMT Partner as either an Exchange Offer or as a combination of a Spin-Off and an Exchange Offer with or without a Clean-Up Spin-Off; provided, that the Exchange Offer and any Clean-Up Spin-Off would, subject to the satisfaction or waiver of the applicable conditions to the Spinco Distribution and Merger, be completed in a manner so that the Spinco Distribution and Merger would occur as promptly as reasonably practicable and in any event prior to the Outside Date. Remainco shall provide written notice to RMT Partner of the form of the Spinco Distribution no later than thirty (30) days prior to the anticipated Spinco Distribution Date; provided, that in the event that Remainco elects to effect the Spinco Distribution as an Exchange Offer and RMT Partner consents to the same, the foregoing prior written consent requirement, once satisfied, shall further permit Remainco to effect a Spin-Off or Clean-Up Spin-Off if the Exchange Offer is not fully subscribed, so long as the Spin-off or Clean-Up Spin-Off is completed no later than ten (10) days after the anticipated Spinco Distribution Date. All shares of Spinco Common Stock held by Remainco on the Spinco Distribution Date will be distributed to the holders of Remainco Common Stock in the manner set forth in Section 3.2. In the event Remainco elects to effect a Spin-Off, at least five (5) Business Days prior to the Spinco Distribution Date, Remainco shall provide to Spinco and RMT Partner a list of Record Holders entitled to receive Spinco Common Stock in connection with such Spinco Distribution.

Section 3.2 Manner of Distribution.

(a) Prior to the Spinco Distribution, Remainco shall cause BGI to effect the Initial Spin.

(b) To the extent the Spinco Distribution includes a Spin-Off, subject to the terms thereof, in accordance with Section 3.6, each Record Holder (other than Remainco or any other member of the Remainco Group) will be entitled to receive for each share of common stock, par value \$0.01 per share, of Remainco (“Remainco Common Stock”) held by such Record Holder as of the Record Date a number of shares of Spinco Common Stock equal to the total number of shares of Spinco Common Stock held by Remainco on the Spinco Distribution Date (and following the Initial Spin), *multiplied by* a fraction, the numerator of which is the number of shares of Remainco Common Stock held by such Record Holder as of the Record Date and the denominator of which is the total number of shares of Remainco Common Stock outstanding on the Record Date (for avoidance of doubt, excluding shares held by any member of the Remainco Group or the Spinco Group). To the extent the Spinco Distribution is effected as a Spin-Off, prior to the Spinco Distribution Date, the Remainco Board, in accordance with applicable Law, shall establish (or designate a committee of the Remainco Board to establish) the Record Date for the Spinco Distribution to allow the Spinco Distribution to occur as promptly as practicable and any appropriate procedures in connection with the Spin-Off. To the extent any of the Spinco Distribution is effected as an Exchange Offer followed by a Clean-Up Spin-Off of any remaining shares of Spinco Common Stock to be distributed by Remainco pursuant to Section 3.2(b), the Remainco Board shall set the Record Date as the time on the Spinco Distribution Date immediately following the time at which the validly tendered shares of Remainco Common Stock are accepted for payment in the Exchange Offer.

(c) To the extent any of the Spinco Distribution is effected as an Exchange Offer (with RMT Partner's consent having first been obtained), (i) Remainco shall determine, in its reasonable discretion, the terms of such Exchange Offer, including the number of shares of Spinco Common Stock that will be offered for each validly tendered share of Remainco Common Stock and any exchange ratio related thereto (including any discount to the reference price of shares of RMT Partner common stock), the period during which such Exchange Offer shall remain open and any extensions thereto, the procedures for the tender and exchange of shares and all other terms and conditions of such Exchange Offer, which terms and conditions shall comply with the terms of the RMT Transaction Agreement and all securities Law requirements applicable to such Exchange Offer, and (ii) in accordance with Section 3.6, each Remainco stockholder may elect in the Exchange Offer to exchange a number of shares of Remainco Common Stock held by such Remainco stockholder for shares of Spinco Common Stock in such quantities, at such an exchange ratio and subject to such other terms and conditions as may be determined by Remainco and set forth in the Distribution Disclosure Documents; provided, that Remainco shall, subject to the satisfaction or waiver of the applicable conditions to the Spinco Distribution and Merger, commence and complete the Exchange Offer (including any Clean-Up Spin-Off) as promptly as reasonably practicable and in any event prior to the Outside Date; provided further, that except to the extent required by applicable Law, the maximum number of days that the Exchange Offer may be extended following satisfaction of the conditions to the Closing set forth in Article IX of the RMT Transaction Agreement (other than consummation of the transactions contemplated by this Agreement and satisfaction of those conditions to be satisfied as of the Closing Date; provided, that such conditions are capable of being satisfied at such date) shall be the earlier of (A) twenty (20) Business Days, and (B) the latest date that would permit the Spinco Distribution Date to occur prior to the Outside Date in compliance with all applicable Laws.

(d) Subject to Section 3.1, the terms and conditions of any Clean-Up Spin-Off shall be as determined by Remainco in its reasonable discretion; provided, however, that: (i) any shares of Spinco Common Stock that are not subscribed for in the Exchange Offer must be distributed to Remainco's shareholders in the Clean-Up Spin-Off; and (ii) subject to any applicable Law or stock exchange requirement, the Clean-Up Spin-Off shall take place on the Spinco Distribution Date immediately following the consummation of the Exchange Offer and the Record Date for the Clean-Up Spin-Off shall be established as of such date in the same manner as provided in Section 3.2(a).

(e) Prior to the Initial Spin, the Parties shall take all necessary action required to file a Certificate of Amendment to the Certificate of Incorporation of Spinco with the Secretary of State of the State of Delaware, to increase the number of authorized shares of Spinco Common Stock so that Spinco Common Stock then authorized shall be equal to the number of shares of Spinco Common Stock necessary to effect the Spinco Distribution.

Section 3.3 Conditions to Distribution. The obligation of Remainco to effect the Initial Spin and the Spinco Distribution pursuant to this Agreement shall be subject to the prior or simultaneous satisfaction, or, to the extent permitted by applicable Law, waiver by Remainco, in its sole and absolute discretion (other than the condition set forth in Section 3.3(a), which prior to the termination of the RMT Transaction Agreement may not be waived without RMT Partner's written consent, which consent shall not be unreasonably withheld, conditioned or delayed), of the following conditions:

(a) the Separation shall have been completed substantially in accordance with the Separation Plan (other than those steps that are expressly contemplated to occur at or after the Spinco Distribution);

(b) the Spinco Special Cash Payment shall have been consummated in accordance with this Agreement;

(c) an independent appraisal firm shall have delivered an opinion to the Remainco Board as to (i) the solvency of Spinco, and (ii) the solvency and surplus of Remainco, in each case (clauses (i) and (ii)) after giving effect to the Spinco Special Cash Payment, the consummation of the Initial Spin, and the consummation of the Spinco Distribution (with the terms "solvency" and "surplus" having the meaning ascribed thereto under Delaware Law) (the "Solvency Opinion"); and such Solvency Opinion shall be reasonably acceptable to Remainco in form and substance in Remainco's sole discretion; and such Solvency Opinion shall not have been withdrawn or rescinded or modified in any respect adverse to Remainco;

(d) the Ancillary Agreements shall have been executed and delivered by each party thereto;

(e) each of the conditions in Article IX of the RMT Transaction Agreement to Remainco's obligations to effect the Merger shall have been satisfied or waived (other than those conditions that by their nature are to be satisfied contemporaneously with the Initial Spin, the Spinco Distribution and/or the Merger, provided, that such conditions are capable of being satisfied at such time); and

(f) RMT Partner shall have irrevocably confirmed to Remainco that each condition in Article IX of the RMT Transaction Agreement to RMT Partner's obligations to effect the Merger (i) has been satisfied, (ii) will be satisfied at the time of the Initial Spin and the Spinco Distribution, or (iii) subject to applicable Laws, is or has been waived by RMT Partner.

Each of the foregoing conditions is for the sole benefit of Remainco and shall not give rise to or create any duty on the part of Remainco or the Remainco Board (or any committee thereof) to waive or not to waive any such condition in this Agreement or the RMT Transaction Agreement, or in any way limit Remainco's rights of termination set forth in this Agreement or the RMT Transaction Agreement; provided, that the foregoing shall not limit the rights of the Parties under the RMT Transaction Agreement.

Section 3.4 Additional Matters.

(a) In the event of a Spin-Off or Clean-Up Spin-Off, no action by any Record Holder shall be necessary for such Record Holder (or such Record Holder's designated transferee or transferees) to receive the applicable number of shares of Spinco Common Stock such stockholder is entitled to in the Spinco Distribution. For stockholders of Remainco who own shares of Spinco Common Stock through a broker or other nominee, their shares of Spinco Common Stock will be credited to their respective accounts by such broker or nominee.

(b) No member of the Spinco Group, Remainco Group or any of their respective Affiliates, will be liable to any Person in respect of any shares of Spinco Common Stock (or dividends or distributions with respect thereto) that are properly delivered to a public official pursuant to any applicable abandoned property, escheat or similar Law.

Section 3.5 Tax Withholding. Remainco and Spinco, as the case may be, will be entitled, and will instruct the Transfer Agent or the Distribution Agent, as applicable, to deduct and withhold from the consideration otherwise payable pursuant to this Agreement such amounts as are required to be deducted and withheld with respect to the making of such payments under the Code or any provision of state, local or foreign Tax Law. Any amounts so withheld and paid over to the applicable Tax Authority will be treated for all purposes of this Agreement as having been paid to the Persons otherwise entitled thereto.

Section 3.6 Delivery of Shares. Upon the consummation of the Initial Spin and the Spinco Distribution, Remainco will deliver to the Transfer Agent or Distribution Agent, as applicable, a book-entry authorization representing the shares of Spinco Common Stock being distributed in the Spinco Distribution for the account of the Remainco stockholders that are entitled thereto. The Distribution Agent will hold such book-entry shares for the account of the Remainco stockholders pending the Merger, as provided in Section 4.1 of the RMT Transaction Agreement. From immediately after the time of the Spinco Distribution until immediately prior to the First Effective Time, the shares of Spinco Common Stock will not be transferable and the Transfer Agent for the shares of Spinco Common Stock will not transfer any shares of Spinco Common Stock. The Spinco Distribution will be deemed to be effective upon written authorization from Remainco to the Transfer Agent or the Distribution Agent to proceed as set forth in Section 3.2.

Section 3.7 Release of Liens. Remainco shall, at its sole cost and expense, use reasonable best efforts to cause any Lien on any Spinco Asset that serves as collateral or security for any Indebtedness of any member of the Remainco Group to be unconditionally released and discharged (any such unconditional release and discharge, a "Discharge") concurrently with the Initial Spin. If any such Lien is not so Discharged concurrently with the Initial Spin, Remainco shall, at its sole cost and expense, to use reasonable best efforts to cause such Lien to be Discharged as promptly as reasonably possible thereafter.

ARTICLE IV

CERTAIN COVENANTS

Section 4.1 Auditors and Audits; Annual and Quarterly Financial Statements and Accounting.

(a) Each Party agrees (on behalf of itself and each other member of its Group) that, following the Spinco Distribution Date until the completion of each Party's audit for the fiscal year in which the third (3rd) anniversary of the Spinco Distribution occurs, it shall provide, and cause each member of its Group to provide, reasonable access and assistance with respect to (i) any statutory audit with respect to any fiscal year ending prior to the Spinco Distribution Date or for any portion of a fiscal year prior to the Spinco Distribution Date, in each case, in respect of which the Party requesting such reasonable assistance and access was an Affiliate (or relevant member of its Group) of the other Party's Group, (ii) the preparation and audit of each of the Party's financial statements for the fiscal year in which the Spinco Distribution occurs (and, if the Spinco Distribution occurs in the first quarter of a fiscal year, also for the previous fiscal year) or amendments thereto, and (iii) the audit of each Party's internal controls over financial reporting and management's assessment thereof and management's assessment of each Party's disclosure controls and procedures in respect of the fiscal year in which the Spinco Distribution occurs (and, if the Spinco Distribution occurs in the first quarter of a fiscal year, also for the previous fiscal year); provided, that in the event that any Party changes its auditors within one (1) year of the completion of each Party's audit for the fiscal year in which the third anniversary of the Spinco Distribution occurs, then such Party may request reasonable access on the terms set forth in this Section 4.1 for a period of up to one hundred and eighty (180) days from such change; provided further, that, notwithstanding the foregoing, access of the type described in this Section 4.1 shall be afforded by and to each of the Parties (from time to time following the Spinco Distribution Date), as applicable, to the extent reasonably necessary to respond (and for the limited purpose of responding) to any written request or official comment from a Governmental Entity, such as in connection with responding to a comment letter from the SEC, or as reasonably necessary to meet a filing, reporting or similar obligation required under applicable Law (including under Public Reports).

(b) *Date of Auditors' Opinion.* (i) Each of RMT Partner and Spinco shall use commercially reasonable efforts to enable their auditors to complete their audit (and any audit of their respective ultimate parent company) for the fiscal year in which the Spinco Distribution occurs to enable Remainco to meet its timetable for the printing, filing and public dissemination of Remainco's annual financial statements for such fiscal year, and (ii) Remainco shall use commercially reasonable efforts to enable their auditors to complete their audit (and any audit of its ultimate parent company) for the fiscal year in which the Spinco Distribution occurs to enable Spinco and RMT Partner to meet its timetable for the printing, filing and public dissemination of Spinco's and RMT Partner's annual financial statements for such fiscal year.

(c) *Annual Financial Statements.* (i) Each of Remainco, Spinco and RMT Partner shall provide reasonable access to Remainco, Spinco and RMT Partner on a timely basis and shall provide all Information reasonably required to meet such Person's schedule for the preparation, printing, filing, and public dissemination of such Person's annual financial statements for the fiscal year in which the Spinco Distribution occurs (and, if the Spinco Distribution occurs in the first quarter of a fiscal year, also for the previous fiscal year) and for management's assessment of the effectiveness of such Person's disclosure controls and procedures and its internal controls over financial reporting in accordance with Items 307 and 308, respectively, of Regulation S-K and, to the extent applicable to Remainco or RMT Partner, as the case may be, its auditor's audit of its internal controls over financial reporting and management's assessment thereof in accordance with Section 404 of the Sarbanes-Oxley Act of 2002 and the SEC's and Public Company Accounting Oversight Board's rules and auditing standards thereunder, if required (such assessments and audit being referred to as the "Internal Control Audit and Management Assessments") for the fiscal year in which the Spinco Distribution occurs (and, if the Spinco Distribution occurs in the first quarter of a fiscal year, also for the previous fiscal year); and (ii) without limiting the generality of the foregoing clause (i), each of Remainco, Spinco and RMT Partner shall provide all required financial and other Information with respect to itself and its Subsidiaries to its auditors in a sufficient and reasonable time and in sufficient detail to permit its auditors to take all steps and perform all reviews necessary to provide sufficient assistance to the other Person's auditors (the "Other Party's Auditors") with respect to Information to be included or contained in such other Person's annual financial statements for the fiscal year in which the Spinco Distribution occurs (or, if the Spinco Distribution occurs in the first quarter of a fiscal year, the previous fiscal year) and to permit the Other Party's Auditors and management to complete the Internal Control Audit and Management Assessments, if required.

(d) *Access to Personnel and Records.* Subject to the confidentiality provisions of this Agreement (including, for the avoidance of doubt, those set forth in Article VI) and to the extent it relates to the time prior to the Spinco Distribution, (i) each Party shall authorize and request its respective auditors to make reasonably available to the Other Parties' Auditors both the personnel who performed or are performing the annual audits of such audited Party (each such Party with respect to its own audit, the "Audited Party") and work papers related to the annual audits of such Audited Party, in all cases within a reasonable time prior to such Audited Parties' auditors' opinion date, so that the Other Parties' Auditors are able to perform the procedures they reasonably consider necessary to take responsibility for the work of the Audited Parties' auditors as it relates to their auditors' report on such other Parties' financial statements, all within sufficient time to enable such other Party to meet its timetable for the printing, filing and public dissemination of its annual financial statements with the SEC for the fiscal year in which the Spinco Distribution occurs (or, if the Spinco Distribution occurs in the first quarter of a fiscal year, the previous fiscal year), and (ii) each Party shall use commercially reasonable efforts to make reasonably available to the Other Parties' Auditors and management its personnel and Records in a reasonable time prior to the Other Parties' Auditors' opinion date and other Parties' management's assessment date so that the Other Parties' Auditors and other Parties' management are able to perform the procedures they reasonably consider necessary to conduct the Internal Control Audit and Management Assessments.

(e) *Current, Quarterly and Annual Reports.* (i) Following the Spinco Distribution, until each Party has filed its annual report on Form 10-K for the fiscal year following the year in which the Spinco Distribution occurs, at least three (3) Business Days prior to the earlier of public dissemination or filing with the SEC, each Party shall deliver to each other Party a reasonably complete draft of the portion of any earnings news release or any filing with the SEC related to the Spinco Business and containing financial statements for the related year in which the Spinco Distribution occurs (or, if the Spinco Distribution occurs in the first quarter of a fiscal year, the previous fiscal year) and the fiscal year following such year, including current reports on Form 8-K, quarterly reports on 10-Q and annual reports on Form 10-K or any other annual report purporting to fulfill the requirements of 17 CFR 240-14c-3 (such reports, collectively, the “Public Reports”); provided, however, that each of the Parties may continue to revise its respective Public Report prior to the filing thereof, which changes will be delivered to each other Party as soon as reasonably practicable; provided further, that each Party’s and RMT Partner’s personnel will actively and reasonably consult with each other’s personnel regarding any proposed changes to its respective Public Report and related disclosures prior to the anticipated filing with the SEC, with particular focus on any changes which would reasonably be expected to have an effect upon each other Party’s or RMT Partner’s financial statements or related disclosures; (ii) each Party shall notify the other Party, as applicable, as soon as reasonably practicable after becoming aware thereof, of any material accounting differences between the financial statements to be included in such Party’s or RMT Partner’s annual report on Form 10-K and the pro-forma financial statements included, as applicable, in the Spinco Form 10 or the Form 8-K to be filed by Remainco with the SEC on or about the time of the Spinco Distribution; and (iii) if any such differences are notified by any Party, the Parties shall confer and/or meet as soon as reasonably practicable thereafter, and in any event prior to the filing of any Public Report, to consult with each other in respect of such differences and the effects thereof on the other Person’s applicable Public Reports.

(f) To the extent RMT Partner is required to describe the compensation plans of Remainco in order to comply with any reporting, disclosure, filing or other requirements imposed under applicable securities Laws or exchange requirements, RMT Partner shall substantially conform such discussion to Remainco’s most recently filed Proxy Statement or Form 10-K to the extent consistent with applicable Law unless otherwise advised in writing by Remainco.

(g) Nothing in this Section 4.1 shall require any Party to violate any Law (including any Data Protection Law), Contract with any Third Party or policy regarding the confidentiality of confidential and proprietary Information relating to that Third Party or its business; provided, however, that in the event that a Party is required under this Section 4.1 to disclose any such Information, such Party shall use commercially reasonable efforts to seek to obtain any such Third Party’s written consent to the disclosure of such Information.

Section 4.2 Separation of Information.

(a) Spinco shall, and shall cause the other members of the Spinco Group to, use commercially reasonable efforts to deliver to Remainco (or its designee) as promptly as practicable (and, in any event, no later than twenty-four (24) months following the Spinco Distribution) all Information (i) that relates to any Excluded Asset, (ii) to which a member of the Remainco Group has a license pursuant to an Ancillary Agreement (or to the extent such Information is reasonably necessary to exercise a license pursuant to any Ancillary Agreement) or access thereto pursuant to an Ancillary Agreement, or (iii) to the extent that such Information is related to the Remainco Business, but, in each case of the foregoing clauses (i) through (iii), if such Information is commingled in any member of the Spinco Group’s current records or archives (whether stored with a Third Party or directly by any member of the Spinco Group), Spinco may redact Information to the extent that it is related to the Spinco Business, is commercially or competitively sensitive and could cause harm to the Spinco Business or to which a member of the Remainco Group does not have a license pursuant to an Ancillary Agreement (to the extent such Information is not reasonably necessary to exercise a license pursuant to any Ancillary Agreement) or access thereto pursuant to an Ancillary Agreement; provided, that with respect to any Information to which a member of the Remainco Group has a license pursuant to any Ancillary Agreement (or such Information is reasonably necessary to exercise such license) or access pursuant to any Ancillary Agreement, such Information shall be delivered only to the extent of such license (or such reasonable need for related Information) or access and otherwise subject to the terms of the applicable Ancillary Agreement.

(b) If Remainco identifies in writing particular Information (whether in written, electronic documentary or other archival documentary form) that Remainco reasonably believes is related to the Remainco Business or to which a member of its Group has a license pursuant to an Ancillary Agreement (or such Information is reasonably necessary to exercise such license) or access thereto pursuant to an Ancillary Agreement, but is held by or on behalf of any member of the Spinco Group (or any transferee thereof), Spinco shall, and shall cause any other applicable member of the Spinco Group to, request that the archive holder deliver such item to Spinco for review as soon as reasonably practicable, and Spinco shall review such request and deliver the requested material to Remainco as promptly as reasonably practicable and in any event within five (5) Business Days of receiving the material from the archive holder; provided, that if the requested material is not specific and requires a longer period of review in light of the breadth of the request, Spinco shall deliver the material to Remainco as promptly as reasonably practicable and shall notify Remainco of the expected timeframe to allow Remainco to narrow such request if desired; provided further, that with respect to any Information to which a member of the Remainco Group has a license pursuant to any Ancillary Agreement (or such Information is reasonably necessary to exercise such license) or access pursuant to any Ancillary Agreement, such Information shall be delivered only to the extent of such license (or such reasonable need for related Information) or access and otherwise subject to the terms of the applicable Ancillary Agreement or Ancillary Agreement; provided further, that if such requested material is not related to the Remainco Business or a member of the Remainco Group is not otherwise granted a license pursuant to an Ancillary Agreement (and such Information is not reasonably necessary to exercise such license) or access thereto pursuant to an Ancillary Agreement, Spinco shall not deliver the material to Remainco, but shall provide Remainco with an explanation in reasonable detail of such determination and discuss with Remainco in good faith.

(c) Remainco shall, and shall cause the other members of the Remainco Group to, use commercially reasonable efforts to deliver to Spinco (or its designee) as promptly as practicable (and, in any event, no later than twenty-four (24) months following the Spinco Distribution) all Information (i) that relates to a Spinco Asset, (ii) to which a member of the Spinco Group has a license pursuant to an Ancillary Agreement (or to the extent such Information is reasonably necessary to exercise a license pursuant to any Ancillary Agreement) or access thereto pursuant to an Ancillary Agreement, or (iii) to the extent that such Information is related to the Spinco Business, but, in each case of the foregoing (i) through (iii), if such Information is commingled in any member of the Remainco Group's current records or archives (whether stored with a Third Party or directly by any member of the Remainco Group), Remainco may redact Information to the extent that it is related to the Remainco Business, is commercially or competitively sensitive and could cause harm to the Remainco Business or to which a member of the Spinco Group does not have a license pursuant to an Ancillary Agreement (to the extent such Information is not reasonably necessary to exercise a license pursuant to any Ancillary Agreement) or access thereto pursuant to an Ancillary Agreement; provided, that with respect to any Information to which a member of the Spinco Group has a license pursuant to any Ancillary Agreement (or such Information is reasonably necessary to exercise such license) or access pursuant to any Ancillary Agreement, such Information shall be delivered only to the extent of such license (or such reasonable need for related Information) or access and otherwise subject to the terms of the applicable Ancillary Agreement.

(d) If Spinco identifies in writing particular Information (whether in written, electronic documentary or other archival documentary form) that Spinco reasonably believes is related to the Spinco Business or to which a member of its Group has a license pursuant to an Ancillary Agreement (or such Information is reasonably necessary to exercise such license) or access thereto pursuant to an Ancillary Agreement, but is held by or on behalf of any member of the Remainco Group (or any transferee thereof), Remainco shall, and shall cause any other applicable member of the Remainco Group to, request that the archive holder deliver such item to Remainco for review as soon as reasonably practicable, and Remainco shall review such request and deliver the requested material to Spinco as promptly as reasonably practicable and in any event within five (5) Business Days of receiving the material from the archive holder; provided, that if the requested material is not specific and requires a longer period of review in light of the breadth of the request, Remainco shall deliver the material to Spinco as promptly as reasonably practicable and shall notify Spinco of the expected timeframe to allow Spinco to narrow such request if desired; provided further, that with respect to any Information to which a member of the Spinco Group has a license pursuant to any Ancillary Agreement (or such Information is reasonably necessary to exercise such license) or access pursuant to any Ancillary Agreement, such Information shall be delivered only to the extent of such license (or such reasonable need for related Information) or access and otherwise subject to the terms of the applicable Ancillary Agreement; provided further, that if such requested material is not related to the Spinco Business or a member of the Spinco Group is not otherwise granted a license pursuant to an Ancillary Agreement (and such Information is not reasonably necessary to exercise such license) or access thereto pursuant to an Ancillary Agreement, Remainco shall not deliver the material to Spinco but shall provide Spinco with an explanation in reasonable detail of such determination and discuss with Spinco in good faith.

Section 4.3 Nonpublic Information. Each Party acknowledges on behalf of itself and the other members of its Group that Information provided pursuant to this Agreement may constitute material, nonpublic information, and trading in the securities of a member of any Group (or the securities of such Person's Affiliates, or partners) while in possession of such material, nonpublic material information may constitute a violation of the U.S. federal securities Laws.

Section 4.4 Cooperation. Subject to the terms and limitations contained in this Agreement and the Ancillary Agreements, each Party shall, and shall cause the other members of its Group (as applicable), their respective then-Affiliates, each of its and their respective Affiliates and its and their employees to provide reasonable cooperation and assistance to each other Party (and any member of such Party's Group) in connection with (a) planning for the Separation, (b) the completion of the Separation substantially in accordance with the Separation Plan (to the extent expressly contemplated thereby) and the transactions contemplated herein and in each Ancillary Agreement, and (c) requests for Information from, audits or other examinations of, such other Party (or member of such Party's Group) by a Governmental Entity at no additional cost to the Party (or member of such Party's Group) requesting such assistance other than for the actual out-of-pocket costs (which shall not include the costs of salaries and benefits of employees of such Party (or its Group) or any pro rata portion of overhead or other costs of employing such employees which would have been incurred by such employees' employer regardless of the employees' service with respect to the foregoing) incurred by any such Party (or its Group), if applicable. The cooperation and assistance provided for in this Section 4.4 shall not be required to the extent such cooperation and assistance would result in an undue burden on any Party (or any member of its Group) or would unreasonably interfere with any of its employees' normal functions and duties.

Section 4.5 IT Assets Separation. Substantially in accordance with the Separation Plan, Remainco shall, and shall cause its respective Affiliates to, logically and physically separate the Spinco IT Assets from the Remainco IT Assets in such a manner that the Spinco IT Assets are not accessible to Remainco or its Affiliates (other than any member of the Spinco Group), and the Remainco IT Assets are not accessible to Spinco or any member of the Spinco Group (except, in each case, as and to the extent such access is necessary for the provision or receipt of services pursuant to the Ancillary Agreements). Remainco and Spinco (and RMT Partner) shall reasonably cooperate in the migration of Spinco IT Assets to the systems of RMT Partner, as appropriate.

Section 4.6 Operational Matters. As of immediately prior to the Spinco Distribution, Remainco shall cause the Spinco Group to have thirty-eight (38) days ("Required Working Capital Days") of net working capital (excluding Cash and Cash Equivalents), calculated in a manner consistent with Remainco's historical calculation of working capital days (excluding impact of income tax accounts) using Remainco's historical accounting principles, policies, procedures, definitions, methods, practices and techniques. In the event that, as of the Spinco Distribution, the Spinco Group shall have fewer net working capital days than the Required Working Capital Days (the "Deficit Days"), then no later than the thirtieth (30th) day following the Closing, Remainco shall pay Spinco an amount in cash equal to (x) the number of Deficit Days, *multiplied by* (y) Seven Million Dollars (\$7,000,000.00).

ARTICLE V

INDEMNIFICATION

Section 5.1 Release of Pre-Distribution Claims.

(a) Except (i) as provided in Section 5.1(c), (ii) as may be otherwise expressly provided in this Agreement, and (iii) for any matter for which any Indemnitee is entitled to indemnification pursuant to this Article V, each of Remainco and Spinco, on behalf of itself and each member of its Group, and to the extent permitted by Law, all Persons who at any time prior to the Spinco Distribution were shareholders, directors, officers, agents or employees of any member of its respective Group (in their respective capacities as such), in each case, together with their respective heirs, executors, administrators, successors and assigns, (x) do hereby, irrevocably but effective at the time of and conditioned upon the occurrence of the Spinco Distribution, and (y) at the time of the Spinco Distribution shall release and forever discharge the other Party and the other members of such other Party's Group and their respective successors and all Persons who at any time prior to the Spinco Distribution were shareholders, directors, officers, agents or employees of any member of such other Party's Group (in their capacity as such), in each case, together with their respective heirs, executors, administrators, successors and assigns from any and all Liabilities whatsoever, whether at Law or in equity, whether arising under any Contract, by operation of Law or otherwise, in each case, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed on or before the Spinco Distribution, including in connection with the Separation, the Initial Spin, the Spinco Distribution or any of the other transactions contemplated hereunder and under the Ancillary Agreements, provided, however, that no Spinco Employee shall be released and discharged to the extent such Liability relates to, arises out of or results from intentional misconduct by such employee. The foregoing release includes a release of any rights and benefits conferred by or under California Civil Code Section 1542 or any Law of the United States or principle of common law or any Law, which is similar, comparable, or equivalent to California Civil Code Section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Each Party hereby acknowledges that it is aware that factual matters now unknown to it may have given or may hereafter give rise to Liabilities that are presently unknown, unanticipated and unsuspected, and further agrees that this release has been negotiated and agreed upon in light of that awareness and nevertheless each Party expressly waives any and all rights which they may have under Section 1542 of the California Civil Code or any other state or federal statute or common law principle of similar effect.

(b) Except (i) as provided in Section 5.1(c), (ii) as may be otherwise expressly provided in this Agreement, or (iii) for any matter for which any Indemnitee is entitled to indemnification pursuant to this Article V, RMT Partner on behalf of itself and its Affiliates, successors and assigns (A) does hereby, irrevocably but effective at the time of and conditioned upon the occurrence of the Spinco Distribution, and (B) at the time of the Spinco Distribution shall release and forever discharge Remainco and the other members of the Remainco Group and their respective successors and all Persons who at any time prior to the Spinco Distribution were shareholders, directors, officers or employees of any member of the Remainco Group (in their capacity as such), in each case, together with their respective heirs, executors, administrators, successors and assigns from any and all Liabilities whatsoever, whether at Law or in equity, whether arising under any Contract, by operation of Law or otherwise, in each case, from existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed on or before the Spinco Distribution, to the extent related to the Separation, the Initial Spin, the Spinco Distribution or any of the other transactions contemplated hereunder and under the RMT Transaction Agreement and the Ancillary Agreements; provided, however, that no Spinco Employee shall be released and discharged to the extent such Liability relates to, arises out of or results from intentional misconduct by such employee. The foregoing release includes a release of any rights and benefits conferred by or under California Civil Code Section 1542 or any Law of the United States or principle of common law or any Law, which is similar, comparable, or equivalent to California Civil Code Section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

RMT Partner hereby acknowledges that it is aware that factual matters now unknown to it may have given or may hereafter give rise to Liabilities that are presently unknown, unanticipated and unsuspected, and further agrees that this release has been negotiated and agreed upon in light of that awareness and nevertheless expressly waives any and all rights which it may have under Section 1542 of the California Civil Code or any other state or federal statute or common law principle of similar effect.

(c) Nothing contained in this Agreement, including Section 5.1(a), Section 5.1(b) or this Section 5.1(c) shall impair or otherwise affect any right of any Party, any member of any Group, or any Party's or member of a Group's respective heirs, executors, administrators, successors and assigns to enforce this Agreement, the RMT Transaction Agreement, any Ancillary Agreement or any agreements, arrangements, commitments or understandings that continue in effect after the Spinco Distribution pursuant to the terms of this Agreement, the RMT Transaction Agreement or any Ancillary Agreement. In addition, nothing contained in Section 5.1(a) or Section 5.1(b) shall release any Person from:

(i) any Liabilities assumed, Transferred or allocated to a Party or a member of such Party's Group pursuant to or as contemplated by, or any other Liability of any member of such Group, under this Agreement or any Ancillary Agreement, including (A) with respect to Spinco, any Spinco Assumed Liability and (B) with respect to Remainco, any Excluded Liability;

(ii) any Liability that the Parties may have with respect to indemnification pursuant to this Agreement or any Ancillary Agreement or otherwise for claims or Proceedings brought against any Indemnitee by third Persons, which Liability shall be governed by the provisions of this Agreement and, in particular, this Article V or, in the case of any Liability arising out of an Ancillary Agreement, the applicable provisions of such Ancillary Agreement;

(iii) the obligation of Remainco, Spinco, RMT Partner or Merger Subs to consummate the Merger and the other transactions expressly contemplated to occur at the Closing, subject to the terms and conditions of the RMT Transaction Agreement;

(iv) any Liability arising out of or resulting from any Contract that is entered into after the Spinco Distribution between a member of the Remainco Group, on the one hand, and a member of the Spinco Group, on the other hand; and

(v) any Liability the release of which would result in a release of any Person other than the Persons released in Section 5.1(a) or Section 5.1(b); provided, that the Parties agree not to bring any Proceeding or permit any of their Subsidiaries or other members of their respective Group, or any of their respective Affiliates, to bring any Proceeding against a Person released in Section 5.1(a) or Section 5.1(b) with respect to such Liability.

In addition, nothing contained in Section 5.1(a) shall release (A) Spinco from indemnifying any director, officer or employee of Remainco who was a director, officer or employee of Spinco or any of its Subsidiaries on or prior to the Spinco Distribution, as applicable, to the extent such director, officer or employee is or becomes a named defendant in any Proceeding with respect to which he or she was entitled to such indemnification pursuant to obligations existing prior to the Spinco Distribution, or (B) Remainco from indemnifying any director, officer or employee of Remainco who was a director, officer or employee of Remainco or any of its Subsidiaries on or prior to the Spinco Distribution, as applicable, to the extent such director, officer or employee is or becomes a named defendant in any Proceeding with respect to which he or she was entitled to such indemnification pursuant to obligations existing prior to the Spinco Distribution.

(d) From and after the time of the Spinco Distribution, Remainco and Spinco shall not, and shall not permit its Subsidiaries or the other members of its Group, or any of their respective Affiliates, to, make any (or fail to withdraw any previously existing) claim, demand or offset, or commence (or fail to withdraw any previously existing) any Proceeding asserting any claim, demand or offset, including any claim for indemnification, against Remainco or Spinco or any member of such other Party's Group, or any other Person released pursuant to Section 5.1(a) or their respective successors with respect to any Liabilities released pursuant to Section 5.1(a).

(e) From and after the time of the Spinco Distribution, RMT Partner shall not, and shall not permit its Subsidiaries, or any of their respective Affiliates, to, make any (or fail to withdraw any previously existing) claim, demand or offset, or commence (or fail to withdraw any previously existing) any Proceeding asserting any claim, demand or offset, including any claim for indemnification, against Remainco or any member of the Remainco Group, or any other Person released pursuant to Section 5.1(b) or their respective successors with respect to any Liabilities released pursuant to Section 5.1(b).

(f) It is the intent of each Party, by virtue of the provisions of this Section 5.1, to provide for, at the time of the Spinco Distribution, a full and complete release and discharge of all Liabilities existing or arising from all acts and events occurring or failing to occur or alleged to have occurred or to have failed to occur and all conditions existing or alleged to have existed on or before the Spinco Distribution, whether known or unknown, between or among any Party (and/or a member of such Party's Group), on the one hand, and any other Party or Parties (and/or a member of such Party's or Parties' Group), on the other hand (including any contractual agreements or arrangements existing or alleged to exist between or among any such members on or before the Spinco Distribution), except as specifically set forth in this Section 5.1. At any time, at the reasonable request of any other Party, each Party shall use commercially reasonable efforts to cause its Subsidiaries and each other member of its respective Group and, to the extent reasonably practicable each other Person on whose behalf it released Liabilities pursuant to this Section 5.1 to execute and deliver releases reflecting the provisions hereof. Furthermore, at any time, at the reasonable request of Remainco, RMT Partner shall cause its Subsidiaries and, to the extent practicable each other Person on whose behalf it released Liabilities pursuant to this Section 5.1 to execute and deliver releases reflecting the provisions hereof.

(g) Each of Remainco and RMT Partner, on behalf of itself and its Subsidiaries, hereby waives any rights of termination with respect to any “change of control” or similar provision under any Contract by and between or among any member of the Remainco Group or the Spinco Group, on the one hand, and RMT Partner and its Subsidiaries, on the other hand, related to or arising out of the Separation, the Initial Spin, or the Spinco Distribution.

Section 5.2 Indemnification by Remainco. In addition to any other provisions of this Agreement requiring indemnification and except as otherwise specifically set forth in any provision of this Agreement, following the Spinco Distribution Date, Remainco shall and shall cause the other members of the Remainco Group to indemnify, defend and hold harmless the Spinco Indemnitees from and against any and all Indemnifiable Losses of the Spinco Indemnitees to the extent relating to, arising out of or resulting from (a) any Liabilities which are expressly assumed or have been allocated to the Remainco Group (including Excluded Liabilities) pursuant to this Agreement or any Ancillary Agreement, (b) any breach by Remainco of any provision of this Agreement or, subject to Section 5.9, the Ancillary Agreements and (c) any guarantee, indemnification or contribution obligation or Credit Support Instrument for the benefit of any member of the Remainco Group by any member of the Spinco Group that survives following the Spinco Distribution.

Section 5.3 Indemnification by Spinco and RMT Partner. In addition to any other provisions of this Agreement requiring indemnification and except as otherwise specifically set forth in any provision of this Agreement, (a) Spinco shall, and shall cause the other members of the Spinco Group to, indemnify, defend and hold harmless the Remainco Indemnitees from and against any and all Indemnifiable Losses of the Remainco Indemnitees to the extent relating to, arising out of or resulting from (i) any Liabilities which are expressly assumed or have been allocated to the Spinco Group (including Spinco Assumed Liabilities) pursuant to this Agreement or any Ancillary Agreement, (ii) any breach by Spinco of any provision of this Agreement or, subject to Section 5.9, the Ancillary Agreements, and (iii) any guarantee, indemnification or contribution obligation or Credit Support Instrument for the benefit of any member of the Spinco Group by any member of the Remainco Group that survives following the Spinco Distribution, and (b) from and following the Closing, RMT Partner shall and shall cause its Subsidiaries to indemnify, defend and hold harmless the Remainco Indemnitees from and against any and all Indemnifiable Losses of the Remainco Indemnitees indemnifiable pursuant to this Article V to the extent not paid by a member of the Spinco Group.

Section 5.4 Procedures for Third Party Claims.

(a) If a claim or demand is made against a Remainco Indemnitee or a Spinco Indemnitee (each, an “Indemnitee”) by any Person who is not a member of the Remainco Group, Spinco Group or RMT Partner and its Affiliates (a “Third Party Claim”) as to which such Indemnitee is or may be entitled to indemnification pursuant to this Agreement, such Indemnitee shall notify the Party which is or may be required pursuant to this Article V to make such indemnification (the “Indemnifying Party”) in writing, and in reasonable detail, of the Third Party Claim as promptly as practicable (and in any event within thirty (30) days) after receipt by such Indemnitee of written notice of the Third Party Claim; provided, however, that the failure to provide notice of any such Third Party Claim pursuant to this sentence shall not release the Indemnifying Party from any of its obligations under this Article V except and solely to the extent the Indemnifying Party shall have been actually materially prejudiced as a result of such failure. Thereafter, the Indemnitee shall deliver to the Indemnifying Party, as promptly as practicable (and in any event within ten (10) Business Days) after the Indemnitee’s receipt thereof, copies of all notices and documents (including court papers) received by the Indemnitee relating to the Third Party Claim.

(b) Other than in the case of indemnification by a beneficiary Party of a guarantor Party pursuant to Section 1.7(c) (the defense of which shall be controlled by the beneficiary Party), an Indemnifying Party shall be entitled (but shall not be required) to assume and control the defense of any Third Party Claim at such Indemnifying Party’s own expense and with counsel selected by the Indemnifying Party with the consent of the applicable Indemnitees (such consent not to be unreasonably withheld, conditioned or delayed) if it gives prior written notice of its intention to do so to the applicable Indemnitees within thirty (30) days of the Indemnifying Party’s receipt of notice of the relevant Third Party Claim from the applicable Indemnitees pursuant to Section 5.4(a). Within thirty (30) days after the receipt of notice from an Indemnitee (or sooner, if the nature of such Third-Party Claim so requires), the Indemnifying Party shall notify the Indemnitee of its election as to whether the Indemnifying Party will assume responsibility for defending such Third-Party Claim, which election shall specify any reservations or exceptions to its defense. Notwithstanding the foregoing, the Indemnifying Party shall not be entitled to assume the defense of any Third Party Claim to the extent such Third Party Claim (i) is an allegation of a criminal violation, (ii) seeks injunctive, equitable or other relief other than monetary damages against the Indemnitee (provided, that such Indemnitee shall reasonably cooperate with the Indemnifying Party, at the request of the Indemnifying Party, in seeking to separate any such claims from any related claim for monetary damages if this clause (ii) is the sole reason that such Third Party Claim is a Non-Assumable Third Party Claim), or (iii) is made by a Governmental Entity (clauses (i), (ii) and (iii), the “Non-Assumable Third Party Claims”). After notice from an Indemnifying Party to an Indemnitee of the Indemnifying Party’s election to assume the defense of a Third Party Claim, such Indemnitee shall have the right to employ separate counsel and to participate in (but not control) the defense, compromise, or settlement thereof, at its own expense and, in any event, shall reasonably cooperate with the Indemnifying Party in such defense and make available to the Indemnifying Party, at the Indemnifying Party’s expense, all witnesses, pertinent and material information, materials and other information in such Indemnitee’s possession or under such Indemnitee’s control relating thereto as may be reasonably required by the Indemnifying Party; provided, however, that in the event a conflict of interest exists, or is reasonably likely to exist, that would make it inappropriate in the reasonable judgment of counsel to the applicable Indemnitee(s) for the same counsel to represent both the Indemnifying Party and the applicable Indemnitee(s), such Indemnitee(s) shall be entitled to retain, at the Indemnifying Party’s expense, one separate counsel (and any necessary local counsel) as required by the applicable rules of professional conduct with respect to such matter. In the event that the Indemnifying Party exercises the right to assume and control the defense of a Third Party Claim as provided above, (A) the Indemnifying Party shall keep the Indemnitee(s) reasonably apprised of all material developments in such defense, (B) the Indemnifying Party shall not withdraw from the defense of such Third Party Claim without providing advance notice to the Indemnitee(s) reasonably sufficient to allow the Indemnitee(s) to prepare to assume the defense of such Third Party Claim, and (C) the Indemnifying Party shall conduct the defense of the Third Party Claim actively and diligently.

(c) If the Indemnifying Party elects not to assume the defense of such Third Party Claim, fails to notify an Indemnitee of its election or if the claim relates to or arises in connection with a Non-Assumable Third Party Claim, then the applicable Indemnitee may defend such Third-Party Claim at the cost and expense of the Indemnifying Party to the extent indemnification is available hereunder and the Indemnifying Party shall have the right to participate in the defense of such Third Party Claim at such Indemnifying Party's own cost and expense with counsel selected by the Indemnifying Party that is reasonably acceptable to the applicable Indemnitees. Other than in the case of a Non-Assumable Third Party Claim, if an Indemnifying Party elects not to assume responsibility for defending a Third Party Claim or fails to notify an Indemnitee of its election as provided in Section 5.4(b), or if the Indemnifying Party fails to actively and diligently defend the Third Party Claim, the applicable Indemnitee(s) may defend such Third Party Claim. If the Indemnitee is conducting the defense of any Third Party Claim, the Indemnifying Party shall reasonably cooperate with the Indemnitee in such defense and make available to the Indemnitee, at the Indemnifying Party's expense, all witnesses, pertinent and material Information, material and information in such Indemnifying Party's possession or under such Indemnifying Party's control relating thereto as may be reasonably required by the Indemnitee pursuant to a joint defense agreement to be entered into by Indemnitee and the Indemnifying Party; provided, however, that such access shall not require the Indemnifying Party to disclose any information the disclosure of which would, in the reasonable judgment of counsel to the Indemnifying Party, result in the loss of any existing attorney-client privilege with respect to such information or violate any applicable Law or such Person's contractual obligations.

(d) No Indemnitee may admit any liability with respect to, consent to entry of any judgment of, or settle, compromise or discharge any Third Party Claim without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld, conditioned or delayed. If an Indemnifying Party has failed to assume the defense of a Third Party Claim, it shall not be a defense to any obligation to pay any amount in respect of such Third Party Claim that the Indemnifying Party was not consulted in the defense thereof, that such Indemnifying Party's views or opinions as to the conduct of such defense were not accepted or adopted or that such Indemnifying Party does not approve of the quality or manner of the defense thereof.

(e) In the case of a Third Party Claim, the Indemnifying Party shall not admit any liability with respect to, consent to entry of any judgment of, or settle, compromise or discharge, the Third Party Claim without the prior written consent of the Indemnitee (which consent shall not be unreasonably withheld, conditioned or delayed) unless such settlement or judgment (A) completely and unconditionally releases the Indemnitee in connection with such matter, (B) provides relief consisting solely of monetary damages borne by the Indemnifying Party and (C) does not involve any admission by the Indemnitee of any wrongdoing or violation of Law.

(f) Notwithstanding anything herein or, subject to Section 5.9, in any Ancillary Agreement or any Conveyancing and Assumption Instrument to the contrary, other than (i) the indemnification provisions in Section 1.7, and (ii) actions for specific performance or injunctive or other equitable relief pursuant to Section 9.6, (A) the indemnification provisions of this Article V shall be the sole and exclusive remedy of the Parties, the parties to the Conveyancing and Assumption Instruments, and any Indemnitee for any breach of this Agreement or, subject to Section 5.9, any Ancillary Agreement or any Conveyancing and Assumption Instrument and for any failure to perform and comply with any covenant or agreement in this Agreement or in any Conveyancing and Assumption Instrument, (B) each Party and each Indemnitee expressly waives and relinquishes any and all rights, claims or remedies it may have with respect to the foregoing other than under this Article V against any Indemnifying Party, (C) none of the Parties, the members of their respective Groups, or any other Person may bring a claim under any Conveyancing and Assumption Instrument, (D) any and all claims arising out of, resulting from, or in connection with the Separation or the other transactions contemplated in this Agreement must be brought under and in accordance with the terms of this Agreement, and (E) no breach of this Agreement or any Conveyancing and Assumption Instrument shall give rise to any right on the part of any party hereto or thereto, after the consummation of the Initial Spin, to rescind this Agreement, any Conveyancing and Assumption Instrument or any of the transactions contemplated hereby or thereby; provided, however, that indemnification for Tax matters shall be governed by the terms, provisions and procedures of the Tax Matters Agreement and not by this Article V. Each Party shall cause the members of its Group to comply with this Section 5.4(f).

(g) The provisions of this Article V shall apply to Third Party Claims that are already pending or asserted as well as Third Party Claims brought or asserted after the date of this Agreement. There shall be no requirement under this Section 5.4 to give a notice with respect to the existence of any Third Party Claim that exists as of the Spinco Distribution. Each Party on behalf of itself and each other member of its Group acknowledges that Liabilities for Proceedings (regardless of the parties to the Proceedings) may be partly Liabilities of Spinco and partly Liabilities of Remainco. If the Parties cannot agree on the allocation of any such Liabilities for Proceedings, they shall resolve the matter of such allocation pursuant to the procedures set forth in Article VII. No Party shall, nor shall any Party permit the other members of its Group (or their respective then-Affiliates) to, file Third Party Claims or cross-claims against any other Party or any members of another Group in a Proceeding in which a Third Party Claim is being resolved.

(h) This Section 5.4, Section 5.5, Section 5.6 and Section 5.7 shall not apply to Tax Contests, which shall be governed exclusively by the Tax Matters Agreement.

Section 5.5 Procedures for Direct Claims. An Indemnitee shall give the Indemnifying Party written notice of any matter that an Indemnitee has determined has given or would reasonably be expected to give rise to a right of indemnification under this Agreement (other than a Third Party Claim which shall be governed by Section 5.4), within thirty (30) days of such determination, stating the amount of the Indemnifiable Loss claimed, if known, and method of computation thereof, and containing a reference to the provisions of this Agreement in respect of which such right of indemnification is claimed by such Indemnitee or arises; provided, however, that the failure to provide such written notice shall not release the Indemnifying Party from any of its obligations except and solely to the extent the Indemnifying Party shall have been actually materially prejudiced as a result of such failure.

Section 5.6 Cooperation in Defense and Settlement.

(a) With respect to any Third Party Claim in which both the Spinco Group (or RMT Partner and its Subsidiaries, as applicable) and the Remainco Group are named parties or that implicates both the Spinco Group (or RMT Partner and its Subsidiaries, as applicable), on the one hand, and Remainco Group, on the other hand, in a material respect, including due to the reasonably foreseeable impact on the Remainco Business or the Spinco Business of the relief sought or the responsibilities for management of defense and related indemnities pursuant to this Agreement, Spinco (or RMT Partner, as applicable) and Remainco agree to use commercially reasonable efforts to cooperate and maintain a joint defense (in a manner that will preserve for all Parties any Privilege). The Party that is not responsible for managing the defense of any such Third Party Claim shall be consulted with respect to significant matters relating thereto and may, if necessary or helpful, retain counsel to assist in the defense of such claims at its own cost and expense. Notwithstanding the foregoing, nothing in this Section 5.6(a) shall derogate from any Party's rights to control the defense of any Proceeding in accordance with Section 5.4.

(b) Notwithstanding anything to the contrary in this Agreement, with respect to any Third Party Claim where the resolution of such Third Party Claim by order, judgment, settlement or otherwise, would reasonably be expected to include any condition, limitation or other stipulation that would, in the reasonable judgment of (i) Remainco, materially and adversely impact the conduct of the Remainco Business or result in a material adverse change to any member of the Remainco Group, Remainco shall have, at Remainco's expense, the reasonable opportunity to consult, advise and comment in all preparation, planning and strategy regarding any such Third Party Claim, including with regard to any drafts of notices and other conferences and communications to be provided or submitted by any member of the Spinco Group to any Third Party involved in such Third Party Claim (including any Governmental Entity), to the extent that Remainco's participation does not affect any Privilege in a material and adverse manner; provided, that to the extent that any such Third Party Claim requires the submission by any member of the Spinco Group of any Information relating to any current or former officer or director of any member of the Remainco Group, such Information will only be submitted in a form consented to by Remainco in its reasonable discretion (such consent not to be unreasonably withheld, conditioned or delayed), or (ii) Spinco, materially and adversely impact the conduct of the Spinco Business or result in a material adverse change to any member of the Spinco Group, Spinco shall have, at Spinco's expense, the reasonable opportunity to consult, advise and comment in all preparation, planning and strategy regarding any such Third Party Claim, including with regard to any drafts of notices and other conferences and communications to be provided or submitted by any member of the Remainco Group to any Third Party involved in such Third Party Claim (including any Governmental Entity), to the extent that Spinco's participation does not affect any Privilege in a material and adverse manner; provided, that to the extent that any such Third Party Claim requires the submission by any member of the Remainco Group of any Information relating to any current or former officer or director of any member of the Spinco Group, such Information will only be submitted in a form consented to by Spinco in its reasonable discretion (such consent not to be unreasonably withheld, conditioned or delayed). With regard to the matters specified in the preceding clause (i), Remainco shall have a right to consent to any compromise or settlement related thereto by any member of the Spinco Group to the extent that the effect on any member of the Remainco Group would reasonably be expected to result in a material adverse effect on the financial condition or results of operations of Remainco and its Subsidiaries at such time or the Remainco Business conducted thereby at such time, taken as a whole, and such material adverse effect would reasonably be expected to be greater with respect to the Remainco Group, taken as a whole, than the effect on the Spinco Group, taken as a whole and with regard to the matters specified in the preceding clause (ii), Spinco shall have a right to consent to any compromise or settlement related thereto by any member of the Remainco Group to the extent that the effect on any member of the Spinco Group would reasonably be expected to result in a material adverse effect on the financial condition or results of operations of Spinco and its Subsidiaries at such time or the Spinco Business conducted thereby at such time, taken as a whole, and such material adverse effect would reasonably be expected to be greater with respect to the Spinco Group, taken as a whole, than the effect on the Remainco Group, taken as a whole.

(c) Each Party agrees on behalf of itself and its Subsidiaries and the other members of its Group that at all times from and after the Spinco Distribution, if a Proceeding is commenced by a Third Party naming both Remainco and Spinco (or any member of such Parties' respective Groups or their respective then-Affiliates) as defendants and with respect to which one or more named Parties (or any member of such Party's respective Group or their respective then-Affiliates) is a nominal defendant and/or such Proceeding is otherwise not a Liability allocated to such named Party under this Agreement, then the other Party shall use, and shall cause the other members of its respective Group to use, commercially reasonable efforts to cause such nominal defendant to be removed from such Proceeding, as soon as reasonably practicable (including using commercially reasonable efforts to petition the applicable court to remove such Party (or member of its Group or their respective then-Affiliates) as a defendant to the extent such Proceeding relates solely to assets or Liabilities that another Party (or Group) has been allocated pursuant to this Agreement). In the event of a Proceeding in which the Indemnifying Party is not a named defendant, if either the Indemnitee or Indemnifying Party shall so request, each Party shall, and shall cause the other members of its Group to, use commercially reasonable efforts to substitute the Indemnifying Party for the named defendant, if reasonably practicable and advisable under the circumstances. If such substitution or addition cannot be achieved for any reason or is not requested, management of the Proceeding shall be determined as set forth in this Article V.

Section 5.7 Indemnification Payments. Indemnification required by this Article V shall be made by periodic payments of the amount of Indemnifiable Loss in a timely fashion during the course of the investigation or defense, as and when bills are received or an Indemnifiable Loss or Liability is incurred. The applicable Indemnitee shall deliver to the Indemnifying Party, upon request, reasonable documentation setting forth the basis for the amount of such payments, including documentation with respect to calculations made and consideration of any Insurance Proceeds or Third Party Proceeds that actually reduce the amount of such Indemnifiable Losses; provided, that the delivery of such documentation shall not be a condition to the payments described in the first sentence of this Section 5.7, but the failure to deliver such documentation may be the basis for the Indemnifying Party to contest whether the applicable Indemnifiable Loss or Liability was incurred by the applicable Indemnitee.

Section 5.8 Indemnification Obligations Net of Insurance Proceeds and Other Amounts.

(a) Any Indemnifiable Loss subject to indemnification pursuant to this Article V, shall be calculated (i) net of Insurance Proceeds that actually reduce the amount of the Indemnifiable Loss, and (ii) net of any proceeds received by the Indemnitee from any Third Party (net of any deductible, retention amount or increased insurance premiums incurred by the Indemnifying Party in obtaining such recovery) for such Liability that actually reduce the amount of the Indemnifiable Loss ("Third Party Proceeds"). Accordingly, the amount which any Indemnifying Party is required to pay pursuant to this Article V to any Indemnitee pursuant to this Article V shall be reduced by any Insurance Proceeds or Third Party Proceeds actually recovered by or on behalf of the Indemnitee in respect of the related Indemnifiable Loss. If an Indemnitee receives a payment required by this Agreement from an Indemnifying Party in respect of any Indemnifiable Loss (an "Indemnity Payment") and subsequently receives Insurance Proceeds or Third Party Proceeds, then 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 Third Party Proceeds had been received, realized or recovered before the Indemnity Payment was made.

(b) The Parties hereby agree that an insurer who would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto and, solely by virtue of the indemnification provisions hereof, shall not have any subrogation rights with respect thereto, and that no insurer or any other Third Party shall be entitled to a “windfall” (e.g., a benefit it would not otherwise be entitled to receive, or the reduction or elimination of an insurance coverage obligation that it would otherwise have, in the absence of the indemnification or release provisions) by virtue of any provision contained in this Agreement. 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 seek to collect or recover any Insurance Proceeds and any Third Party Proceeds to which the Indemnitee is entitled in connection with any Indemnifiable Loss for which the Indemnitee seeks indemnification pursuant to this Article V; provided, that the Indemnitee shall not be required to proceed against any key customer, key supplier or other significant commercial counterparty of such Indemnitee’s Business or the business of its Affiliates if, in the reasonable and good faith determination of the Indemnitee, pursuing to collect or recover from such Person would have a material adverse impact on the Indemnitee or its Affiliate’s relationship with such Person; provided further, that the Indemnitee’s inability, following such efforts, to collect or recover any such Insurance Proceeds or Third Party Proceeds (despite having used commercially reasonable efforts) shall not limit or delay the Indemnifying Party’s obligations hereunder. Notwithstanding the foregoing, an Indemnifying Party may not delay making any indemnification payment or otherwise satisfying any indemnification obligation, pending the outcome of any Proceeding to collect or recover Insurance Proceeds.

Section 5.9 Ancillary Agreements. Notwithstanding anything in this Agreement to the contrary, to the extent any Ancillary Agreement contains any specific, express indemnification obligation or contribution obligation relating to any asset or Liability contributed, assumed, retained, transferred, delivered or conveyed pursuant to such Ancillary Agreement, or relating to any other specific matter, the indemnification obligations contained herein shall not apply to such asset or Liability, or such other specific matter, and instead the indemnification and/or contribution obligations set forth in such Ancillary Agreement shall govern with regard to such asset or Liability or any such other specific matter.

Section 5.10 Limitation on Liability. Notwithstanding anything to the contrary contained in this Agreement (including this Article V) or any Ancillary Agreement, neither Group shall be liable to the other Group or its Indemnitees for, and “Indemnifiable Losses” shall not include any (a) amounts for any incidental, indirect or consequential damages or other speculative form of damages (including loss of profits or revenue), or (b) punitive, treble, special, or exemplary damages, except, in the case of each of clauses (a) and (b), to the extent actually required to be paid to a Person who is not a member of either Group pursuant to a Third Party Claim that has been resolved by (i) a settlement entered into in accordance with this Agreement and any applicable Ancillary Agreement, or (ii) a judicial decision, arbitral award or binding order of a Governmental Entity with competent jurisdiction (in each case without possibility of appeal or where the time for appeal has expired).

Section 5.11 No Duplication; No Double Recovery. Nothing in this Agreement is intended to confer to or impose upon any Party a duplicative right, entitlement, obligation or recovery with respect to any matter arising out of the same facts and circumstances.

Section 5.12 Additional Matters; Survival of Indemnities.

(a) The indemnity agreements contained in this Article V shall remain operative and in full force and effect, regardless of (i) any investigation made by or on behalf of any Indemnitee, (ii) the knowledge by the Indemnitee of Indemnifiable Losses for which it might be entitled to indemnification hereunder, and (iii) any termination of this Agreement. The indemnity agreements contained in this Article V shall survive the Spinco Distribution.

(b) The rights and obligations of RMT Partner, any member of the Remainco Group or any member of the Spinco Group, in each case, under this Article V, shall survive the sale or other Transfer by any Party or its respective Subsidiaries of any assets or businesses or the assignment by it of any Liabilities, with respect to any Indemnifiable Loss of any Indemnitee related to such assets, businesses or Liabilities.

ARTICLE VI

CONFIDENTIALITY; ACCESS TO INFORMATION

Section 6.1 Preservation of Corporate Records.

(a) Except to the extent otherwise contemplated by any Ancillary Agreement, a Party providing (or causing to be provided) Records or access to Information to another Party under this Article VI shall be entitled to receive from the recipient, upon the presentation of invoices therefor, payments for such amounts, relating to supplies, disbursements and other out-of-pocket expenses (which shall not include the costs of salaries and benefits of employees of such Party (or its Group or any of its or their respective then-Affiliates) or any pro rata portion of overhead or other costs of employing such employees which would have been incurred by such employees' employer regardless of the employees' service with respect to the foregoing), as are reasonably incurred in providing such Records or access to Information.

(b) Except as otherwise required or agreed to in writing, or as otherwise provided in any Ancillary Agreement, with regard to any Information referenced in Section 6.2, each Party shall, and shall cause the other members of its Group (and any of their successors and assigns) to, use commercially reasonable efforts, at such Party's sole cost and expense, to retain, until the latest of, as applicable, (i) the date on which such Information is no longer required to be retained pursuant to the policies or ordinary course practices of Remainco in effect on the Spinco Distribution Date and communicated to RMT Partner at least thirty (30) days prior to the Spinco Distribution, (ii) the date on which such Information is no longer required to be retained pursuant to any "litigation hold" issued by Remainco or any of its Subsidiaries prior to the Spinco Distribution and communicated to RMT Partner at least thirty (30) days prior to the Spinco Distribution, (iii) the concluding date of any period as may be required by any applicable Law, (iv) with respect to any pending or threatened Proceeding arising after the Spinco Distribution, to the extent that any member of the Group in possession of such Information has been notified in writing pursuant to a "litigation hold" by any Party of such pending or threatened Proceeding, the concluding date of any such "litigation hold," and (v) the concluding date of any period during which the destruction of such Information would reasonably be expected to interfere with a pending or threatened investigation by a Governmental Entity which is known to any member of the Group in possession of such Information at the time any retention obligation with regard to such Information would otherwise expire. The Parties agree that upon reasonable written request from the applicable other Party that certain Information relating to the Remainco Business, the Spinco Business or the transactions contemplated hereby be retained in connection with a Proceeding, each Party shall, and shall cause the other members of its Group (and any of their respective then-Affiliates) to use commercially reasonable efforts (at the requesting Party's sole cost and expense) to preserve and not to destroy or dispose of such Information without the consent (such consent not to be unreasonably withheld, conditioned or delayed) of the requesting Party (for the avoidance of doubt, reasonable efforts shall include issuing a "litigation hold").

(c) The Parties intend, and acknowledge that each of their Subsidiaries and members of its respective Group intends, that any Transfer of Information that would otherwise be within the attorney-client or attorney work product privileges shall not operate as a waiver of any potentially applicable Privilege.

Section 6.2 Provision of Corporate Records. Other than in circumstances in which indemnification is sought pursuant to Article V (in which event the provisions of such Article V will govern) or for matters related to the provision of Tax Records (in which event the Tax Matters Agreement will govern) or for matters related to the separation of Information (which shall be governed by Section 4.2) and without limiting the applicable provisions of Article IV, and subject to appropriate restrictions for Privileged Information or Confidential Information:

(a) After the Spinco Distribution Date and until the date on which Spinco is no longer required to retain, or cause to be retained, the Information requested pursuant to this Section 6.2(a) in accordance with Spinco's obligations under Section 6.1(b), and subject to compliance with the terms of the Ancillary Agreements, upon the prior written reasonable request by, and at the expense of, Remainco for Information (i) which relates to the Remainco Group or the conduct of the Remainco Business, as the case may be, up to the Spinco Distribution Date, Spinco shall, and shall cause the other members of the Group (and each of its and their respective then-Affiliates) to, provide, as soon as reasonably practicable following the receipt of such request, Remainco, and its designated representatives reasonable access during normal business hours to the written or electronic documentary Information or appropriate copies of such Information (or the originals thereof if Remainco has a reasonable need for such originals) in the possession or control of any member of the Spinco Group, but only to the extent such items (or copies thereof) relate to the Remainco Group or the conduct of the Remainco Business in accordance with this clause (i) and are not already in the possession or control of Remainco (or any member of its Group); provided, that, in the event that Spinco reasonably determines that any such access or the provision of any such Information would violate any Law (including any Data Protection Law) or Contract with a Third Party or would reasonably result in the waiver of any Privilege (unless the Privilege with respect to any such Privileged Information is solely related (other than in any *de minimis* respect) to Sole Benefit Services of the requesting Party), Spinco shall not be obligated to, and shall not be obligated to cause the other members of the Spinco Group (and each of its and their respective then-Affiliates) to, provide such Information requested by Remainco; provided, however, in the event access or the provision of any such Information would reasonably be expected to be materially commercially detrimental or violate a Contract with a Third Party, Spinco shall, and shall cause the other members of the Spinco Group (and any of its or their then-Affiliates) to, use commercially reasonable efforts to seek to mitigate any such harm or consequence of, or to obtain the Consent of such Third Party to, the disclosure of such Information, or (ii) that (A) is required by any member of the Remainco Group with regard to reasonable compliance with reporting, disclosure, filing or other requirements imposed on Remainco (including under applicable securities Laws) by a Governmental Entity having jurisdiction over Remainco, (B) is required by Remainco in connection with the production of any financial statements produced in connection with any acquisition or disposition involving Remainco, or (C) is for use in any other judicial, regulatory, administrative or other Proceeding or in order to satisfy audit, accounting, claims, regulatory, litigation, Proceeding or other similar requirements, as applicable, Spinco shall, and shall cause the other members of the Spinco Group (and each of its and their respective then-Affiliates) to, provide, as soon as reasonably practicable following the receipt of such request, Remainco and its respective designated representatives reasonable access during normal business hours to the Information or appropriate copies of such written or electronic documentary Information (or the originals thereof if the applicable member of the Remainco Group has a reasonable need for such originals) in the possession or control of Spinco or any other member of the Spinco Group (or any of its or their respective then-Affiliates), but only to the extent such items are of the type set forth in clauses (ii)(A), (B) or (C) and are not already in the possession or control of Remainco (or another member of its Group, or any of their respective then-Affiliates); provided, that, to the extent any original documentary Information with regard to the Spinco Business is delivered to Remainco pursuant to this Agreement or the Ancillary Agreements, Remainco shall, at its own expense, return such Information to Spinco within a reasonable time after the need to retain such originals has ceased; provided further, that, in the event that Spinco reasonably determines that any such access or the provision of any such Information (including Information requested under Section 4.1 or Section 4.2(b)) would violate any Law (including any Data Protection Law), Contract with a Third Party or policies or would reasonably be expected to result in the waiver of any attorney-client privilege, the work product doctrine or other applicable Privilege (unless the application of such privilege, doctrine or Privilege with respect to such matter is solely related (other than in any *de minimis* respect) to the assets, Business and/or Liabilities of the requesting Party), Spinco shall not be obligated to provide such Information requested by Remainco, provided further, that in the event access or the provision of any such Information would violate a Contract with a Third Party, Spinco shall, and shall cause the other members of the Spinco Group (and any of its or their respective then-Affiliates) to, use commercially reasonable efforts to seek to obtain the Consent of such Third Party to the disclosure of such Information.

(b) After the Spinco Distribution Date and until the date on which Remainco is no longer required to retain, or cause to be retained, the Information requested pursuant to this Section 6.2(b) in accordance with Spinco's obligations under Section 6.1(b), and subject to compliance with the terms of the Ancillary Agreements, upon the prior written reasonable request by, and at the expense of, Spinco for Information (i) which relates to the Spinco Group or the conduct of the Spinco Business up to the Spinco Distribution Date, Remainco shall, and shall cause the other members of the Remainco Group (and each of its and their respective then-Affiliates) to, provide, as soon as reasonably practicable following the receipt of such request, Spinco and its designated representatives reasonable access during normal business hours to the written or electronic documentary Information or appropriate copies of such Information (or the originals thereof if the Party making the request has a reasonable need for such originals) in the possession or control of any member of the Remainco Group, but only to the extent such items (or copies thereof) constitute an asset of the Spinco Group or relate to the Spinco Group or the conduct of the Spinco Business and are not already in the possession or control of Spinco (or any member of its Group); provided, that, to the extent any original documentary Information is delivered to Spinco pursuant to this Agreement or the Ancillary Agreements, Spinco shall, and shall cause the other members of its Group (and its respective then-Affiliates) to, at its own expense, return them to Remainco within a reasonable time after the need to retain such originals has ceased; provided further, that, in the event that Remainco reasonably determines that any such access or the provision of any such Information (including Information requested under Section 4.1 or Section 4.2(d)) would reasonably be expected to be materially commercially detrimental to Remainco or any member of the Remainco Group or would violate any Law (including any Data Protection Law), Contract with a Third Party or policies or would reasonably result in the waiver of any Privilege (unless the Privilege with respect to any such Privileged Information is solely related (other than in any de minimis respect) to Sole Benefit Services of Spinco), Remainco shall not be obligated to, and shall not be obligated to cause the other members of the Remainco Group (and each of its and their respective then-Affiliates) to, provide such Information requested by Spinco, and in the event access or the provision of any such Information would reasonably be expected to be materially commercially detrimental or violate a Contract with a Third Party, Remainco shall, and shall cause the other members of the Remainco Group (and any of its or their then-Affiliates) to, use commercially reasonable efforts to seek to mitigate any such harm or consequence of, or to obtain the Consent of such Third Party to, the disclosure of such Information, or (ii) that (A) is required by any member of the Spinco Group with regard to reasonable compliance with reporting, disclosure, filing or other requirements imposed on such Person (including under applicable securities Laws) by a Governmental Entity having jurisdiction over such Person, or (B) is for use in any other judicial, regulatory, administrative or other Proceeding or in order to satisfy audit, accounting, claims, regulatory, litigation, Proceeding or other similar requirements, as applicable, Remainco shall, and shall cause the other members of the Remainco Group (and each of its and their respective then-Affiliates) to, provide, as soon as reasonably practicable following the receipt of such request, Spinco and its respective designated representatives reasonable access during normal business hours to the Information or appropriate copies of such written or electronic documentary Information (or the originals thereof if the applicable member of the Spinco Group has a reasonable need for such originals) in the possession or control of Remainco or any other member of the Remainco Group (or any of its or their respective then-Affiliates), but only to the extent such items are of the type set forth in clauses (ii)(A) or (B) and are not already in the possession or control of Spinco (or another member of its Group, or any of their respective then-Affiliates); provided, that, to the extent any original documentary Information is delivered to Spinco pursuant to this Agreement or the Ancillary Agreements, Spinco shall, at its own expense, return such Information to Remainco within a reasonable time after the need to retain such originals has ceased; provided further, that, in the event that Remainco reasonably determines that any such access or the provision of any such Information (including Information requested under Section 4.1) would violate any Law (including any Data Protection Law) or Contract with a Third Party or would reasonably be expected to result in the waiver of any attorney-client privilege, the work product doctrine or other applicable Privilege (unless the application of such privilege, doctrine or Privilege with respect to such matter is solely related (other than in any de minimis respect) to the assets, Business and/or Liabilities of Spinco), Remainco shall not be obligated to provide such Information requested by Spinco, provided further, that in the event access or the provision of any such Information would violate a Contract with a Third Party, Remainco shall, and shall cause the other members of the Remainco Group (and any of its or their respective then-Affiliates) to, use commercially reasonable efforts to seek to obtain the Consent of such Third Party to the disclosure of such Information.

(c) Any Information provided by or on behalf of or made available by or on behalf of any Party (or any other member of any Group) pursuant to this Article VI shall be on an “as is,” “where is” basis and no Party (or any member of any Group) is making any representation or warranty with respect to such Information or the completeness thereof.

(d) Each of Remainco and Spinco shall, and shall cause each other member of its Group to, inform its and their respective officers, employees, agents, consultants, advisors, authorized accountants, counsel and other designated representatives who have or have access to the Confidential Information or other Information of any member of any other Group provided pursuant to Section 4.1 or this Article VI of their obligation to hold such Information confidential in accordance with the provisions of this Agreement.

Section 6.3 Disposition of Information.

(a) Each Party, on behalf of itself and each other member of its Group, acknowledges that Information in its or in a member of its Group’s possession, custody or control as of the Spinco Distribution may include Information owned by another Party or a member of another Party’s Group and not related to (i) it or its Business, or (ii) any Ancillary Agreement to which it or any member of its Group is a Party.

(b) Notwithstanding such possession, custody or control, such Information shall remain the property of such other Party or member of such other Party’s Group. Each Party agrees, on behalf of itself and each other member of its Group, subject to legal holds and other legal requirements and obligations, (i) that any such Information is to be treated as Confidential Information of the Party or Parties to which it relates, and (ii) subject to Section 6.1, to use commercially reasonable efforts to within a reasonable time (A) purge such Information from its databases, files and other systems and not retain any copy of such Information (including, if applicable, by transferring such Information to the Party to which such Information belongs), or (B) if such purging is not practicable, to encrypt or otherwise make unreadable or inaccessible such Information.

Section 6.4 Witness Services; Access to Personnel. At all times from and after the Spinco Distribution Date, each of Spinco and Remainco shall use its commercially reasonable efforts to make available to the other Party, upon reasonable written request, its and any member of its Group's officers, directors, employees and agents (taking into account the business demands of such individuals) as witnesses (in the presence of counsel for such officer, director, employee or agent, if any, and, if requested by the providing Group, counsel or other representatives designated by the providing Group) to the extent that (a) such Persons may reasonably be required to testify, or the testimony of such Persons would reasonably be expected to be relevant to the requesting Party (or any member of its Group), in connection with the prosecution or defense of any Proceeding in which the requesting Party may from time to time be involved, and (b) there is no conflict in the Proceeding between the requesting Party (or any member of its Group) and the requested Party (or any member of its Group). A Party providing, or causing to be provided, a witness to another Party (or member of such other Party's Group) under this Section 6.4 shall be entitled to receive from the recipient of such services, upon the presentation of invoices therefor, payments for all reasonable out-of-pocket costs and expenses incurred by such Party or a member of its Group in connection therewith (which shall not include the costs of salaries and benefits of employees who are witnesses or any pro rata portion of overhead or other costs of employing such employees which would have been incurred by such employees' employer regardless of the employees' service as witnesses), as may be properly paid under applicable Law.

Section 6.5 Reimbursement; Other Matters. Except to the extent otherwise contemplated by this Agreement or any Ancillary Agreement, a Party (or a member of such Party's Group) providing, or causing to be provided, Information or access to Information to another Party (or a member of such Party's Group) under this Article VI shall be entitled to receive from the recipient, upon the presentation of invoices therefor, payments for such amounts, relating to supplies, disbursements and other out-of-pocket expenses (which shall not include the costs of salaries and benefits of employees of such Party or any other member of its Group or any pro rata portion of overhead or other costs of employing such employees which would have been incurred by such employees' employer regardless of the employees' service with respect to the foregoing), as may be reasonably incurred in providing such Information or access to such Information.

Section 6.6 Confidentiality; Non-Use.

(a) Notwithstanding any termination of this Agreement, each Party shall, and shall cause each of the other members of its Group to, hold, and cause each of their respective officers, employees, agents, consultants and advisors to hold, in strict confidence, at a standard of care no less than that used for its own Confidential Information (and in any event no less than a reasonable standard of care), and not to disclose or release or except as otherwise permitted by this Agreement, use, without the prior written consent of each Party to whom (or to whose Group) the Confidential Information relates (which may be withheld in each such Party's sole and absolute discretion), any and all Confidential Information concerning or belonging to another Party or any member of its Group; provided, that each Party may disclose, or may permit disclosure of, such Confidential Information (i) to its (or any member of its Group's) respective auditors, attorneys, financial advisors, bankers and other appropriate employees, consultants and advisors who have a need to know such Confidential Information for auditing and other purposes and are informed of the confidentiality and non-use obligations to the same extent as is applicable to the Parties and in respect of whose failure to comply with such obligations, the applicable Party will be responsible, (ii) if any Party or any member of its Group is required or compelled to disclose any such Confidential Information by judicial or administrative process or by other requirements of Law or stock exchange rule, (iii) to the extent required in connection with any Proceeding by one Party (or a member of its Group) against any other Party (or member of such other Party's Group) or in respect of claims by one Party (or member of its Group) against the other Party (or member of such other Party's Group) brought in a Proceeding, (iv) to the extent necessary in order to permit a Party (or member of its Group) to prepare and disclose its financial statements in connection with any regulatory filings or Tax Returns, (v) to the extent necessary for a Party (or member of its Group) to enforce its rights or perform its obligations under this Agreement or any Ancillary Agreement, (vi) to Governmental Entities in accordance with applicable procurement regulations and contract requirements, or (vii) to other Persons in connection with their evaluation of, and negotiating and consummating, a potential strategic transaction, to the extent reasonably necessary in connection therewith, provided an appropriate and customary confidentiality agreement has been entered into with the Person receiving such Confidential Information. Notwithstanding the foregoing, in the event that any demand or request for disclosure of Confidential Information is made by a Third Party that relates to clause (ii), (iii), (v) or (vi) above, each Party, as applicable, shall promptly notify (to the extent permissible by Law) the Party to whom (or to whose Group) the Confidential Information relates of the existence of such request, demand or disclosure requirement and shall provide such Party (and/or any applicable member of its Group) a reasonable opportunity to seek, at its expense, an appropriate protective order or other remedy, which such Parties shall, and shall cause the other members of their respective Group to, cooperate in obtaining to the extent reasonably practicable. In the event that such appropriate protective order or other remedy is not obtained, the Party who is (or whose Group's member is) required to make such disclosure shall or shall cause the applicable member of its Group to furnish (at the expense of the Party seeking to limit such request, demand or disclosure requirement), or cause to be furnished, only that portion of the Confidential Information that is legally required to be disclosed and shall take commercially reasonable steps to ensure that confidential treatment is accorded to such Confidential Information (at the expense of the Party seeking (or whose Group's member is seeking) to limit such request, demand or disclosure requirement).

(b) Notwithstanding anything to the contrary set forth herein, (i) a Party shall be deemed to have satisfied its obligations hereunder with respect to Confidential Information if it exercises, and causes the other members of its Group to exercise, at least the same degree of care (but no less than a commercially reasonable degree of care) as such Party takes to preserve confidentiality for its own similar Information, and (ii) confidentiality obligations provided for in any agreement between each Party or another member of its Group and its or their respective past and/or present employees as of the Spinco Distribution Date shall remain in full force and effect. Notwithstanding anything to the contrary set forth herein, Confidential Information of any Party (or another member of its Group) rightfully in the possession of and used by any other Party (or another member of its Group) in the operation of its Business as of the Spinco Distribution Date may continue to be used by such Party (and/or the applicable members of its Group) in possession of such Confidential Information in and only in the operation of the Remainco Business or Spinco Business, as the case may be; provided, that, such Confidential Information may only be used by such Party and/or the applicable members of its Group and its and their respective officers, employees, agents, consultants and advisors in the specific manner and for the specific purposes for which it is used as of the date of this Agreement and may only be shared with additional officers, employees, agents, consultants and advisors of such Party (or Group member) on a need-to-know basis exclusively with regard to such specified use and may be used only so long as the Confidential Information is maintained in confidence and not disclosed in violation of Section 6.6(a), except that such Confidential Information may be disclosed to third parties other than those listed in Section 6.6(a), provided, that such disclosure to such other Third Parties and any associated use of such Information must be pursuant to a written agreement containing confidentiality obligations at least as protective of the Parties' rights to such Confidential Information as those contained in this Agreement. Such continued right to use may not be transferred (directly or indirectly) to any Third Party without the prior written consent (not to be unreasonably withheld, conditioned or delayed) of the applicable Party, except pursuant to Section 9.15.

(c) Each of Spinco and Remainco acknowledges, on behalf of itself and each other member of its Group, that it and the other members of its Group may have in their possession confidential or proprietary Information of Third Parties that was received under confidentiality or non-disclosure agreements or policies with each such Third Party while such Party and/or members of its Group were Subsidiaries of Remainco. Each of Spinco and Remainco shall, and shall cause the other members of its Group to, hold and cause its and their respective representatives, officers, employees, agents, consultants and advisors (or potential buyers) to hold, in strict confidence the confidential and proprietary Information of Third Parties to which they or any other member of their respective Groups has access, in accordance with the terms of any policies or agreements entered into prior to the Spinco Distribution Date between one or more members of the Spinco Group and/or Remainco Group (whether acting through, on behalf of, or in connection with, the separated Businesses) and such Third Parties.

(d) For the avoidance of doubt and notwithstanding any other provision of this Section 6.6, the disclosure and sharing of Privileged Information shall be governed solely by Section 6.7. For clarity, to the extent that any Contract or policy to which a Party is bound or its Confidential Information is subject provides that certain Confidential Information shall be maintained confidential on a basis that is more protective of such Confidential Information or for a longer period of time than provided for in this Section 6.6, then the applicable provisions contained in such Contract or policy shall control with respect thereto.

Section 6.7 Privileged Matters.

(a) Pre-Distribution Services. The Parties recognize that legal and other professional services that have been and will be provided prior to the Spinco Distribution have been and will be rendered either for (i) the collective benefit of each of the members of the Spinco Group and Remainco Group ("Collective Benefit Services"), or (ii) the sole benefit of (A) Spinco (or a member of Spinco's Group) in the case of legal and other professional services provided solely in respect of the Spinco Business, or (B) Remainco (or a member of Remainco Group) in the case of legal and other professional services provided solely in respect of the Remainco Business, as the case may be ("Sole Benefit Services"). For the purposes of asserting all privileges, immunities or other protections from disclosure which may be asserted under applicable Law, including attorney-client privilege, business strategy privilege, joint defense privilege, common interest privilege, and protection under the work-product doctrine ("Privilege"), (1) each of the members of the Spinco Group and Remainco Group shall be deemed to be the client with respect to Collective Benefit Services, and (2) Spinco or Remainco (or the applicable member of such Party's Group), as the case may be, shall be deemed to be the client with respect to Sole Benefit Services. With respect to all Information subject to Privilege ("Privileged Information"), (y) the Parties shall have a shared Privilege for Privileged Information to the extent relating to Collective Benefit Services, and (z) Spinco or Remainco (or the applicable member of such Party's Group), as the case may be, shall have Privilege for Privileged Information to the extent relating to Sole Benefit Services and shall control the assertion or waiver of such Privilege. For the avoidance of doubt, Privileged Information includes, but is not limited to, services rendered by legal counsel retained or employed by any Party (or any member of such Party's respective Group), including outside counsel and in-house counsel.

(b) Post-Distribution Services. Each Party, on behalf of itself and each other member of its Group, acknowledges that legal and other professional services will be provided following the Spinco Distribution Date which will be rendered solely for the benefit of Spinco (or a member of its Group), or Remainco (or a member of its Group), as the case may be, while other such post-Spinco Distribution services following the Spinco Distribution Date may be rendered with respect to claims, Proceedings, litigation, disputes, or other matters which involve members of both the Remainco Group and the Spinco Group. With respect to such post-Spinco Distribution services and related Privileged Information, each of the Parties, on behalf of itself and each other member of its Group, agrees as follows:

(i) Spinco shall be entitled, in perpetuity, to control the assertion or waiver of all Privileges in connection with Privileged Information which relates solely to the Spinco Business, whether or not the Privileged Information is in the possession of or under the control of any member of the Spinco Group or Remainco Group; and

(ii) Remainco shall be entitled, in perpetuity, to control the assertion or waiver of all Privileges in connection with Privileged Information which relates solely to the Remainco Business, whether or not the Privileged Information is in the possession of or under the control of any member of the Spinco Group or Remainco Group.

(c) Each Party, on behalf of itself and each other member of its Group, agrees as follows in this Section 6.7(c) regarding all Privileges (x) not allocated pursuant to the terms of Section 6.7(a) or Section 6.7(b), and (y) Privileged Information to the extent relating to Collective Benefit Services with respect to which, in each case, the Parties shall have a shared Privilege. All Privileges relating to any Proceedings which involve a member of each Group in respect of which members of both the Remainco Group and the Spinco Group retains any responsibility or Liability under this Agreement, shall be subject to a shared Privilege among them.

(i) Subject to Sections 6.7(c)(ii) and 6.7(c)(iv), no Party (or any member of its Group) may waive, nor allege or purport to waive, any Privilege which could be asserted under any applicable Law, and in which any other Party (or member of its Group) has a shared Privilege, without the consent of such other Party, which shall not be unreasonably withheld, conditioned or delayed. Consent shall be in writing, or shall be deemed to be granted unless written objection is made within twenty (20) days after written notice upon the other Party requesting such consent.

(ii) In the event of any Proceeding or Dispute solely between or among the Parties, or any members of their respective Groups, either Party may waive a Privilege in which the other Party or member of such Party's Group has a shared Privilege, without obtaining the consent of such other Party; provided, that such waiver of a shared Privilege shall be effective only as to the use of Information with respect to the Proceeding or Dispute between or among the Parties and/or the applicable members of their respective Groups, and shall not operate as a waiver of the shared Privilege with respect to Third Parties.

(iii) In the event of any Proceeding or Dispute involving a Third Party, if a Dispute arises between or among the Parties (or members of their respective Groups) regarding whether a Privilege should be waived to protect or advance the interest of any Party or its Group, each Party agrees that it shall, and shall cause each other member of its Group to, negotiate in good faith, use commercially reasonable efforts to minimize any prejudice to the rights of the other Party (or members of its respective Group), and shall not, and shall cause each other member of its Group not to, unreasonably withhold consent to any request for waiver by the other Party. Each Party specifically agrees that it shall not, and shall cause each other member of its Group not to, withhold consent to waiver for any purpose except to protect its (or its Group's) own legitimate interests.

(iv) If, within fifteen (15) days of receipt by the requesting Party of a written objection pursuant to Section 6.7(c)(i), the Parties have not succeeded in resolving in writing any Dispute regarding whether a Privilege should be waived, and the requesting Party determines that a Privilege should nonetheless be waived to protect or advance its interest, the requesting Party shall provide the objecting Party fifteen (15) days' written notice prior to effecting such waiver. Each Party specifically agrees that failure within fifteen (15) days of receipt of such notice to commence Proceedings in accordance with Section 9.6 to enjoin such disclosure under applicable Law shall be deemed full and effective consent to such disclosure, and each Party agrees that any such Privilege shall not be waived by such Party (or any member of its Group) until the final determination of a Dispute in accordance with Section 7.2.

(v) Upon receipt by any Party or any other member of its Group of any subpoena, discovery or other request which, upon a good faith reading, may reasonably be expected to result in the production or disclosure of Information subject to a shared Privilege or as to which the other Party has the sole right hereunder to assert a Privilege, or if any Party (or other member of its Group) obtains knowledge that any of its or any member of its Group's current or former directors, officers, agents or employees have received any subpoena, discovery or other requests which, upon a good faith reading, 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 and shall provide the other Party (and the relevant members of its Group) a reasonable opportunity to review the Information and to assert any rights it may have under this Section 6.7 or otherwise to prevent, restrict or otherwise limit the production or disclosure of such Privileged Information.

(d) Notwithstanding the foregoing in this Section 6.7, the Parties acknowledge and agree that in any Proceeding or Dispute with respect to this Agreement, the Ancillary Agreements, the RMT Transaction Agreement, any other agreement related to the transactions contemplated hereby or thereby and the negotiations, structuring and transactions contemplated hereby and thereby, in each case, in which Remainco, on the one hand, is adverse to Spinco and/or RMT Partner, on the other hand: (i) any and all Privileged Information with respect to such matters belonging to or possessed by the Remainco Group or the Spinco Group prior to the Spinco Distribution shall be deemed to relate solely to the Remainco Business; (ii) any advice given by or communications with each of the parties constituting Remainco Counsel, to the extent it relates to this Agreement, the Ancillary Agreements, the RMT Transaction Agreement or any other Transaction Document, and/or negotiations, structuring and transactions contemplated hereby or thereby, shall not be a shared privilege and shall be deemed to relate solely to the Remainco Business; and (iii) any advice given or communications with in-house counsel of Remainco prior to the Spinco Distribution, to the extent it relates to this Agreement, the Ancillary Agreements, the RMT Transaction Agreement or any other Transaction Document, and/or the negotiations, structuring and transactions contemplated hereby or thereby, shall not be a shared privilege and shall be deemed to relate solely to the Remainco Business. In all other cases, Privileged Information with respect to clauses (i), (ii) and (iii) above shall be a shared privilege.

(e) The transfer of all Information pursuant to this Agreement is made in reliance on the agreement of Spinco and Remainco as set forth in Sections 6.6 and 6.7, to maintain and cause to be maintained the confidentiality of Privileged Information and to assert and maintain, and cause to be asserted and maintained, all applicable Privileges, including, but not limited to, attorney-client or attorney work product privileges. The access to Information being granted pursuant to Sections 4.1, 5.4 and 6.2 hereof, the agreement to provide witnesses and individuals pursuant to Sections 4.1, 5.4 and 6.4 hereof, the furnishing of notices and documents and other cooperative efforts contemplated by Sections 4.1 and 6.4 hereof, and the transfer of Privileged Information between and among the Parties and the members of their respective Groups pursuant to this Agreement shall not be deemed a waiver of any Privilege that has been or may be asserted under this Agreement or otherwise.

Section 6.8 Conflicts Waiver. Each of the Parties acknowledges, on behalf of itself and each other member of its Group, that Remainco has retained Bryan Cave Leighton Paisner LLP ("Remainco Counsel") to act as its counsel in connection with this Agreement, the Ancillary Agreements, the RMT Transaction Agreement and the transactions contemplated hereby and thereby (the "Representation Matters"), and that Remainco Counsel has not acted as counsel for any other Person in connection with the Representation Matters and that no other party or Person has the status of a client of Remainco Counsel for conflict of interest or any other purposes as a result thereof. Spinco hereby agrees on behalf of itself and each member of its Group and RMT Partner on behalf of itself and its Subsidiaries and Affiliates that, in the event that a dispute arises between or among (a) any member of the Spinco Group, any Spinco Indemnitee, RMT Partner or any of their respective Affiliates, on the one hand, and (b) any member of the Remainco Group, any Remainco Indemnitee or any of their respective Affiliates, on the other hand, Remainco Counsel may represent any member of the Remainco Group, any Remainco Indemnitee or any of their respective Affiliates, in such dispute even though the interests of such Person may be directly adverse to any Person described in clause (a), and even though Remainco Counsel may have represented a Person described in clause (a), in a matter substantially related to such dispute, or may be handling ongoing matters for a Person described in clause (a), and Spinco hereby waives, on behalf of itself and each other Person described in clause (a), as applicable, any conflict of interest in connection with such representation by Remainco Counsel that arises as a result of its acting as counsel in connection with the Representation Matters. Each of Remainco and Spinco, on behalf of itself and each other member of its Group and RMT Partner, agrees to take, and to cause their respective then-Affiliates to take, all steps necessary to implement the intent of this Section 6.8. Each of Remainco and Spinco and each other member of its Group and RMT Partner, further agrees that Remainco Counsel and their respective partners and employees are Third Party beneficiaries of this Section 6.8.

Section 6.9 Ownership of Information. Any Information owned by one Party or any member of its Group that is provided to a requesting Party pursuant to this Article VI shall be deemed to remain the property of the providing Party (or member of its Group). Unless expressly and specifically set forth herein, nothing contained in this Agreement shall be construed as granting or conferring rights to any Party (or member of its Group) of license or otherwise in any such Information, whether by implication, estoppel or otherwise.

Section 6.10 Prior Contracts. Each of Remainco and Spinco, on behalf of itself and each member of its Group and their respective successors and assigns, acknowledges and agrees that, notwithstanding any Contract governing the use of Intellectual Property or Confidential Information entered into by an employee or contractor of such Party or its Group prior to the Spinco Distribution, to the extent such employee or contractor is working for or on behalf of another Party or a member of its Group after the Spinco Distribution, such employee or contractor shall not be deemed in breach of such Contract due to such employee or contractor using such Intellectual Property or Confidential Information in his or her capacity as an employee or contractor of such other Party (or member of such other Party's Group), or disclosing such Intellectual Property or Confidential Information to another Party (or member of such Party's Group) to the extent that this Agreement or an Ancillary Agreement grants a license to, or otherwise permits such other Party (or member of such Party's Group) to use or have disclosed to it, such Intellectual Property or Confidential Information (and in the case of use by such employee or contractor, solely to the extent such use is permitted by such Party or member of such Party's Group pursuant to the terms of this Agreement or such Ancillary Agreement).

ARTICLE VII

DISPUTE RESOLUTION

Section 7.1 Disputes. Except as otherwise set forth in Section 9.6 or specifically provided in an Ancillary Agreement, any dispute, controversy or claim arising out of or relating to this Agreement or the breach, termination or validity thereof ("Dispute") which arises between the Parties shall be resolved according to the procedures set forth in this Article VII.

Section 7.2 Escalation; Mediation.

(a) It is the intent of the Parties to use their respective commercially reasonable efforts to resolve expeditiously any Dispute that may arise from time to time on a mutually acceptable negotiated basis. In furtherance of the foregoing, any Party involved in a Dispute may deliver a notice (an "Escalation Notice") demanding a meeting involving representatives of the relevant Parties at a senior level of management of the relevant Parties to such Dispute (or if the relevant Parties to such Dispute agree, of the appropriate strategic business unit or division within such entity). A copy of any such Escalation Notice shall be given to the Chief Counsel or General Counsel, or like officer or official, of each Party involved in the Dispute (which copy shall state that it is an Escalation Notice pursuant to this Agreement). The proposed agenda, location or means of remote communication, requested senior level management participants and procedures proposed for such discussions or negotiations shall be set forth in the Escalation Notice; provided, however, that the Parties to the Dispute shall use their commercially reasonable efforts to meet (which meeting may be conducted telephonically) within fifteen (15) days of the Escalation Notice. Discussions and correspondence relating to trying to resolve such Dispute shall be treated as confidential and privileged information developed for the purpose of settlement and shall be exempt from discovery or production and shall not be admissible in any subsequent Proceeding between the Parties.

(b) If the senior executives are unable to resolve the Dispute within thirty (30) days from the Escalation Notice or one Party to the Dispute reasonably concludes that the other Parties to such Dispute are not willing to use commercially reasonable efforts to resolve expeditiously such Dispute, then such Party to the Dispute shall have the right to refer the Dispute to mediation by providing written notice to the other Parties to such Dispute, and then the Parties to the Dispute shall refer the Dispute to a mediator appointed pursuant to the mediation rules of the American Arbitration Association. Each Party to such Dispute will share the administrative costs of the mediation and the mediator's fees and expenses equally, and each Party to such Dispute shall bear all of its other costs and expenses related to the mediation, including attorney's fees, witness fees, and travel expenses. The mediation shall take place in New York City unless the Parties to such Dispute mutually agree to select an alternative forum.

(c) If the Parties to such Dispute cannot resolve the Dispute through mediation within forty-five (45) days of the appointment of the mediator (or the earlier withdrawal thereof), each Party to such Dispute shall be entitled to seek relief in a court of competent jurisdiction pursuant to Section 9.5.

Section 7.3 Continuity of Service and Performance. Unless otherwise agreed in writing, the Parties will continue to provide service and honor all other commitments under this Agreement and each Ancillary Agreement during the course of dispute resolution pursuant to the provisions of this Article VII with respect to all matters not specifically subject to such dispute resolution.

ARTICLE VIII

INSURANCE

Section 8.1 Insurance Matters.

(a) From and after the Spinco Distribution, the Spinco Group and the Spinco Business shall cease to be insured by Remainco and its Subsidiaries' (other than members of the Spinco Group) Insurance Policies. Remainco shall retain all rights to control its Insurance Policies, including the right to exhaust, settle, release, commute, buy back or otherwise resolve disputes with respect to any of its Insurance Policies notwithstanding whether any such Insurance Policies apply to any Liabilities of any member of the Spinco Group. Following the date of this Agreement, each of Remainco and Spinco shall use commercially reasonable efforts to cooperate to identify all Insurance Policies (and related claims and compliance processes) in place for the benefit of the Spinco Business as of the date of this Agreement, and those which may be in place following the Closing. Spinco shall be responsible for securing all Insurance Policies that it considers appropriate for the Spinco Business and the operation thereof by the Spinco Group following the Spinco Distribution. Spinco agrees to arrange for its own Insurance Policies with respect to the Spinco Business and the Spinco Group. Following the date of this Agreement and prior to the Initial Spin, Remainco shall reasonably cooperate with RMT Partner, at RMT Partner's request, to facilitate Spinco putting in place Insurance Policies in respect of the Spinco Business following the Spinco Distribution. Spinco agrees, on behalf of itself and each member of the Spinco Group, from and after the Spinco Distribution, not to seek through any means to benefit from and not to assert any right, claim or interest in, to or under, any Insurance Policies of any member of the Remainco Group, except as permitted under Section 8.1(b).

(b) For any claim asserted against any member of the Spinco Group after the Spinco Distribution arising out of an occurrence taking place prior to the Spinco Distribution (“Post-Closing Claims”), each member of the Spinco Group may access coverage under any occurrence-based Insurance Policies of the Remainco Group in place prior to the Spinco Distribution under which any member of the Spinco Group is insured (the “Pre-Closing Occurrence-Based Policies”), to the extent such insurance coverage exists and provides coverage, without cost to the Remainco Group, for such Post-Closing Claim. The Remainco Group shall reasonably cooperate with the applicable member or members of the Spinco Group in connection with the tendering of such claims; provided, however, that: (i) the applicable member or members of the Spinco Group shall promptly notify Remainco of all such Post-Closing Claims; and (ii) the applicable member or members of the Spinco Group shall be responsible for the satisfaction or payment of any applicable retention, deductible or retrospective premium with respect to any Post-Closing Claim and shall reimburse to the Remainco Group all reasonable out-of-pocket costs and expenses incurred in connection with such claims. In the event that a Post-Closing Claim relates to the same occurrence for which any member of the Remainco Group is seeking coverage under Pre-Closing Occurrence-Based Policies, (A) where the limits under an applicable Pre-Closing Occurrence-Based Policy are not sufficient to fund all covered claims of the applicable member or members of the Spinco Group and the Remainco Group, amounts due under such a Pre-Closing Occurrence-Based Policy shall be paid to the respective Persons in proportion to the amounts that otherwise would be due were the limits of liability infinite, and (B) any applicable retention or deductible amounts shall be allocated among the Parties in the same proportion.

(c) For the avoidance of doubt, (i) any Liabilities involving or related to Post-Closing Claims that are in excess of insurance coverage therefor (net of any retention amounts, recovery costs, retrospective premium, increases in premium and related deductible payable in connection therewith) under applicable Insurance Policies shall not be by virtue of this Section 8.1 the responsibility of any member of the Remainco Group, and (ii) any amounts paid by an insurer and/or received by any member of the Spinco Group pursuant to this Section 8.1 shall not constitute indemnifiable Liabilities under Article V, and no member of the Spinco Group shall have any right to indemnification under Article V with respect to any such amounts.

ARTICLE IX

MISCELLANEOUS

Section 9.1 Survival. Except as otherwise contemplated by this Agreement or any Ancillary Agreement, all covenants and agreements of the Parties contained in this Agreement and each Ancillary Agreement shall survive the Spinco Distribution and remain in full force and effect in accordance with their applicable terms.

Section 9.2 Ancillary Agreements. Except as expressly set forth herein, this Agreement is not intended to address, and should not be interpreted to address, the matters specifically and expressly covered by the Ancillary Agreements.

Section 9.3 Modification or Amendment; Waiver.

(a) This Agreement may not be modified or amended except by an agreement in writing specifically designated as an amendment hereto signed by each of the Parties. Any provision of this Agreement may be waived, if and only if, such waiver is in writing and signed by the Party against whom the waiver is to be effective; provided, that prior to the First Effective Time, Spinco shall not waive any provision of this Agreement without the prior written consent of RMT Partner.

(b) No failure or delay by any Party in exercising any right, power or privilege hereunder or under applicable Law shall operate as a waiver of such rights and, except as otherwise expressly provided herein, no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Law.

Section 9.4 Counterparts. This Agreement may be executed in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 9.5 Governing Law and Venue; Submission to Jurisdiction; Selection of Forum; Waiver of Trial by Jury.

(a) THIS AGREEMENT SHALL BE DEEMED TO BE MADE IN AND IN ALL RESPECTS SHALL BE INTERPRETED, CONSTRUED AND GOVERNED BY AND IN ACCORDANCE WITH THE LAW OF THE STATE OF DELAWARE WITHOUT REGARD TO THE CONFLICT OF LAW PRINCIPLES THEREOF (OR ANY OTHER JURISDICTION) TO THE EXTENT THAT SUCH PRINCIPLES WOULD DIRECT A MATTER TO ANOTHER JURISDICTION.

(b) Each of the Parties agrees that: (i) it shall bring any Proceeding in connection with, arising out of or otherwise relating to this Agreement, any instrument or other document delivered pursuant to this Agreement or the transactions contemplated hereby exclusively in the Chosen Courts; and (ii) solely in connection with such Proceedings, (A) it irrevocably and unconditionally submits to the exclusive jurisdiction of the Chosen Courts, (B) it waives any objection to the laying of venue in any Proceeding in the Chosen Courts, (C) it waives any objection that the Chosen Courts are an inconvenient forum or do not have jurisdiction over any Party, (D) mailing of process or other papers in connection with any such Proceeding in the manner provided in Section 9.7 or in such other manner as may be permitted by applicable Law shall be valid and sufficient service thereof, and (E) it shall not assert as a defense, any matter or claim waived by the foregoing clauses (A) through (D) of this Section 9.5(b) or that any order issued by the Chosen Courts may not be enforced in or by the Chosen Courts. Nothing herein contained shall be deemed to affect the right of any Party to serve process in any manner permitted by Law or to commence any Proceeding or otherwise proceed against any other Party in any other jurisdiction, in each case, to enforce judgments obtained in any Proceeding brought pursuant to this Section 9.5(b).

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY BE IN CONNECTION WITH, ARISE OUT OF OR OTHERWISE RELATE TO THIS AGREEMENT, ANY INSTRUMENT OR OTHER DOCUMENT DELIVERED PURSUANT TO THIS AGREEMENT OR OTHER DOCUMENT DELIVERED PURSUANT TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY PROCEEDING DIRECTLY OR INDIRECTLY, IN CONNECTION WITH, ARISING OUT OF OR OTHERWISE RELATING TO THIS AGREEMENT, ANY INSTRUMENT OR OTHER DOCUMENT DELIVERED PURSUANT TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY HEREBY ACKNOWLEDGES AND CERTIFIES (i) THAT NO REPRESENTATIVE OF THE OTHER PARTIES HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTIES WOULD NOT, IN THE EVENT OF ANY ACTION OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER, (ii) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (iii) IT MAKES THIS WAIVER VOLUNTARILY AND (iv) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS, ACKNOWLEDGMENTS AND CERTIFICATIONS CONTAINED IN THIS SECTION 9.5(c).

Section 9.6 Specific Performance. Each of the Parties acknowledges and agrees that the rights of each Party to consummate the transactions are special, unique and of extraordinary character and that if for any reason any of the provisions of this Agreement or the Ancillary Agreements are not performed in accordance with their specific terms or are otherwise breached, immediate and irreparable harm or damage would be caused for which monetary damages would not be an adequate remedy. Accordingly, each Party agrees that, in addition to any other available remedies a Party may have in equity or at law, each Party shall be entitled to enforce specifically the terms and provisions of this Agreement and the terms of the Ancillary Agreements and to obtain an injunction restraining any breach or violation or threatened breach or violation of the provisions of this Agreement and the Ancillary Agreements without necessity of posting a bond or other form of security. In the event that any Proceeding should be brought in equity to enforce the provisions of this Agreement or the Ancillary Agreements, no Party shall allege, and each Party hereby waives the defense, that there is an adequate remedy at law.

Section 9.7 Notice. All notices, requests, instructions, consents, claims, demands, waivers, approvals and other communications to be given or made hereunder by one or more Parties to one or more of the other Parties, as the case may be, shall be in writing and shall be deemed to have been duly given or made on the date of receipt by the recipient thereof if received prior to 5:00 p.m. in the place of receipt and such day is a Business Day (or otherwise on the next succeeding Business Day) if (a) served by personal delivery or by a nationally recognized overnight courier service upon the Party or Parties for whom it is intended, (b) delivered by registered or certified mail, return receipt requested, or (c) sent by email; provided, that the email transmission is promptly confirmed by telephone or in writing by the recipient thereof (excluding out-of-office replies or other automatically generated responses). Such communications shall be sent to the respective Party at the following street addresses or email addresses or at such other street address or email address for a Party as shall be specified for such purpose in a notice given in accordance with this Section 9.7:

If to Remainco or, prior to the Spinco Distribution, Spinco:

Berry Global Group, Inc.
101 Oakley Street
Evansville, Indiana 47710
Attention: Jason K. Greene
Email: jasongreene@berryglobal.com

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

Bryan Cave Leighton Paisner LLP
One Atlantic Center, Fourteenth Floor
1201 West Peachtree Street, NW
Atlanta, Georgia 30309
Attention: Louis C. Spelios
Email: louis.spelios@bclplaw.com

If to RMT Partner, or following the Spinco Distribution, to Spinco:

Glatfelter Corporation
4350 Congress Street
Suite 600
Charlotte, NC 28209
Attention: Jill L. Urey
Email: jill.urey@glatfelter.com

with copies (which shall not constitute notice) to:

King & Spalding LLP
1100 Louisiana St., Suite 4100
Houston, TX 77002
Attention: Jonathan Newton
Rob Leclerc
Email: jnewton@kslaw.com
Rleclerc@KSLAW.com

Section 9.8 Entire Agreement. This Agreement (including the schedules, exhibits and annexes hereto) and the Transaction Documents (including the schedules, exhibits and annexes thereto) constitute the entire agreement among the Parties with respect to the subject matter hereof and subject matter of the Ancillary Agreements and supersede all prior and contemporaneous agreements, negotiations, understandings, and representations and warranties, whether oral or written, with respect to such matters. For the avoidance of doubt, this Section 9.8 does not apply to or supersede the equivalent provision in the RMT Transaction Agreement, but the RMT Partner Disclosure Letter and the Spinco Disclosure Letter do constitute part of the agreement among the Parties with respect to this Agreement and the transactions contemplated hereby.

Section 9.9 Third-Party Beneficiaries. Except (a) as provided in Article V relating to Indemnitees and for the release under Section 5.1, in each case, which are intended to benefit, and to be enforceable by, the Persons specified therein, (b) as provided in Section 6.8 relating to Remainco Counsel, and (c) as specifically provided in any Ancillary Agreement, the Parties hereby agree that their respective agreements and covenants set forth in this Agreement and in the Ancillary Agreements are solely for the benefit of the other Party, as the case may be, on the terms and subject to the conditions set forth in this Agreement and the Ancillary Agreements, and this Agreement and the Ancillary Agreements are not intended to, and do not, confer upon any Person other than the Parties and its and their respective successors, legal representatives and permitted assigns any rights or remedies, express or implied. For the avoidance of doubt, no stockholder of Remainco, Spinco or RMT Partner shall be third-party beneficiaries for any purpose prior to the Spinco Distribution, and no stockholder (or Party on behalf of their respective stockholders) shall be entitled to bring any claim for damages prior to the Spinco Distribution based on a decrease in share value or lost premiums.

Section 9.10 Definitions. For purposes of this Agreement, capitalized terms (including, with correlative meaning, their singular and plural variations) have the meanings ascribed to such terms in Annex A or as otherwise defined elsewhere in this Agreement.

Section 9.11 Termination. This Agreement shall terminate immediately upon termination of the RMT Transaction Agreement, if the RMT Transaction Agreement is terminated in accordance with its terms prior to the Spinco Distribution. After the Spinco Distribution, this Agreement may not be terminated except by an agreement in writing signed by a duly authorized officer of each of Remainco, Spinco and RMT Partner. In the event of any termination of this Agreement, no Party (or any of their respective directors, officers, members or managers) shall have any Liability or further obligation to any other Party by reason of this Agreement; provided, that, in the event of any termination following the Spinco Distribution, the provisions of Article V shall survive indefinitely unless expressly agreed otherwise by the Parties; provided further, that such provisions shall not be terminated with respect to any Third Party beneficiary thereof.

Section 9.12 Payment Terms.

(a) Except as set forth in Article V or as otherwise expressly provided to the contrary in this Agreement, any amount to be paid or reimbursed by a Party (and/or a member of such Party's Group), on the one hand, to another Party (and/or a member of such Party's respective Group), on the other hand, under this Agreement shall be paid or reimbursed hereunder within thirty (30) days after presentation of an invoice or a written demand therefor and setting forth, or accompanied by, reasonable documentation or other reasonable explanation supporting such amount.

(b) Except as set forth in Article V or as expressly provided to the contrary in this Agreement, any amount not paid when due pursuant to this Agreement (and any amount billed or otherwise invoiced or demanded and properly payable that is not paid within thirty (30) days of such bill, invoice or other demand) shall bear interest at a rate of twelve percent (12%) per annum calculated for the actual number of days elapsed, accrued from the date on which such payment was due up to the date of the actual receipt of payment.

(c) In the event of a dispute or disagreement with respect to all or a portion of any amounts requested by any Party (and/or a member of such Party's Group) as being payable, the payor Party shall in no event be entitled to withhold payments for any such amounts (and any such disputed amounts shall be paid in accordance with Section 9.12(a), subject to the right of the payor Party to dispute such amount following such payment); provided, that in the event that following the resolution of such dispute it is determined that the payee Party (and/or a member of the payee Party's Group) was not entitled to all or a portion of the payment made by the payor Party, the payee Party shall repay (or cause to be repaid) such amounts to which it was not entitled, including interest, to the payor Party (or its designee), which amounts shall bear interest at a rate of twelve percent (12%) per annum, calculated for the actual number of days elapsed, accrued from the date on which such payment was made by the payor Party to the payee Party.

(d) All payments to be made by Remainco or Spinco under this Agreement shall be made in U.S. dollars.

Section 9.13 Obligations of RMT Partner and Remainco. Whenever this Agreement requires an Affiliate of RMT Partner or, following the Closing, any member of the Spinco Group, to take any action, such requirement shall be deemed to include an undertaking on the part of RMT Partner to cause such Person to take such action. Whenever this Agreement requires an Affiliate of Remainco or, prior to the Closing, any member of the Spinco Group to take any action, such requirement shall be deemed to include an undertaking on the part of Remainco to cause such Person to take such action. Any obligation of one Party under this Agreement or any of the other Transaction Documents, which obligation is performed, satisfied or properly fulfilled by an Affiliate of such Party, shall be deemed to have been performed, satisfied or fulfilled by such Party.

Section 9.14 Severability. The provisions of this Agreement shall be deemed severable and the illegality, invalidity or unenforceability of any provision shall not affect the legality, validity or enforceability of the other provisions of this Agreement. If any provision of this Agreement, or the application of such provision to any Person or any circumstance, is illegal, invalid or unenforceable, (a) a suitable and equitable provision to be negotiated by the Parties, each acting reasonably and in good faith, shall be substituted therefor in order to carry out, so far as may be legal, valid and enforceable, the intent and purpose of such illegal, invalid or unenforceable provision, and (b) the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected by such illegality, invalidity or unenforceability, nor shall such illegality, invalidity or unenforceability affect the legality, validity or enforceability of such provision, or the application of such provision, in any other jurisdiction.

Section 9.15 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties (and any of their respective successors, legal representatives and permitted assigns). No Party may assign any of its rights or delegate any of its obligations under this Agreement, in whole or in part, by operation of Law or otherwise, without the prior written consent of the other Parties, except as provided for in Section 9.13, and any attempted or purported assignment or delegation in violation of this Section 9.15 shall be null and void.

Section 9.16 Tax Treatment of Payments. To the extent permitted under applicable Tax Law and subject to the last sentence of this Section 9.16 any payment required by this Agreement (other than payments of interest) shall be treated for U.S. federal income Tax purposes as (a) a contribution by BGI to Spinco, (b) the repayment in whole or in part of a loan by one or more Spinco Entities to BGI, or (c) a distribution by Spinco to BGI, as identified in the Separation Plan, occurring immediately prior to the Initial Spin, or as a payment of an assumed or retained Liability, and any payment of interest shall be treated for U.S. federal income Tax purposes as taxable or deductible, as the case may be, to the Party entitled under this Agreement to receive such payment or required under this Agreement to make such payment.

Section 9.17 Interpretation and Construction.

(a) The table of contents and headings herein are for convenience of reference only, do not constitute part of this Agreement and shall not be deemed to limit or otherwise affect any of the provisions hereof.

(b) The Preamble, and all Recital, Article, Section, Subsection, Schedule, and Annex references used in this Agreement are to the recitals, articles, sections, subsections, schedules, annexes and exhibits to this Agreement unless otherwise specified herein.

(c) Except as otherwise expressly provided herein, for purposes of this Agreement: (i) the terms defined in the singular have a comparable meaning when used in the plural and vice versa; (ii) words importing the masculine gender shall include the feminine and neutral genders and vice versa; (iii) whenever the words “includes” or “including” are used, they shall be deemed to be followed by the words “without limitation”; (iv) the word “or” is not exclusive; (v) the words “hereto,” “hereof,” “hereby,” “herein,” “hereunder” and similar terms in this Agreement shall refer to this Agreement as a whole and not any particular provision of this Agreement; (vi) 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 (vii) a reference to any Person includes such Person’s successors and permitted assigns.

(d) Except as otherwise expressly provided herein, the term “dollars” and the symbol “\$” mean United States Dollars.

(e) Unless the context requires otherwise, references in this Agreement to “Spinco” shall also be deemed to refer to the applicable member of the Spinco Group, references to “Remainco” shall also be deemed to refer to the applicable member of the Remainco Group and, in connection therewith, any references to actions or omissions to be taken, or refrained from being taken, as the case may be, by Spinco or Remainco shall be deemed to require Spinco (and, from and after the Closing, RMT Partner) or Remainco, as the case may be, to cause the applicable members of the Spinco Group or the Remainco Group, respectively, to take, or refrain from taking, any such action.

(f) Except as otherwise expressly provided herein, all references in this Agreement to any statute include the rules and regulations promulgated thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted, consolidated or replaced provision and shall also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith.

(g) The Schedules hereto shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein.

(h) The Parties have participated jointly in negotiating and drafting this Agreement. In the event that an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement.

(i) In the event of any inconsistency or conflict that may arise in the application or interpretation of the definitions of “Spinco Assets” and “Excluded Assets” or the definitions of “Spinco Assumed Liabilities” and “Excluded Liabilities” the explicit inclusion of an item on any Schedule referred to in either definition shall take priority over any textual provision of either definition that would otherwise operate to include or exclude such Asset or Liability, as applicable, from the applicable definition.

(j) In the event of any inconsistency between this Agreement and any Schedule hereto, the Schedule shall prevail. In the event and to the extent that there shall be a conflict between the provisions of (i) this Agreement and the provisions of any Ancillary Agreement, such Ancillary Agreement shall control (except with respect to any provisions relating to the Separation, the Spinco Distribution, the covenants and obligations set forth in Article IV, Article V, Article VI, Article VII, and Article VIII or the application of this Article IX to the terms of this Agreement (or, in each case, any indemnification rights pursuant to this Agreement in respect thereof and/or any other remedies pursuant to this Agreement in respect of any breach of any covenant or obligation under this Agreement), in which case this Agreement shall control), (ii) this Agreement and any Conveyancing and Assumption Instrument, this Agreement shall control, and (iii) this Agreement and any agreement which is not an Ancillary Agreement (other than a Conveyancing and Assumption Instrument), this Agreement shall control unless both (A) it is specifically stated in such agreement that such agreement controls and (B) such agreement has been executed by a member of the Remainco Group and the Spinco Group. Except as expressly set forth in this Agreement or any Ancillary Agreement, (1) all matters relating to Taxes and Tax Returns of the Parties and their respective Subsidiaries shall be governed exclusively by the Tax Matters Agreement, and (2) for the avoidance of doubt, in the event of any conflict between this Agreement or any Ancillary Agreement, on the one hand, and the Tax Matters Agreement, on the other hand, with respect to such matters, the terms and conditions of the Tax Matters Agreement shall govern.

[End of page left intentionally blank]

IN WITNESS WHEREOF, the Parties have caused this Separation and Distribution Agreement to be duly executed as of the day and year first above written.

BERRY GLOBAL GROUP, INC.

By /s/ Jason K. Greene

Name: Jason K. Greene

Title: Chief Legal Officer

TREASURE HOLDCO, INC.

By /s/ Jason K. Greene

Name: Jason K. Greene

Title: Chief Legal Officer

GLATFELTER CORPORATION

By /s/ Thomas M. Fahnmann

Name: Thomas M. Fahnmann

Title: President and Chief Executive Officer

[Signature Page to Separation and Distribution Agreement]

Annex A
Certain Definitions

“**Affiliate**” shall mean, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with such Person (for purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of capital stock, voting securities or other equity interests, by Contract or otherwise). It is expressly agreed that none of Remainco, Spinco or RMT Partner or member of any Group shall be deemed to be an Affiliate of the other or member of such other’s Group solely by reason of having one or more directors in common or by reason of having been under common control of Remainco or Remainco’s stockholders prior to, or in case of Spinco’s stockholders, after the Spinco Distribution.

“**Agreement**” shall have the meaning set forth in the Preamble.

“**Ancillary Agreements**” shall mean the Tax Matters Agreement, the Employee Matters Agreement, the Transition Services Agreement, and any other agreements to be entered into by and between any member of the Spinco Group or RMT Partner and any member of the Remainco Group, at, prior to or after the Spinco Distribution in connection with the Spinco Distribution (to the extent consented to by RMT Partner), but shall exclude the Conveyancing and Assumption Instruments and, for the avoidance of doubt, the RMT Transaction Agreement.

“**Assets**” shall mean all right, title and ownership interests in and to all properties, claims, Contracts, rights, businesses, technology or assets (including goodwill), 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 or intangible, whether accrued, contingent or otherwise, in each case, whether or not recorded or reflected or required to be recorded or reflected on the Records or financial statements of any Person. Except as otherwise specifically set forth herein or in the Tax Matters Agreement, the rights and obligations of the Parties with respect to Taxes shall be governed by the Tax Matters Agreement, and, therefore, assets related to Taxes (including any Tax Items, Tax Attributes or rights to receive any Tax refunds (each as defined in the Tax Matters Agreement)) shall not be treated as Assets.

“**Audited Party**” shall have the meaning set forth in Section 4.1(d).

“**BGI**” shall have the meaning set forth in the Recitals.

“**Business**” shall mean (a) with respect to Spinco, the Spinco Business, or (b) with respect to Remainco, the Remainco Business.

“**Business Day**” shall have the meaning set forth in the RMT Transaction Agreement.

“**Cash and Cash Equivalents**” shall mean cash and cash equivalents, currency on hand, cash balances in deposits with banks or financial institutions, investment accounts, negotiable instruments, checks, money orders, marketable securities, short-term instruments and other cash equivalents minus the amount of any undeposited checks and uncleared drafts and wires sent to Third Parties, plus the amount of any deposits in transit.

“Chosen Courts” shall have the meaning set forth in the RMT Transaction Agreement.

“Clean-Up Spin-Off” shall mean the distribution by Remainco, pro rata to its shareholders, of any unsubscribed shares of Spinco Common Stock immediately following the consummation of the Exchange Offer.

“Closing” shall have the meaning set forth in the RMT Transaction Agreement.

“Closing Date” shall have the meaning set forth in the RMT Transaction Agreement.

“Code” shall mean the Internal Revenue Code of 1986.

“Collective Benefit Services” shall have the meaning set forth in Section 6.7(a).

“Combined Contracts” means any Contract to which a member of Spinco Group is a party and (a) primarily relating to the Spinco Business, and (b) also relating to the Remainco Business, and which are not capable of being divided between, or standing on their own for, the Spinco Business, on the one hand, and the Remainco Business, on the other hand, without the consent of a Third Party.

“Commingled Contract” means any Contract (other than any Combined Contract) to which any member of Remainco Group is a party and relating to both (a) the Spinco Business, and (b) the Remainco Business and which are not capable of being divided between, or standing on their own for, the Spinco Business, on the one hand, and the Remainco Business, on the other hand, without the consent of a Third Party.

“Confidential Information” shall mean all non-public, confidential or proprietary Information concerning a Party and/or its Subsidiaries or with respect to Remainco, the Remainco Business, or any Excluded Asset, or with respect to Spinco, the Spinco Business, or any Spinco Asset, which, prior to or following the Spinco Distribution, has been disclosed by a Party or its Subsidiaries to another Party or its Subsidiaries, or otherwise has come into the possession of, the other, including pursuant to the access provisions of Sections 6.1 or 6.2 or any other provision of this Agreement, including any data or documentation resident, existing or otherwise provided in a database or in a storage medium, permanent or temporary, intended for confidential, proprietary and/or privileged use by a Party (except to the extent that such Information can be shown to have been (a) in the public domain or known to the public through no fault of the receiving Party or its Subsidiaries, (b) lawfully acquired by the receiving Party or its Subsidiaries from other sources not known to be subject to confidentiality obligations with respect to such Confidential Information, or (c) independently developed by the receiving Party or its Affiliates after the time of the Spinco Distribution without reference to or use of any Confidential Information). As used herein, by example and without limitation, Confidential Information shall mean any information of a Party marked as confidential, proprietary and/or privileged.

“Consents” shall mean any consents, waivers, notices, reports or other filings obtained, made or to be obtained from or made, including with respect to any Contract, or any registrations, notifications, dossiers, appendices, licenses, permits, approvals, authorizations obtained or to be obtained from, or approvals from, or notification requirements to, any Person including a Governmental Entity.

“Contract” shall have the meaning set forth in the RMT Transaction Agreement.

“Contribution” shall have the meaning set forth in the Recitals.

“Conveyancing and Assumption Instruments” shall mean, collectively, the various Contracts and other documents (including stock powers, assignments of limited liability company interests, deeds and other instruments of conveyance) entered into prior to the Initial Spin and to be entered into to effect the Transfer of Assets in the manner contemplated by this Agreement and the Separation, in substantially the form to be effected pursuant to Delaware Law, the Laws of one of the other states of the United States or the Laws of foreign jurisdictions, and in such form as the applicable parties agree or, if not appropriate for a given Transfer or assumption of Liabilities, in such form or forms as the applicable parties thereto agree (but taking into account any requirements of applicable Law (including to record or register transfer of title in each applicable jurisdiction)).

“Credit Support Instruments” shall mean any letters of credit, performance bonds, surety bonds, bankers acceptances, or other similar arrangements.

“Damages” shall mean any loss, damage, injury, claim, demand, settlement, judgment, award, fine, penalty, fee (including reasonable out of pocket attorneys’ or advisors’ fees), charge, cost (including reasonable costs of investigation or capital expenditures) or expense of any nature and including amounts paid or payable to Third Parties in respect of any third-party claim for which indemnification hereunder is otherwise required.

“Data Protection Laws” shall mean any and all Laws concerning the privacy, protection or security of Personal Data throughout the world, including the General Data Protection Regulation (EU) 2016/679, the United Kingdom’s Data Protection Act 2018, the California Consumer Privacy Act of 2018 and Section 5 of the Federal Trade Commission Act, and any Laws, regulations, or regulatory requirements, guidance and codes of practice applicable to the Processing of Personal Data (as amended and/or replaced from time to time).

“Deficit Days” shall have the meaning set forth in Section 4.6.

“Delayed Asset” shall have the meaning set forth in Section 1.8(b).

“Delayed Liability” shall have the meaning set forth in Section 1.8(b).

“Discharge” shall have the meaning set forth in Section 3.7.

“Dispute” shall have the meaning set forth in Section 7.1.

“Distribution Agent” means the Person reasonably agreed by Remainco and RMT Partner to act in such capacity.

“Distribution Disclosure Documents” shall mean (a) any registration statement to be filed by Spinco with the SEC to effect the registration of shares of Spinco Common Stock in connection with the Spinco Distribution (including any registration statement on Form 10 or Form S-1 or Form S-8 related to securities to be offered under any employee benefit plan), and also includes any amendment or supplement thereto, information statement, prospectus, offering memorandum, offering circular, periodic report or similar disclosure document, whether or not filed with the SEC or any other Governmental Entity, (b) if the Spinco Distribution is effected in whole or in part as an Exchange Offer, a Schedule TO and other filings pursuant to Rule 13e-4 under the Exchange Act; in each case, which describes the Separation or the Spinco Group or primarily relates to the transactions contemplated hereby, and (c) any current reports on Form 8-K filed or furnished with the SEC by Spinco in connection with the Spinco Distribution or by Remainco solely to the extent related to the Spinco Distribution.

“Employee Matters Agreement” shall have the meaning set forth in the RMT Transaction Agreement.

“Environmental Law” shall have the meaning set forth in the RMT Transaction Agreement.

“Escalation Notice” shall have the meaning set forth in Section 7.2(a).

“Exchange Act” shall mean the Securities Exchange Act of 1934.

“Exchange Offer” shall have the meaning set forth in the Recitals.

“Excluded Assets” shall mean the Assets of Remainco and its Subsidiaries other than the Spinco Assets. Notwithstanding anything in this Agreement to the contrary, the Excluded Assets include the following:

- (a) the Assets listed or described on Schedule II;
- (b) shares of capital stock of, or any other equity or ownership interests in, the Subsidiaries held, directly or indirectly, by Remainco, other than the Spinco Transferred Interests;
- (c) all Inventory, other than Spinco Inventory;
- (d) all Cash and Cash Equivalents (except for Cash and Cash Equivalents up to the Minimum Cash Amount or as expressly otherwise provided in the Ancillary Agreements);
- (e) all real property, whether owned, leased, subleased, licensed, or otherwise occupied by Remainco and its Subsidiaries, other than Spinco Real Property;
- (f) Remainco IT Assets;
- (g) all Intellectual Property, other than Spinco Intellectual Property; and
- (h) all rights to claims, defenses, causes of action, rights of recovery, rights of set-off, rights under warranties, rights to indemnities, rights to refunds, rights of recoupment, guarantees and all similar rights against Third Parties, in each case, to the extent relating to any other Excluded Asset or Excluded Liability.

“Excluded Liabilities” shall mean (without duplication):

- (a) the Liabilities listed or described on Schedule III;
- (b) all Liabilities of Remainco or its Subsidiaries to the extent (i) such Liabilities are not Spinco Assumed Liabilities or (ii) relating to, arising out of or resulting from any disposed or discontinued business or operations of Remainco and its Subsidiaries as of the Spinco Distribution;
- (c) all Liabilities, whether presently in existence or arising after the date of this Agreement, relating to fees, commissions or expenses owed to any broker, finder, investment banker, accountant, attorney or other intermediary or advisor engaged by any member of the Remainco Group or, to the extent the relevant engagement was entered into prior to the Spinco Distribution, any member of the Spinco Group, in each case in connection with the transactions contemplated by this Agreement or the Ancillary Agreements (other than, for the avoidance of doubt, to the extent otherwise provided in the RMT Transaction Agreement or any Ancillary Agreement);
- (d) all Liabilities to the extent relating to, arising out of or resulting from the indemnification of any director, officer, manager, agent or employee of Remainco or any of its Affiliates who was a director, officer, manager, agent or employee of Remainco or any of its Affiliates (including the Spinco Group) on or prior to the Spinco Distribution to the extent such director, officer, manager, agent or employee is or becomes a named defendant in any shareholder derivative suit brought by shareholders of Remainco against Remainco arising from the transactions contemplated by this Agreement or the RMT Transaction Agreement;
- (e) all Liabilities to the extent relating to, arising out of or resulting from any matter subject to or regulated by Environmental Law, in each case whether before, at or after the Spinco Distribution, and in each case to the extent relating to, arising out of or resulting from: (i) the ownership, occupancy or use of any property of the Remainco Group; or (ii) the use, treatment, Release, handling, transportation or disposal of Hazardous Substances on or from any property of the Remainco Group; and
- (f) all other Liabilities of Remainco and its Subsidiaries that are expressly contemplated by this Agreement or any other Ancillary Agreement as Liabilities to be retained or assumed by Remainco or any other member of the Remainco Group, and all agreements, obligations and other Liabilities of Remainco or any member of the Remainco Group under this Agreement or any of the other Ancillary Agreements.

“First Effective Time” shall have the meaning set forth in the RMT Transaction Agreement.

“First Merger” shall have the meaning set forth in the Recitals.

“First Merger Sub” shall have the meaning set forth in the RMT Transaction Agreement.

“French Regulatory Consultation” shall have occurred when notification and consultation with the Social and Economic Committee of each of the Spinco Entities domiciled in France in accordance with article L. 2312-8 of the French Labor Code shall have been completed.

“French Spinco Entities” shall have the meaning set forth in Section 1.13.

“Governmental Entity” shall have the meaning set forth in the RMT Transaction Agreement.

“Group” shall mean (a) with respect to Remainco, the Remainco Group, and (b) with respect to Spinco, the Spinco Group.

“Hazardous Substance” shall have the meaning set forth in the RMT Transaction Agreement.

“Indebtedness” shall have the meaning set forth in the RMT Transaction Agreement.

“Indemnifiable Loss” and “Indemnifiable Losses” shall mean any and all Damages, deficiencies, Liabilities, obligations, judgments, settlements, claims, payments, interest, costs and expenses (including the costs and expenses of any and all Proceedings and demands, assessments, judgments, settlements and compromises relating thereto and the reasonable costs and expenses of attorneys’, accountants’, consultants’ and other professionals’ fees and expenses incurred in the investigation or defense thereof or the enforcement of rights hereunder).

“Indemnifying Party” shall have the meaning set forth in Section 5.4(a).

“Indemnitee” shall have the meaning set forth in Section 5.4(a).

“Indemnity Payment” shall have the meaning set forth in Section 5.8(a).

“Information” shall mean all information in written, oral, electronic, computerized, digital or other tangible or intangible media; provided, that the term “Information” does not include any datasets or derived data, or any Intellectual Property rights embodied in any of the foregoing in this definition.

“Initial Spin” shall mean the distribution of the Spinco Common Stock by BGI to Remainco, as described in the Recitals.

“Insurance Policies” shall mean Third Party insurance policies and Third Party insurance Contracts of any kind, including primary, excess and umbrella policies, comprehensive general liability policies, director and officer liability, fiduciary liability, automobile, aircraft, property and casualty, workers’ compensation and employee dishonestly insurance policies, together with the rights, benefits and privileges thereunder.

“Insurance Proceeds” shall mean those monies (a) received by an insured from an insurer (other than any captive insurer of either Group), or (b) paid by an insurer (other than any captive insurer of either Group) on behalf of an insured, in either case net of any applicable premium adjustment, retrospectively-rated premium, deductible, retention, cost of reserve or collection costs paid or held by or for the benefit of such insured.

“Intellectual Property” shall have the meaning set forth in the RMT Transaction Agreement.

“Intended Initial Spin Tax Treatment” shall mean the following U.S. federal income Tax consequences in connection with the Contribution, the Spinco Special Cash Payment and the Initial Spin:

(a) the qualification of the Initial Spin, taken together with the Contribution, as a “reorganization” under Section 368(a)(1)(D) of the Code to which Section 355 applies, and the treatment of BGI and Spinco as parties to the reorganization within the meaning of Section 368(b) of the Code;

(b) the nonrecognition of any income, gain or loss by BGI on the Contribution to Spinco in exchange for the Spinco Common Stock, the Spinco Special Cash Payment, and the assumption of liabilities by Spinco, if any, pursuant to Sections 357(a) and 361(a) and (b) of the Code;

(c) the nonrecognition of any income, gain or loss by Spinco on the Contribution by BGI in exchange for the Spinco Common Stock, the Spinco Special Cash Payment, and the assumption of liabilities by Spinco, if any, pursuant to Section 1032(a) of the Code;

(d) the nonrecognition of any gain or loss by BGI upon the distribution of Spinco stock to Remainco in the Initial Spin pursuant to Section 361(c) of the Code; and

(e) the nonrecognition of any income, gain or loss by Remainco upon the receipt of Spinco stock in the Initial Spin pursuant to Section 355(a) (1) of the Code.

“Intended Merger Tax Treatment” shall have the meaning set forth in the RMT Transaction Agreement.

“Intended Spinco Distribution Tax Treatment” shall mean the following U.S. federal income Tax consequences in connection with the Spinco Distribution:

(a) the nonrecognition of income, gain or loss by holders of Remainco Common Stock upon the receipt of Spinco Common Stock in the Spinco Distribution under Section 355 of the Code; and

(b) the nonrecognition of income, gain, or loss by Remainco on the distribution of Spinco Common Stock to Remainco’s shareholders in the Spinco Distribution pursuant to Section 355(c)(1) of the Code.

“Intended Tax Treatment” shall have the meaning set forth in the RMT Transaction Agreement.

“Intergroup Accounts” shall have the meaning set forth in Section 1.4.

“Intergroup Contracts” shall have the meaning set forth in Section 1.5(a).

“Internal Control Audit and Management Assessments” shall have the meaning set forth in Section 4.1(c).

“Inventory” means all raw materials, parts, supplies, goods, materials, works-in-process, finished goods, inventory, packaging and stock in trade.

“Laws” shall have the meaning set forth in the RMT Transaction Agreement.

“Liabilities” shall mean any and all Indebtedness, liabilities, costs, expenses, interest and obligations, whether accrued or fixed, absolute or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, reserved or unreserved, or determined or determinable, including those arising under any Law, Proceeding, whether asserted or unasserted, or order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Entity and those arising under any Contract or any fines, Damages or equitable relief which may be imposed and including all costs and expenses related thereto. Except as otherwise specifically set forth herein, the rights and obligations of the Parties with respect to Taxes shall be governed by the Tax Matters Agreement and, therefore, Taxes shall not be treated as Liabilities governed by this Agreement other than for purposes of indemnification related to the Distribution Disclosure Documents.

“Liable Party” shall have the meaning set forth in Section 1.8(c).

“Lien” shall have the meaning set forth in the RMT Transaction Agreement.

“Merger” shall have the meaning set forth in the Recitals.

“Merger Subs” shall have the meaning set forth in the RMT Transaction Agreement.

“Minimum Cash Amount” means an amount of cash equal to (a) two hundred fourteen million dollars (\$214,000,000.00), less (b) such amount, if any, paid by Remainco or any of its Subsidiaries between the date of this Agreement and as of immediately prior to the Spinco Distribution, in satisfaction of the Special Tax Claim and/or the Deferred Purchase Price pursuant to, and as defined in, the Providencia Stock Purchase Agreement (but solely to the extent that any such payment is required to be made by Remainco or any of its Subsidiaries under applicable Law).

“Non-Assumable Third Party Claims” shall have the meaning set forth in Section 5.4(b).

“Notifying Party” shall have the meaning set forth in Section 1.3(c).

“Other Party” shall have the meaning set forth in Section 1.8(b).

“Other Party’s Auditors” shall have the meaning set forth in Section 4.1(c).

“Outside Date” shall have the meaning set forth in the RMT Transaction Agreement.

“Party” or “Parties” shall have the meaning set forth in the Preamble.

“Payoff Letters” shall have the meaning set forth in Section 2.7.

“Permit” shall have the meaning set forth in the RMT Transaction Agreement.

“Person” shall have the meaning set forth in the RMT Transaction Agreement.

“Personal Data” shall have the meaning set forth in the RMT Transaction Agreement.

“Post-Closing Claims” shall have the meaning set forth in Section 8.1(b).

“Pre-Closing Occurrence-Based Policies” shall have the meaning set forth in Section 8.1(b).

“Preliminary Separation Plan” shall have the meaning set forth in Section 1.2(a).

“Private Letter Ruling” shall have the meaning set forth in the RMT Transaction Agreement.

“Privilege” shall have the meaning set forth in Section 6.7(a).

“Privileged Information” shall have the meaning set forth in Section 6.7(a).

“Proceeding” shall have the meaning set forth in the RMT Transaction Agreement.

“Processing” shall have the meaning set forth in the RMT Transaction Agreement.

“Providencia Stock Purchase Agreement” means that certain Stock Purchase Agreement, dated January 27, 2014, by and among PGI Polímeros do Brasil S.A. and the other signatories identified on the signature pages thereto.

“Public Reports” shall have the meaning set forth in Section 4.1(e).

“Record Date” shall mean the close of business on the date to be determined by the Remainco Board as the record date for determining stockholders of Remainco entitled to receive shares of Spinco Common Stock in the Spinco Distribution.

“Record Holders” shall mean the holders of record of shares of Remainco Common Stock as of the close of business on the Record Date.

“Records” shall mean any Contracts, documents, books, records or files.

“Release” shall have the meaning set forth in the RMT Transaction Agreement.

“Remainco” shall have the meaning set forth in the Preamble.

“Remainco Board” shall have the meaning set forth in the Recitals.

“Remainco Business” shall mean the business conducted by Remainco, other than the Spinco Business.

“Remainco Common Stock” shall have the meaning set forth in Section 3.2(b).

“Remainco Counsel” shall have the meaning set forth in Section 6.8.

“Remainco CSIs” shall have the meaning set forth in Section 1.7(d).

“Remainco Group” shall mean Remainco and each Person (other than Spinco and the other members of the Spinco Group) that is a direct or indirect Subsidiary of Remainco immediately prior to the Spinco Distribution, and each Person that becomes a Subsidiary of Remainco after the Spinco Distribution.

“Remainco Indemnitees” shall mean each member of the Remainco Group and each of their Affiliates from and after the Spinco Distribution and each member of the Remainco Group’s and their respective current, former and future Affiliates’ respective directors, officers, employees and agents and each of the heirs, executors, successors and assigns of any of the foregoing.

“Remainco IT Assets” shall mean the computers, software and software platforms, databases, hardware, websites, servers, routers, hubs, switches, circuits, networks, data communications lines and all other information technology infrastructure and equipment that are owned or controlled by Remainco and its Affiliates (excluding the Spinco Group) and used in connection with the operation of the Remainco Business.

“Representation Matters” shall have the meaning set forth in Section 6.8.

“Required Working Capital Days” shall have the meaning set forth in Section 4.6.

“RMT Partner” shall have the meaning set forth in the Preamble.

“RMT Partner Debt Repayment” shall have the meaning set forth in Section 2.3(a).

“RMT Partner Stockholder Approval” shall have the meaning set forth in the RMT Transaction Agreement.

“RMT Transaction Agreement” shall mean that certain RMT Transaction Agreement by and among Remainco, Spinco, RMT Partner, and Merger Subs, dated the date hereof, as it may be amended, modified or supplemented from time to time in accordance with its terms.

“SEC” shall mean the Securities and Exchange Commission.

“Second Merger” shall have the meaning set forth in the Recitals.

“Second Merger Sub” shall have the meaning set forth in the RMT Transaction Agreement.

“Securities Act” shall mean the Securities Act of 1933.

“Separation” shall mean the Transfer and/or assignment of Spinco Assets and Excluded Assets by means of the Conveyancing and Assumption Instruments, as set forth in Section 1.1, as conducted substantially in accordance with the Separation Plan (to the extent expressly contemplated thereby).

“Separation Committee” shall have the meaning set forth in Section 1.2(b).

“Separation Plan” shall have the meaning set forth in Section 1.2(a).

“Separation Plan Review Period” shall have the meaning set forth in Section 1.2(a).

“Set-Up Costs” means all fees, costs and expenses incurred by a Party expressly relating to the integration of the Spinco Business with RMT Partner’s business, including entity consolidation or minimization, IT integration, any one-time license fees, one time set-up fees for software, and any third-party consultants engaged to assist with such integration.

“Sole Benefit Services” shall have the meaning set forth in Section 6.7(a).

“Solvency Opinion” shall have the meaning set forth in Section 3.3(c).

“Spin-Off” shall have the meaning set forth in the Recitals.

“Spinco” shall have the meaning set forth in the Preamble.

“Spinco Assets” shall mean any and all right, title and interest in and to any and all Assets of Remainco and its Subsidiaries immediately prior to the Spinco Distribution that are primarily used or primarily held for use in the Spinco Business (except as otherwise expressly contemplated in this Agreement or the Ancillary Agreements), including:

- (a) the Assets listed or described on Schedule IV;
- (b) the Spinco Transferred Interests;
- (c) all Spinco Inventory;
- (d) all Cash and Cash Equivalents of the Spinco Group (up to the Minimum Cash Amount) and all bank accounts, lock boxes and other deposit arrangements exclusively used in, held for use in or related to the Spinco Business;
- (e) any and all accounts receivable and other current assets of the Spinco Group;
- (f) all Spinco Contracts;

- (g) all Spinco IT Assets;
- (h) all Spinco Intellectual Property;
- (i) all buildings, machinery, equipment and other tangible assets currently primarily being used by the Spinco Business, and Spinco Real Property;
- (j) Permits of the Spinco Business;
- (k) Records of the Spinco Business; and
- (l) any and all other Assets that are expressly allocated to Spinco or any other member of the Spinco Group pursuant to this Agreement or any Ancillary Agreement.

Notwithstanding anything to the contrary herein, this Agreement and the Ancillary Agreements do not purport to transfer ownership of any of the Insurance Policies of any member of the Spinco Group or Remainco Group, and any assignment of rights to coverage under such Insurance Policies is governed by Article VIII herein.

“Spinco Assumed Liabilities” shall mean any and all Liabilities (except for Liabilities related to Taxes which are governed exclusively by the Tax Matters Agreement) of Remainco or any of its Subsidiaries (including the members of the Spinco Group and members of the Remainco Group) in the following categories, in each case, regardless of (a) when or where such Liabilities arose or arise (whether arising prior to, at or after the Spinco Distribution), (b) where or against whom such Liabilities are asserted or determined, (c) regardless of whether arising from or alleged to arise from negligence, gross negligence, recklessness, violation of Law, fraud or misrepresentation by any member of the Remainco Group or Spinco Group, as the case may be, or any of their past or present respective directors, officers, employees, agents, Subsidiaries or Affiliates and (d) which entity is named in any Proceeding associated with any Liability:

- (a) any and all Liabilities set forth on Schedule V;
- (b) any and all Liabilities that are expressly assumed by or allocated to Spinco or any other member of the Spinco Group pursuant to this Agreement or any Ancillary Agreement, and any and all obligations and Liabilities of any member of the Spinco Group pursuant to this Agreement or any Ancillary Agreement;
- (c) any and all current Liabilities of the Spinco Group;
- (d) the operation of the Spinco Business, as conducted at any time before, at or after the Spinco Distribution;
- (e) subject to Section 1.3 and Section 1.8, any and all Liabilities to the extent relating to, arising out of or resulting from the operation of any business conducted by or on behalf of any member of the Spinco Group at any time after the Spinco Distribution (including any Liability relating to, arising out of or resulting from any act or failure to act by any Person, whether or not such act or failure to act is within such Person’s authority, with respect to such business); and
- (f) any and all Liabilities to the extent related to or arising out of any Spinco Assets or the Spinco Business.

“Spinco Board” shall have the meaning set forth in the Recitals.

“Spinco Business” shall have the meaning set forth in the RMT Transaction Agreement.

“Spinco Common Stock” shall have the meaning set forth in the RMT Transaction Agreement.

“Spinco Contracts” means the following Contracts to which Remainco or any of its Subsidiaries is a party or by which Remainco or any of its Subsidiaries or any of their respective Assets is bound, in each case, as of immediately prior to the Spinco Distribution (except for any such Contract or part thereof that is expressly contemplated to be retained by or transferred to Remainco or any member of the Remainco Group pursuant to any provision of this Agreement or any other Ancillary Agreement):

- (a) any Contract that is primarily related to the Spinco Business; and
- (b) any Contract or part thereof that is otherwise expressly contemplated pursuant to this Agreement (including Commingled Contracts, subject to Section 1.3) or any of the other Ancillary Agreements to be assigned to Spinco or any member of the Spinco Group.

“Spinco CSIs” shall have the meaning set forth in Section 1.7(d).

“Spinco Distribution” shall have the meaning set forth in the Recitals.

“Spinco Distribution Date” shall mean the date, as shall be determined by the Spinco Board, on which Remainco distributes all of the issued and outstanding shares of Spinco Common Stock held by Remainco following the Initial Spin to the holders of Remainco Common Stock.

“Spinco Employees” shall have the meaning set forth in the Employee Matters Agreement.

“Spinco Financial Statements” shall have the meaning set forth in the RMT Transaction Agreement.

“Spinco Financing” shall have the meaning set forth in the RMT Transaction Agreement.

“Spinco Financing Agreements” shall have the meaning set forth in the RMT Transaction Agreement.

“Spinco Form 10” shall mean the registration statement on Form 10 filed by Spinco with the SEC in connection with the Spinco Distribution.

“Spinco Group” shall mean, prior to the Spinco Distribution, Spinco and each of its Subsidiaries, and following the Spinco Distribution, Spinco and each Person that is a direct or indirect Affiliate of Spinco immediately following the Spinco Distribution (other than Remainco or any member of the Remainco Group), and each Person that becomes a Subsidiary of Spinco after the Spinco Distribution.

“Spinco Indemnitees” shall mean each member of the Spinco Group and each of their Affiliates from and after the Spinco Distribution (including, for the avoidance of doubt, RMT Partner and each of its Affiliates) and each member of the Spinco Group’s and their respective current, former and future Affiliates’ respective directors, officers, employees and agents and each of the heirs, executors, successors and assigns of any of the foregoing.

“Spinco Intellectual Property” shall have the meaning set forth in the RMT Transaction Agreement.

“Spinco Inventory” shall mean all Inventory used or held for use in connection with the Spinco Business.

“Spinco IT Assets” shall have the meaning set forth in the RMT Transaction Agreement.

“Spinco Real Property” shall have the meaning set forth in the RMT Transaction Agreement.

“Spinco Special Cash Payment” means a cash payment in an amount equal to the sum of (a) all of the proceeds of the Spinco Financing, (b) *plus* (i) the amount, if any, by which the Cash and Cash Equivalents of Spinco as of immediately prior to the making of the Spinco Special Cash Payment exceeds the Minimum Cash Amount, or *minus* (ii) the amount, if any, by which the Minimum Cash Amount exceeds the Cash and Cash Equivalents of Spinco as of immediately prior to the making of the Spinco Special Cash Payment *minus* (c) the aggregate amount of the Payoff Letters setting forth the amount required to pay the Indebtedness of RMT Partner set forth on Schedule VII *minus* (d) the aggregate amount of the Transaction Expense Invoices setting forth the amount required to pay the Transaction Expenses of Remainco, Spinco, and RMT Partner.

“Spinco Transferred Interests” shall mean the equity interests in the Persons set forth Schedule VI, each of which are direct or indirect Subsidiaries of Remainco.

“Subsidiary” shall have the meaning set forth in the RMT Transaction Agreement.

“Tax” or “Taxes” shall have the meaning set forth in the Tax Matters Agreement.

“Tax Attributes” shall have the meaning set forth in the Tax Matters Agreement.

“Tax Authority” shall have the meaning set forth in the Tax Matters Agreement.

“Tax Contest” shall have the meaning set forth in the Tax Matters Agreement.

“Tax Items” shall have the meaning set forth in the Tax Matters Agreement.

“Tax Matters Agreement” shall have the meaning set forth in the RMT Transaction Agreement.

“Tax Records” shall have the meaning set forth in the Tax Matters Agreement.

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

“Third Party” shall mean any Person other than (a) the members of the Remainco Group and the Spinco Group, and (b) RMT Partner and its Affiliates.

“Third Party Claim” shall have the meaning set forth in Section 5.4(a).

“Third Party Proceeds” shall have the meaning set forth in Section 5.8(a).

“Transaction Documents” shall mean the RMT Transaction Agreement, this Agreement and the Ancillary Agreements.

“Transaction Expense Invoices” shall have the meaning set forth in Section 2.6.

“Transaction Expense Payment” shall have the meaning set forth in Section 2.3(a).

“Transaction Expenses” means (a) any and all out-of-pocket fees and expenses (including all fees and expenses of counsel, accountants, investment banking firms and other financial institutions, experts and consultants, and commitment fees and any other financing fees and expenses, including in respect of debt financing, the ratings process, underwriting fees, upfront fees and any solvency opinions) actually incurred or accrued, prior to or at the First Effective Time (as defined in the RMT Transaction Agreement), by RMT Partner or any member of the Remainco Group or Spinco Group or on its or their respective behalf or for which it or they are liable in connection with or related to (i) the drafting, negotiation or implementation of the Transaction Documents, (ii) the authorization, planning, structuring, preparation, drafting, negotiation, execution and performance of the transactions contemplated hereby or thereby (including the Separation, the Initial Spin the Spinco Distribution and any Conveyancing and Assumption Instruments), (iii) the preparation, review and audit of any financial statements of the Spinco Business, (iv) the preparation of the Spinco Business for sale or separation and any due diligence, marketing or similar activities in connection therewith, (v) the preparation, printing, filing and mailing of the Distribution Disclosure Documents, and the preparation and filing of any other filings with the SEC or any Governmental Entity to the extent related to the transactions contemplated by the Transaction Documents, and (vi) all other matters related to the Merger (including obtaining the RMT Partner Stockholder Approval), the Separation, the Initial Spin, the Spinco Distribution and any other transaction contemplated by the Transaction Documents, (b) any and all out-of-pocket fees and expenses actually incurred or accrued by RMT Partner or any member of the Remainco Group or Spinco Group or on its or their respective behalf or for which it or they are liable in connection with or related to obtaining the prepaid directors’ and officers’ liability insurance policy or policies contemplated by the RMT Transaction Agreement and (c) Set-Up Costs.

“Transfer Agent” shall mean the Person reasonably agreed by Remainco and RMT Partner to act in such capacity.

“Transfers” shall have the meaning set forth in the Recitals and the term “Transferred” shall have its correlative meaning.

“Transition Services Agreement” shall have the meaning set forth in the RMT Transaction Agreement.

“Updated Preliminary Separation Plan” shall have the meaning set forth in Section 1.2(a).

* * * *

TAX MATTERS AGREEMENT

by and among

BERRY GLOBAL GROUP, INC.,

TREASURE HOLDCO, INC.,

and

GLATFELTER CORPORATION,

Dated as of February 6, 2024

TAX MATTERS AGREEMENT

This TAX MATTERS AGREEMENT (this “Agreement”) is entered into as of February 6, 2024, by and among BERRY GLOBAL GROUP, INC. (“Remainco”), a Delaware corporation, on behalf of itself and the members of the Remainco Group, TREASURE HOLDCO, INC. (“Spinco”), a Delaware corporation, on behalf of itself and the members of the Spinco Group, and GLATFELTER CORPORATION (“RMT Partner”), a Pennsylvania corporation, on behalf of itself and the members of the RMT Group (Remainco, Spinco and RMT Partner are sometimes collectively referred to herein as the “Parties” and, as the context requires, individually referred to herein as a “Party”).

RECITALS

WHEREAS, Remainco, acting through itself and its direct and indirect Subsidiaries, currently conducts the Remainco Business and the Spinco Business;

WHEREAS, contemporaneously with the execution of this Agreement, Remainco, Spinco and RMT Partner are entering into the Separation and Distribution Agreement, dated as of the date hereof (the “Separation Agreement”), pursuant to which Remainco will (in accordance with the Separation) separate the Spinco Business such that, as of the Spinco Distribution, the Spinco Business is held by members of the Spinco Group;

WHEREAS, in connection with the Separation, Spinco will make the Spinco Special Cash Payment;

WHEREAS, following the Separation, and pursuant to the Separation Agreement, the sole stockholder of Spinco, Berry Global, Inc., a Delaware corporation and wholly-owned subsidiary of Remainco (“BGI”), will distribute to Remainco all of the shares of Spinco Common Stock (the “Initial Spin”);

WHEREAS, following the Initial Spin, Remainco will distribute to the holders of Remainco Common Stock all of the shares of Spinco Common Stock received in the Initial Spin (a) by means of a pro rata distribution (the “Spin-Off”) and/or (b) with the consent of RMT Partner, by way of an offer to exchange shares of Spinco Common Stock for outstanding shares of Remainco Common Stock (the “Exchange Offer”) (to be followed by a Clean-Up Spin-Off) (the Spin-Off and Exchange Offer are collectively referred to herein as the “Spinco Distribution”);

WHEREAS, immediately following the Spinco Distribution and pursuant to the RMT Transaction Agreement, Treasure Merger Sub I, Inc., a Delaware corporation and a wholly owned Subsidiary of RMT Partner (“First Merger Sub”), will merge with and into Spinco (the “First Merger”), with Spinco continuing as the surviving corporation and a wholly owned Subsidiary of RMT Partner;

WHEREAS, immediately following the First Merger and as part of the same overall transaction as the First Merger, Spinco will merge with and into Treasure Merger Sub II, LLC, a Delaware limited liability company and a wholly owned Subsidiary of RMT Partner (“Second Merger Sub”), with Second Merger Sub as the surviving entity (such merger, together with the First Merger, the “Merger”), all upon the terms and subject to the conditions set forth in the RMT Transaction Agreement;

WHEREAS, for U.S. federal income tax purposes, it is intended that the Contribution, the Initial Spin, the Spinco Distribution, the Spinco Special Cash Payment, and the Merger will qualify for the Intended Tax Treatment;

WHEREAS, pursuant to the Tax Laws of various jurisdictions, certain members of the Spinco Group presently file certain Tax Returns on an affiliated, consolidated, combined, unitary, fiscal unity or other similar group basis (including as permitted by Section 1501 of the Internal Revenue Code of 1986, as amended (the “Code”)) with certain members of the Remainco Group; and

WHEREAS, Remainco, Spinco and RMT Partner desire to set forth their agreement on the rights and obligations of Remainco, Spinco, RMT Partner and the members of the Remainco Group, the Spinco Group, and the RMT Group respectively, with respect to (A) the administration and allocation of federal, state, local, and foreign Taxes incurred in Tax Periods beginning prior to the Spinco Distribution Date, (B) Taxes resulting from the Spinco Distribution and transactions effected in connection with the Spinco Distribution, and (C) various other Tax matters;

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements, provisions and covenants contained in this Agreement, the Parties 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:

“Active Trade or Business” means the active conduct (as defined in Section 355(b)(2) of the Code and the Treasury Regulations thereunder) of the Spinco Business as conducted immediately prior to the Spinco Distribution by the Spinco SAG.

“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 (i) any amended Tax Return claiming adjustment to the Taxes as reported on the Tax Return or, if applicable, as previously adjusted, (ii) any claim for equitable recoupment or other offset, and (iii) any claim for Refund or credit of Taxes previously paid.

“Affiliate” has the meaning set forth in the RMT Transaction Agreement.

“Agreement” has the meaning set forth in the preamble to this Agreement.

“Ancillary Agreement” has the meaning set forth in the Separation Agreement; provided, that for purposes of this Agreement, this Agreement shall not constitute an Ancillary Agreement.

“ATB Obligations” has the meaning set forth in Section 6.02(b)(iv) of this Agreement.

“BGI” has the meaning set forth in the preamble to this Agreement.

“Business Day” has the meaning set forth in the RMT Transaction Agreement.

“Capital Stock” means all classes or series of capital stock of a corporation, including (i) common stock, (ii) all options, warrants and other rights to acquire such capital stock and (iii) all instruments properly treated as stock in such corporation for U.S. federal Income Tax purposes.

“Clean-Up Spin-Off” has the meaning set forth in the Separation Agreement.

“Closing” has the meaning set forth in the RMT Transaction Agreement.

“Closing of the Books Method” means: (i) in the case of Taxes imposed on a periodic basis and that are not Income Taxes, the apportionment of items between portions of a Tax Period on the basis of the elapsed days during the relevant portion of the Tax Period and (ii) in the case of Taxes not described in clause (i), the apportionment of items between portions of a Tax Period based on a closing of the books and records on the close of the Spinco Distribution Date (and in the event that the Spinco Distribution Date is not the last day of the Tax Period, as if the Spinco Distribution Date were the last day of the Tax Period).

“Code” has the meaning set forth in the recitals to this Agreement.

“Consent” has the meaning set forth in the Separation Agreement.

“Contribution” has the meaning set forth in the Separation Agreement.

“Controlling Party” has the meaning set forth in Section 9.02(c) of this Agreement.

“Effective Time” has the meaning set forth in the RMT Transaction Agreement.

“Exchange Offer” has the meaning set forth in the recitals to this Agreement.

“Final Allocation” has the meaning set forth in Section 3.07(b) of this Agreement.

“Final Determination” means the final resolution of liability for any Tax, which resolution may be for a specific issue or adjustment or for any Tax Period, (i) 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 a 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); (ii) by a decision, judgment, decree, or other order by a court of competent jurisdiction, which has become final and unappealable; (iii) 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; (iv) by any allowance of a Refund or credit in respect of an overpayment of a Tax, but only after the expiration of all periods during which such Refund may be recovered (including by way of offset) by the jurisdiction imposing such Tax; (v) by a final settlement resulting from a treaty-based competent authority determination; or (vi) by any other final disposition, including by reason of the expiration of the applicable statute of limitations, the execution of a pre-filing agreement with the IRS or other Tax Authority, or by mutual agreement of the Parties.

“First Merger Sub” has the meaning set forth in the recitals to this Agreement.

“Gain Recognition Agreement” means that certain gain recognition agreement entered into by BGI (on behalf of its subsidiary, PGI Europe, Inc.) with the IRS in accordance with the provisions of Treasury Regulation Section 1.367(a)-8 for BGI’s taxable year ended October 2, 2021, or any new, amended, or successor gain recognition agreement filed with respect to the transaction reported for such tax year so ended.

“Gain Recognition Event(s)” means a transaction or other event that would be treated as a “Triggering Event” under Treasury Regulation Section 1.367(a)-8 and that would result in the recognition of taxable income or gain in the original taxable period and with respect to the transaction to which the Gain Recognition Agreement relates.

“Governmental Entity” has the meaning set forth in the RMT Transaction Agreement, *it being acknowledged* that in each case, Governmental Entity shall include the IRS or any other Taxing authority.

“Group” means (a) with respect to Remainco, the Remainco Group, (b) with respect to Spinco, the Spinco Group, and (c) with respect to RMT Partner, the RMT Group, as the context requires.

“Income Tax” means all U.S. federal, state, local and foreign income, franchise or similar Taxes imposed on (or measured by) net income or net profits, and any interest, penalties, additions to Tax or additional amounts in respect of the foregoing.

“Initial Spin” has the meaning set forth in the recitals to this Agreement.

“Intended Tax Treatment” has the meaning set forth in the RMT Transaction Agreement.

“Interest Rate” shall mean the rate of interest payable on amounts not paid when due under the Separation Agreement as provided under Section 9.12(b) thereof.

“IRS” means the U.S. Internal Revenue Service or any successor agency.

“Joint Return” means any Tax Return that actually includes, by election or otherwise, one or more members of the Remainco Group and one or more members of the Spinco Group.

“Laws” has the meaning set forth in the RMT Transaction Agreement.

“Liabilities” has the meaning set forth in the Separation Agreement.

“Merger” has the meaning set forth in the recitals to this Agreement.

“Non-Controlling Party” has the meaning set forth in Section 9.02(c) of this Agreement.

“Notified Action” has the meaning set forth in Section 6.04 of this Agreement.

“Parties” and “Party” have the meaning set forth in the preamble to this Agreement.

“Payor” has the meaning set forth in Section 4.03(a) of this Agreement.

“Person” has the meaning set forth in the RMT Transaction Agreement, *it being acknowledged* that in each case, Person shall be defined without regard to whether any entity is treated as disregarded for U.S. federal Income Tax purposes.

“Post-Distribution Period” means any Tax Period beginning after the Spinco Distribution Date and, in the case of any Straddle Period, the portion of such Tax Period beginning on the day after the Spinco Distribution Date.

“Pre-Distribution Period” means any Tax Period ending on or before the Spinco Distribution Date and, in the case of any Straddle Period, the portion of such Straddle Period ending on the Spinco Distribution Date.

“Prior Group” means any group that filed or was required to file (or will file or be required to file) a Tax Return for any Pre-Distribution Period, on an affiliated, consolidated, combined, unitary, fiscal unity or other similar group basis (including as permitted by Section 1501 of the Code) that includes at least one member of the Spinco Group.

“Private Letter Ruling” has the meaning set forth in the RMT Transaction Agreement.

“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.

“Proceeding” shall have the meaning set forth in the RMT Transaction Agreement.

“Proposed Acquisition Transaction” means a transaction or series of transactions, as a result of which any Person or any group of related Persons would (directly or indirectly) acquire, or have the right to acquire, a number of shares of Capital Stock in RMT Partner that would, when combined with any other changes in ownership of Capital Stock in RMT Partner pertinent for purposes of Section 355(e) of the Code (including the Merger), compose forty-five percent (45%) or more of (i) the value of all outstanding shares of stock of RMT Partner, 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) the total combined voting power of all outstanding shares of voting stock of RMT Partner, 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 (i) the adoption by RMT Partner of a shareholder rights plan, (ii) issuances by RMT Partner 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), including such issuances net of exercise price and/or Tax withholding (provided, however, that any sale of such stock in connection with a net exercise or Tax withholding is not exempt under this clause (ii) unless it satisfies the requirements of Safe Harbor VII of Treasury Regulations Section 1.355-7(d)), (iii) acquisitions that satisfy Safe Harbor VII of Treasury Regulations Section 1.355-7(d), or (iv) Specified Repurchases or Redemptions. 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.

“Proposed Allocation” has the meaning set forth in Section 3.07(b) of this Agreement.

“Refund” means any remittance or credit from any Tax Authority in respect of any previously paid Taxes.

“Remainco” has the meaning set forth in the preamble to this Agreement.

“Remainco Business” has the meaning set forth in the Separation Agreement.

“Remainco Common Stock” has the meaning set forth in the Separation Agreement.

“Remainco Group” has the meaning set forth in the Separation Agreement.

“Remainco Ownership Period” means, with respect to any member of the Spinco Group, (i) any Tax Period ending on or before the Spinco Distribution Date, or (ii) in the case of any Tax Period that begins before and ends after the Spinco Distribution Date, the portion of such Tax Period ending on the Spinco Distribution Date.

“Remainco Retained Assets” mean any assets, businesses or operations conducted, operated, managed or owned by any member of the Spinco Group at any time prior to the Spinco Distribution Date that are conducted, operated, managed or owned by any member of the Remainco Group immediately after the Spinco Distribution.

“Remainco Tax Representation Letters” has the meaning set forth in the RMT Transaction Agreement.

“Required Party” has the meaning set forth in Section 4.03(a) of this Agreement.

“Responsible Party” means, with respect to any Tax Return, the Party having responsibility for preparing and filing such Tax Return under this Agreement.

“Retention Date” has the meaning set forth in Section 8.01 of this Agreement.

“RMT Group” means RMT Partner and its Subsidiaries immediately prior to the Effective Time and, after the Effective Time, also includes the entities comprising the Spinco Group, including any predecessors or successors thereto (other than those entities comprising the Remainco Group).

“RMT Parties” means either or both of RMT Partner and Spinco, as the context requires.

“RMT Partner” has the meaning set forth in the preamble to this Agreement.

“RMT Partner Tainting Action” has the meaning set forth in Section 2.01(b)(iii)(B) of this Agreement.

“RMT Partner Tax Representation Letters” has the meaning set forth in the RMT Transaction Agreement.

“RMT Transaction Agreement” has the meaning set forth in the Separation Agreement.

“Ruling” has the meaning set forth in Section 6.02(b)(viii) of this Agreement.

“Second Merger Sub” has the meaning set forth in the recitals to this Agreement.

“Separation” has the meaning set forth in the Separation Agreement.

“Separation Agreement” has the meaning set forth in the recitals to this Agreement.

“Specified Repurchases or Redemptions” means repurchases or redemptions by RMT Partner that satisfy the following criteria: (i) the repurchase or redemption is motivated by a non-Tax business purpose, (ii) the stock to be repurchased or redeemed is widely held, (iii) the repurchase or redemption is made in the open market or from or through a securities brokerage or investment bank that is not related to RMT Partner at an agreed price or formula (including through a call option or derivative), as part of a repurchase program (including an accelerated share repurchase program) in which the securities brokerage or investment bank purchases shares of stock of RMT Partner from anonymous sellers (iv) the repurchase or redemption is not motivated to any extent by a desire to increase or decrease the ownership percentage of any particular shareholder or group of shareholders, and (v) RMT Partner will not know the identity of any shareholder from which its stock is redeemed or repurchased.

“Spinco” has the meaning provided in the preamble to this Agreement.

“Spinco Business” has the meaning set forth in the Separation Agreement.

“Spinco Carryback” means any net operating loss, net capital loss, excess Tax credit, or other similar Tax Item of any member of the Spinco Group that may or must be carried from one Tax Period to a prior Tax Period under the Code or other applicable Tax Law.

“Spinco Common Stock” has the meaning set forth in the RMT Transaction Agreement.

“Spinco Distribution” has the meaning set forth in the recitals to this Agreement.

“Spinco Distribution Date” has the meaning set forth in the Separation Agreement.

“Spinco Financing” has the meaning set forth in the Separation Agreement; provided that for purposes of this Agreement, any refinancing of the Spinco Financing with the proceeds of new third-party indebtedness of Spinco (excluding, for the avoidance of doubt, any member of the RMT Group other than Spinco) shall be treated as Spinco Financing (and not considered to be a refinancing).

“Spinco Group” means Spinco and each of its Subsidiaries immediately following the Spinco Distribution, including any predecessors thereof (except for any such predecessor that is a member of the Remainco Group immediately following the Spinco Distribution).

“Spinco SAG” means the separate affiliated group of Spinco, within the meaning of Section 355(b)(3)(B) of the Code.

“Spinco Separate Return” means any Tax Return of or including any member of the Spinco Group (including any consolidated, combined or unitary Tax Return) that does not include any member of the Remainco Group.

“Spinco Special Cash Payment” has the meaning set forth in the Separation Agreement.

“Spinco Tax Representation Letters” has the meaning set forth in the RMT Transaction Agreement.

“Spin-Off” has the meaning set forth in the recitals to this Agreement.

“Straddle Period” means any Tax Period that begins before and ends after the Spinco Distribution Date.

“Subsidiary” has the meaning set forth in the RMT Transaction Agreement.

“Tax” or “Taxes” means any income, gross income, gross receipts, profits, capital stock, franchise, withholding, payroll, social security, workers compensation, unemployment, disability, property, ad valorem, value added, stamp, excise, severance, occupation, service, sales, use, license, lease, transfer, import, export, escheat, 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, penalty, additions to tax or additional amounts in respect of the foregoing.

“Tax Advisor” means a Tax counsel or accountant, in each case of nationally recognized standing.

“Tax Attribute” means a net operating loss, net capital loss, unused investment credit, unused foreign Tax credit (including credits of a foreign company under Section 902 of the Code), excess charitable contribution, general business credit, research and development credit, earnings and profits, basis, or any other Tax Item that could reduce a Tax or create a Tax Benefit.

“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 item that causes reduction in otherwise required liability for Taxes.

“Tax Contest” means an audit, review, examination, contest, litigation, investigation 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 Item” means, with respect to any Income Tax, any item of income, gain, loss, deduction, or credit.

“Tax Law” means the Law of any Governmental Entity or political subdivision thereof relating to any Tax.

“Tax Opinion” means an opinion of a Tax Advisor relevant to any aspect of the transactions described in this Agreement or any subsequent transactions relating thereto.

“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 Records” means any (i) Tax Returns, (ii) Tax Return workpapers, (iii) documentation relating to any Tax Contests, and (iv) any other books of account or records (whether or not in written, electronic or other tangible or intangible forms and whether or not stored on electronic or any other medium) required to be maintained under the Code or other applicable Tax Laws or under any record retention agreement with any Tax Authority, in each case filed with respect to or otherwise relating to Taxes.

“Tax Return” or “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, declaration, or document filed or required to be filed under the Code or other Tax Law with respect to Taxes, including any attachments, exhibits, or other materials submitted with any of the foregoing, and including any amendments or supplements to any of the foregoing.

“Third Party” means any Person other than the Parties or any of their respective Subsidiaries.

“Transaction Documents” has the meaning set forth in the Separation Agreement.

“Transaction Taxes” means any and all Taxes arising in connection with the Initial Spin, the Spinco Distribution, the Separation, the Contribution, the Spinco Special Cash Payment or the Merger.

“Transfer Taxes” means all sales, use, privilege, transfer (including real property transfer), intangible, recordation, registration, documentary, stamp, duty or similar Taxes arising in connection with the Initial Spin, the Separation, the Contribution, or the Spinco Distribution (excluding any such Taxes the payment or reimbursement of which is expressly addressed by any other Transaction Document).

“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 any unqualified “will” opinion of a Tax Advisor to the effect that a transaction will not adversely affect the Intended Tax Treatment (assuming that the Separation, the Initial Spin, the Contribution, the Spinco Distribution and the Merger would have qualified for the Intended Tax Treatment if the transaction in question did not occur).

Section 2. Allocation of Tax Liabilities.

Section 2.01 General Rule.

From and after the Spinco Distribution Date:

(a) Remainco Liability. Except with respect to Transaction Taxes described in Section 2.01(b)(iii), Remainco shall be liable for, and shall indemnify and hold harmless the Spinco Group and the RMT Group from and against any liability for:

(i) any Taxes reported, or required to be reported, on any Joint Return for any Pre-Distribution Period (including Taxes resulting from any (A) gain recognized under Treasury Regulations Section 1.1502-19(b) in connection with an excess loss account with respect to the stock of Spinco or any member of the Spinco Group at the time of the Spinco Distribution, (B) deferred gains taken into account under Treasury Regulations Section 1.1502-13(d) associated with deferred intercompany transactions between a Spinco Group member and a Remainco Group member, and (C) gains described in clause (A) or (B) that are imposed under similar state, local or foreign Law);

(ii) any Taxes that (i) are attributable to the ownership by any member of the Spinco Group of any equity interest in any “controlled foreign corporation” (within the meaning of Section 957(a) of the Code) of the Spinco Group, including any Taxes due under Sections 951(a) or 951A of the Code or (ii) are attributable to the ownership by the Spinco Group of any equity interest in any partnership or other “flowthrough” entity, in each case, for the pre-Spinco Distribution portion of the Tax Period in which the Spinco Distribution occurs (determined under the Closing of the Books Method, as though the Tax Period of each controlled foreign corporation or partnership or other “flowthrough” entity giving rise to any such Taxes ended on the date of the Spinco Distribution);

(iii) any Taxes imposed on any member of the Spinco Group pursuant to the provisions of Treasury Regulations Section 1.1502-6 (or similar provisions of state, local, or foreign Tax Law) as a result of any member of the Spinco Group being or having been a member of a Prior Group;

(iv) any Taxes of any member of the Spinco Group reported, or required to be reported, on a Spinco Separate Return, or that are not required to be reported on any Tax Return, (i) with respect to a Remainco Ownership Period or (ii) attributable to any Remainco Retained Assets;

(v) any Taxes of any member of the Spinco Group arising as a result of any carryback of a Tax Attribute (including any adjustment or disallowance thereof) from any Remainco Ownership Period to any Tax Period (or portion thereof); and

(vi) any Transaction Taxes.

(b) RMT Parties Liability. The RMT Parties shall be liable for, and shall jointly and severally indemnify and hold harmless the Remainco Group from and against any liability for:

(i) any Taxes reported, or required to be reported, on any Tax Return that any member of the RMT Group (as constituted before the Effective Time) files or is required to file under the Code or other applicable Tax Law for any Pre-Distribution Period;

(ii) any Taxes of any member of the Spinco Group or the RMT Group reported, or required to be reported, on a Spinco Separate Return, or that are not required to be reported on any Tax Return, other than any Taxes described in Section 2.01(a); and;

(iii) any Transaction Taxes that would not have been imposed but for

(A) any breach by RMT Partner (or by Spinco solely to the extent relating to any Tax Period (or portion thereof) beginning after the Effective Time) of any of its representations, warranties or covenants set forth in Section 6.01, to the extent RMT Partner or Spinco bears responsibility therefor pursuant to Section 6.01; or

(B) any act or failure to act by RMT Partner described in Section 6.02 (regardless of whether an Unqualified Tax Opinion, Ruling or waiver described in clause (A), (B) or (C) of Section 6.02(b), (c), or (d) may have been provided) (in either case (i) or (ii), an “RMT Partner Tainting Action”); provided, that where an RMT Partner Tainting Action gives rise to Transaction Taxes, the RMT Parties shall not be relieved of liability by reason of acts or omissions by Remainco or its Affiliates following such RMT Partner Tainting Action that might have caused such Transaction Taxes but for the prior RMT Partner Tainting Action, except to the extent any such act or omission by Remainco or its Affiliates gives rise to incremental Transaction Taxes.

Section 2.02 Apportionment. For purposes of Section 2.01, in the case of a Straddle Period, the apportionment of Taxes shall be determined under the Closing of the Books Method.

Section 2.03 Transfer Taxes. Any Transfer Taxes attributable to or that arise as a result of the Separation, the Initial Spin, the Contribution, the Spinco Distribution, the Spinco Special Cash Payment or related transactions (excluding the Merger and transactions undertaken by the RMT Group) shall be allocated solely to Remainco, and Remainco shall indemnify and hold harmless the Spinco Group against such Transfer Taxes.

Section 3. Preparation and Filing of Tax Returns.

Section 3.01 Joint Returns. Remainco shall timely prepare and file, or cause to be timely prepared and filed, all Joint Returns for Pre-Distribution Periods, and each member of the Spinco Group to which any such Joint Return relates shall execute and file such consents, elections and other documents as Remainco may reasonably determine, after consulting with RMT Partner in good faith, are required or appropriate (unless such an election would be binding on any member of the RMT Group for any Tax Period beginning on or after the Spinco Distribution Date) in connection with the filing of such Joint Return. The Parties and their respective Affiliates shall elect to close the Tax Period of each Spinco Group member on the Spinco Distribution Date to the extent permitted by applicable Tax Law.

Section 3.02 Spinco Separate Tax Returns; Transfer Tax Returns.

(a) Tax Returns to be Prepared by Remainco. Remainco shall timely prepare and file, or cause to be timely prepared and filed, all Spinco Separate Returns required to be filed prior to the time of the Spinco Distribution consistent with Remainco's obligations under the RMT Transaction Agreement.

(b) Tax Returns to be Prepared by RMT Partner. RMT Partner shall timely prepare and file, or cause to be timely prepared and filed, all Spinco Separate Returns required to be filed after the time of the Spinco Distribution that relate to any Pre-Distribution Period; provided, that not later than twenty (20) Business Days prior to the due date for filing each such Tax Return, RMT Partner shall provide Remainco with a draft of such Tax Return for Remainco's review, comment and consent (which consent shall not be unreasonably withheld, conditioned or delayed). Remainco shall pay to RMT Partner at least (5) Business Days prior to the due date for filing each such Tax Return an amount equal to the amount of any Taxes shown to be due on such Tax Return for which Remainco is responsible under this Agreement.

(c) Tax Returns for Transfer Taxes. Notwithstanding Section 3.01 and Section 3.02(a) and (b), Tax Returns relating to Transfer Taxes shall be prepared and filed when due (including extensions) by the Party obligated to file such Tax Returns under applicable Tax Law. The non-filing Party shall pay to the filing Party at least (5) Business Days prior to the due date for filing each such Tax Return an amount equal to the amount of any Transfer Taxes shown to be due on such Tax Return for which the non-filing Party is responsible for under this Agreement. The Parties shall provide, and shall cause their Affiliates to provide, assistance and cooperation to one another in accordance with Section 7 with respect to the preparation and filing of such Tax Returns, including providing information required to be provided in Section 7.

Section 3.03 Tax Reporting Practices.

(a) General Rule. The portion of any Joint Return described in Section 3.01 that relates exclusively to the Spinco Group and all Tax Returns described in Section 3.02(a) or Section 3.02(b) shall be prepared in accordance with past practices, permissible accounting methods, elections or conventions prior to the signing date of the RMT Transaction Agreement, except to the extent otherwise required by applicable Tax Law.

(b) Consistency with Intended Tax Treatment. The Parties shall report the Contribution, the Initial Spin, the Spinco Distribution and the Merger in a manner consistent with the Intended Tax Treatment, unless, and then only to the extent, an alternative position is required pursuant to a Final Determination.

Section 3.04 Gain Recognition Agreement. RMT Partner and Spinco agree that, in connection with the transactions contemplated by this Agreement, each of the RMT Partner and/or the members of the Spinco Group will take such actions or avoid taking such actions as may reasonably be required to avoid a Gain Recognition Event for the period that encompasses five (5) full taxable years from the taxable year set forth in the Gain Recognition Agreement or as long as any new Gain Recognition Agreement remains in effect, whichever is longer, and will enter into and file with the IRS a new and/or an amended gain recognition agreement (as such term is used in Treasury Regulations Section 1.367(a)-8 or any successor provision thereto) with respect to the transaction set forth in the Gain Recognition Agreement. Each Party shall cooperate fully, including by providing reasonable access to applicable Tax records and information, to allow the Parties to comply with the provision in this covenant and to avoid the recognition of gain by any Party with respect to any new and/or amended gain recognition agreement filed with the IRS in accordance with the terms set forth herein or the terms of an existing Gain Recognition Agreement. The RMT Partner and the applicable members of the Spinco Group each agree to file (or cause any of its Affiliates to file) the annual certification required by Treasury Regulation Section 1.367(a)-8(g) and any other required U.S. Tax statement as may be necessary (including, for example, Form 8838), for all periods the Gain Recognition Agreement shall remain in effect.

Section 3.05 Consolidated or Combined Tax Returns. Spinco will elect and join, and will cause its respective Affiliates to elect and join, in filing any Joint Returns that Remainco determines are required to be filed or that Remainco elects to file, in each case pursuant to Section 3.01.

Section 3.06 Spinco Carrybacks and Claims for Refund.

(a) The RMT Parties hereby agree that, except as otherwise required by applicable Tax Law, any available elections to waive the right to claim in any Pre-Distribution Period with respect to any Tax Return any Spinco Carryback arising in a Post-Distribution Period shall be made, and no affirmative election shall be made to claim any such Spinco Carryback. In the event that Spinco (or the appropriate member of the Spinco Group) is prohibited by applicable Law from waiving or otherwise forgoing a Spinco Carryback, Remainco shall promptly pay over to Spinco any Tax Benefit the Remainco Group actually realizes with respect to any such Spinco Carryback "as and when" realized on a "with and without" basis (net of reasonable out-of-pocket costs, including Taxes, incurred in connection with receiving such Tax Benefit), determined by Remainco in good faith. In the event that Spinco (or the appropriate member of the Spinco Group) is prohibited by applicable Law from waiving or otherwise forgoing a Spinco Carryback, Spinco shall notify Remainco in writing that such Spinco Carryback must be carried back. For purposes of this Section 3.06(a), a Tax Benefit shall be deemed to have been realized at the time any actual Refund of Taxes is received or applied against other cash Taxes due, or at the time of filing a Tax Return (including a Tax Return relating to estimated Taxes) on which Spinco Carryback is applied in reduction of cash Taxes that would otherwise be payable.

(b) The RMT Parties hereby agree that, unless Remainco consents in writing (which consent may not be unreasonably withheld, conditioned, or delayed) or as required by applicable Tax Law, no member of the RMT Group shall file any Adjustment Request with respect to any Tax Return (or the applicable portion thereof) relating to a member of the Spinco Group for any Pre-Distribution Period.

(c) Remainco hereby agrees that, unless RMT Partner consents in writing (which consent may not be unreasonably withheld, conditioned, or delayed) or as required by applicable Tax Law, no member of the Remainco Group shall file any Adjustment Request with respect to any Tax Return (or the applicable portion thereof) relating to a member of the Spinco Group for any Pre-Distribution Period.

Section 3.07 Apportionment of Tax Attributes.

(a) Tax Attributes arising in a Pre-Distribution Period will be allocated to (and the benefits and burdens of such Tax Attributes will inure to) the members of the Remainco Group and the members of the Spinco Group as determined in good faith by Remainco in accordance with the Code, Treasury Regulations, and any other applicable state, local or foreign Tax Law.

(b) As promptly as practicable following the close of the taxable year in which the Spinco Distribution occurs, Remainco shall deliver to RMT Partner in writing for RMT Partner's review Remainco's good faith determination of the portion, if any, of any earnings and profits, Tax Attributes, overall foreign loss or other affiliated, consolidated, combined, unitary, fiscal unity or other similar group Tax Attribute which is allocated or apportioned to the members of the Spinco Group under applicable Tax Law and this Agreement (the "Proposed Allocation"). RMT Partner shall have sixty (60) days from its receipt of the Proposed Allocation to review and provide Remainco any comments with respect thereto. Remainco shall consider in good faith any comments received from RMT Partner within such sixty (60) day period, and shall provide to RMT Partner a final allocation following the conclusion of such sixty (60) day period (the "Final Allocation"). All members of the Remainco Group and RMT Group shall prepare all Tax Returns in accordance the Final Allocation. In the event of any adjustment to the earnings and profits, any Tax Attributes, overall foreign loss or other affiliated, consolidated, combined, unitary, fiscal unity or other similar group Tax Attribute, Remainco shall promptly notify RMT Partner in writing of such adjustment.

(c) Except as otherwise provided herein, to the extent that the amount of any Tax Attribute is later reduced or increased by a Tax Authority or Tax Proceeding, such reduction or increase shall be allocated to the Party to which such Tax Attribute was allocated pursuant to Section 3.07(a), as agreed by the Parties, and the relevant Parties shall notify the other Parties of any such reduction or increase.

Section 4. Tax Payments.

Section 4.01 Taxes Shown on Returns. Remainco shall pay (or cause to be paid) to the proper Tax Authority the Tax shown as due on any Tax Return that a member of the Remainco Group is responsible for preparing under Section 3, and RMT Partner shall pay (or cause to be paid) to the proper Tax Authority the Tax shown as due on any Tax Return that a member of the RMT Group is responsible for preparing under Section 3.

Section 4.02 Adjustments Resulting in Underpayments. In the case of any adjustment pursuant to a Final Determination with respect to any Tax, the Party to which such Tax is allocated pursuant to this Agreement shall pay to the applicable Tax Authority when due any additional Tax required to be paid as a result of such adjustment.

Section 4.03 Indemnification Payments.

(a) If any Party (the “Payor”) is required under applicable Tax Law to pay to a Tax Authority a Tax that another Party (the “Required Party”) is liable for, in whole or in part, under this Agreement, the Required Party shall reimburse the Payor within twenty (20) Business Days of delivery by the Payor to the Required Party of an invoice for the amount due from the Required Party, 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 (i) interest on the Tax payment computed at the Interest Rate based on the number of days from the later of: (A) date of the Payor’s payment to the Tax Authority or (B) the date of the invoice required by this Section 4.03(a), to the date of reimbursement by the Required Party under this Section 4.03 and (ii) reasonable and documented costs and expenses incurred by the Payor.

(b) All indemnification payments under this Agreement shall be made by Remainco directly to RMT Partner or by RMT Partner directly to Remainco, as the case may be; provided, that if the Parties mutually agree with respect to any such indemnification payment, any member of the Remainco Group, on the one hand, may make such indemnification payment to any member of the RMT Group, on the other hand, and vice versa. All indemnification payments under this Agreement shall be treated in the manner described in Section 12.

Section 5. Tax Refunds. Remainco shall be entitled (subject to the limitations provided in Section 3.06) to any Refund (and any interest thereon received from the applicable Tax Authority) of Taxes for which Remainco is liable hereunder, and RMT Partner shall be entitled (subject to the limitations provided in Section 3.06) to any Refund (and any interest thereon received from the applicable Tax Authority) of Taxes for which the RMT Parties are liable hereunder. A Party receiving a Refund to which another Party is entitled hereunder, in whole or in part, shall pay over such Refund (or portion thereof), net of any reasonable costs (including Taxes) resulting therefrom, to such other Party within twenty (20) Business Days after such Refund is received (together with interest computed at the Interest Rate based on the number of days from the date the Refund was received to the date the Refund was paid over).

Section 6. Intended Tax Treatment.

Section 6.01 Representations and Warranties.

(a) Spinco. Spinco hereby represents and warrants or covenants and agrees, as appropriate, that the facts presented and the representations made by Spinco in the Spinco Tax Representation Letters and the Private Letter Ruling, to the extent that such facts and representations (A) are descriptive of the Spinco Group (including the business purposes for the Spinco Distribution) to the extent they relate to the Spinco Group and the plans, proposals, intentions and policies of the Spinco Group after the Effective Time, or (B) relate to the actions or non-actions of the Spinco Group to be taken (or not taken, as the case may be) after the Effective Time, are, or will be from the time presented or made through and including the Effective Time (and thereafter as relevant) true, correct and complete in all material respects; provided that, notwithstanding anything to the contrary in this Agreement, neither RMT Partner nor Spinco (after the Effective Time) shall be responsible for (i) the accuracy of any such representation, warranty or covenant with respect to periods prior to the Effective Time and (ii) the accuracy of any such representation, warranty or covenant in the Spinco Tax Representation Letters or the Private Letter Ruling that has not been consented to by RMT Partner (such consent not to be unreasonably withheld, conditioned or delayed).

(b) RMT Partner. RMT Partner hereby represents and warrants or covenants and agrees, as appropriate, that the facts presented and the representations made by RMT Partner in the RMT Partner Tax Representation Letters and the Private Letter Ruling, to the extent descriptive of the RMT Group at any time (including the plans, proposals, intentions and policies of the RMT Group at any time), are, or will be at the time presented or made (and, if applicable, through and including the Effective Time and thereafter as relevant), true, correct and complete in all material respects; provided that, notwithstanding anything to the contrary in this Agreement, RMT Partner shall not be responsible for the accuracy of any such representation, warranty or covenant in the Private Letter Ruling that has not been consented to by RMT Partner (such consent not to be unreasonably withheld, conditioned or delayed).

(c) Remainco. Remainco hereby represents and warrants or covenants and agrees, as appropriate, that the facts presented and the representations made by Remainco in the Remainco Tax Representation Letters and the Private Letter Ruling, to the extent descriptive of (A) the Remainco Group at any time or (B) the Spinco Group at any time at or prior to the Effective Time (including, in each case, (x) the business purpose for the Spinco Distribution described in the Remainco Tax Representation Letters or in the Private Letter Ruling to the extent that they relate to the Remainco Group at any time or the Spinco Group at any time at or prior to the Effective Time, and (y) the plans, proposals, intentions and policies of the Remainco Group at any time or the Spinco Group at any time at or prior to the Effective Time), are, or will be from the time presented or made through and including the Effective Time (and thereafter as relevant) true, correct and complete in all material respects.

(d) No Contrary Knowledge. Each of Remainco, RMT Partner and Spinco represents and warrants that it is not aware of the existence of any reason, or has taken or agreed to take any action, that would reasonably be expected to prevent or impede the Contribution, the Initial Spin, the Spinco Distribution, the Spinco Special Cash Payment or the Merger from qualifying for the Intended Tax Treatment. Remainco represents and warrants that it is not aware of the existence of any acquisition, as such term is used in Section 355(e) of the Code, in connection with the transactions contemplated by the Separation Agreement or the RMT Transaction Agreement, other than as a result of the Merger or any required dispositions by employee plans of Remainco.

(e) Active Trade or Business. Remainco agrees that, from the date hereof until the first Business Day after the two-year anniversary of the Spinco Distribution Date, the Remainco Group will continue and cause to be continued an active trade or business of the Remainco Group, to the extent required under Section 355 and the Treasury Regulations promulgated thereunder.

Section 6.02 Restrictions on Members of the Spinco and RMT Groups

(a) RMT Partner agrees that it will not take or fail to take, or permit any member of the RMT Group, as the case may be, to take or fail to take, as applicable, any action where such action or failure to act would reasonably be expected to cause any material representation, warranty or covenant of any member of the RMT Group in the Private Letter Ruling application (or related documentation), in any RMT Partner Tax Representation Letter or in this Agreement to be untrue in any material respect.

(b) RMT Partner agrees that, from the date hereof until the first Business Day after the two-year anniversary of the Spinco Distribution Date, the RMT Group shall not do any of the following:

(i) enter into any Proposed Acquisition Transaction or, to the extent that any member of the RMT Group has the right to prohibit any Proposed Acquisition Transaction, permit any Proposed Acquisition Transaction to occur;

(ii) merge or consolidate RMT Partner with any other Person, unless RMT Partner is the survivor of the merger or consolidation;

(iii) fail to be actively engaged in the conduct of the Active Trade or Business;

(iv) individually or in the aggregate, measured based on fair market value as of the time of the Spinco Distribution or relevant disposition transaction or transactions, except for (A) sales or other dispositions in the ordinary course of business, (B) any cash paid to acquire assets from an unrelated Person in an arm's length transaction or (C) any cash paid for to effect a mandatory or optional repayment (or prepayment) of any indebtedness of Spinco or any member of the Spinco Group, sell or otherwise dispose of (or approve or allow the disposition of) more than thirty-five (35%) percent of the gross assets of the Spinco Group or more than thirty-five (35%) percent of the gross assets of the Active Trade or Business, other than within the Spinco Group's "separate affiliated group" within the meaning of Section 355(b)(3)(B) (clauses (iii) and (iv) collectively, the "ATB Obligations");

(v) redeem or repurchase any Capital Stock of RMT Partner, other than any Specified Repurchases or Redemptions;

(vi) take any action (including an amendment to the certificate of incorporation or other organizational documents of RMT Partner), affecting the voting rights of the Capital Stock of RMT Partner;

(vii) take any action or actions or permit any member of the RMT Group to take such action or actions (including any transactions with a Third Party) that, individually or in the aggregate, would be reasonably likely to adversely affect the Intended Tax Treatment; or

(viii) adopt a plan or enter into any agreement to do any of the actions set forth in the foregoing clauses (i) through (vii); unless prior to taking any such action set forth in the foregoing clauses (i) through (vii), RMT Partner shall have received (A) an Unqualified Tax Opinion in form and substance reasonably satisfactory to Remainco, (B) a ruling, including a supplemental ruling, from the IRS (a "Ruling") in form and substance reasonably satisfactory to Remainco, or (C) Remainco shall have waived in writing the requirement to obtain such Unqualified Tax Opinion or Ruling.

(c) RMT Partner agrees that the RMT Group shall not refinance or assume the Spinco Financing (excluding any guarantee by RMT Partner or any of its Affiliates and, for the avoidance of doubt, excluding any repayment or prepayment) within ninety (90) days after the Spinco Distribution; unless prior to taking any such action, RMT Partner shall have received (A) an Unqualified Tax Opinion in form and substance reasonably satisfactory to Remainco, (B) a Ruling in form and substance reasonably satisfactory to Remainco, or (C) Remainco shall have waived in writing the requirement to obtain such Unqualified Tax Opinion or Ruling.

Section 6.03 Restrictions on Remainco. Remainco agrees that it will not take or fail to take, or permit any member of the Remainco Group, as the case may be, to take or fail to take, as applicable, any action where such action or failure to act would reasonably be expected to cause any material representation, warranty or covenant of any member of the Remainco Group in the Private Letter Ruling application (or related documentation), in any Remainco Tax Representation Letter or in this Agreement to be untrue in any material respect.

Section 6.04 Procedures Regarding Opinions and Rulings. If RMT Partner notifies Remainco that it desires to take one of the actions described in Section 6.02(b) or (c) (a “Notified Action”), Remainco shall (subject to the proviso set forth in Section 7.01) cooperate with RMT Partner in good faith and in an expeditious manner to seek to obtain a Ruling or Unqualified Tax Opinion for the purpose of permitting RMT Partner to take the Notified Action unless Remainco shall have waived in writing the requirement to obtain such Ruling or Unqualified Tax Opinion. If such a Ruling is to be sought, Remainco shall apply for such Ruling and Remainco and RMT Partner shall jointly control the process of obtaining such Ruling.

Section 7. Assistance and Cooperation.

Section 7.01 Assistance and Cooperation.

(a) Without limiting any of the Parties’ obligations under the RMT Transaction Agreement, the Parties shall reasonably cooperate and assist (and cause their respective Affiliates to reasonably cooperate) each other, in connection with Tax matters relating to the Parties and their Affiliates including, among other things, (i) preparation and filing of Tax Returns, (ii) Tax Contests, (iii) determining the amount of any Tax liabilities owed under this Agreement, (iv) obtaining a Ruling or Tax Opinion with respect to the Spinco Distribution, the Merger, or any subsequent transactions (including, without limitation, by providing appropriate representations regarding discussions and negotiations prior to the Spinco Distribution with potential acquisition candidates that may be relevant under Treasury Regulations Section 1.355-7) and (v) determining the size of acquisitions as such term is used in 355(e) of the Code, in connection with the transactions contemplated by the Separation Agreement or the RMT Transaction Agreement, other than as a result of the Merger; provided that the Party requesting such assistance shall reimburse the other Party and its Affiliates for any reasonable and documented out-of-pocket costs incurred by such other Party in connection with such request. Such cooperation shall include making available, upon reasonable notice and during normal business hours, information and documents in their possession relating to any other Party and its Affiliates reasonably available to such other Party. Each of the Parties shall also make available to any other Party, as reasonably requested and available during normal business hours, personnel (including officers, directors, employees and agents of the Parties 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) The Remainco Group and RMT Group shall cooperate in good faith to minimize the impacts of the ATB Obligations following the Spinco Distribution, including by cooperating in good faith to define the Active Trade or Business in connection with the application for the Private Letter Ruling and by cooperating in good faith to obtain Tax Opinions or Rulings with respect to transactions implicating the ATB Obligations occurring after the Spinco Distribution.

(c) Any information or documents provided under this Section 7 shall be kept confidential by the Party receiving the information or documents, except as may otherwise be necessary in connection with the filing of Tax Returns or in connection with any administrative or judicial proceedings relating to Taxes. Notwithstanding any other provision of this Agreement, the Separation Agreement or any Ancillary Agreement, (i) neither Remainco nor any Remainco Affiliate shall be required to provide Spinco, RMT Partner or any of their respective Affiliates or any other Person access to or copies of any information, documents or procedures (including the proceedings of any Tax Contest) other than information, documents or procedures that relate solely to a member of the Spinco Group or to the Spinco Business, (ii) neither Spinco, RMT Partner nor any of their respective Affiliates shall be required to provide Remainco or any Remainco Affiliate or any other Person access to or copies of any information, documents or procedures (including the proceedings of any Tax Contest) other than information, documents or procedures that relate solely to a member of the Spinco Group or to the Spinco Business, (iii) in no event shall Remainco or any Remainco Affiliate be required to provide Spinco, RMT Partner or any of their respective Affiliates or any other Person access to or copies of any information or documents if such action could reasonably be expected to result in the waiver of any Privilege and (iv) in no event shall Spinco, RMT Partner or any of their respective Affiliates be required to provide Remainco or any Remainco Affiliate or any other Person access to or copies of any information or documents if such action could reasonably be expected to result in the waiver of any Privilege. In addition, in the event that Remainco determines that the provision of any information or documents to Spinco, RMT Partner or any of their respective Affiliates, or Spinco or RMT Partner determines that the provision of any information or documents to Remainco or any Remainco Affiliate, could be commercially detrimental, violate any Law or agreement or waive any Privilege, the Parties shall use reasonable best efforts to permit each other's compliance with its obligations under this Section 7 in a manner that avoids any such harm or consequence.

Section 7.02 Tax Return Information. Each of Remainco, Spinco and RMT Partner, and each member of their respective Groups, acknowledges that time is of the essence in relation to any request for information, assistance or cooperation made pursuant to Section 7.01 or this Section 7.02. Any information or documents the Responsible Party requires to prepare such Tax Returns under this Agreement shall be provided in such form as the Responsible Party reasonably requests and at or prior to the time reasonably specified by the Responsible Party so as to enable the Responsible Party to file such Tax Returns on a timely basis.

Section 7.03 Reliance by Remainco. If any member of the RMT Group supplies information to a member of the Remainco Group in connection with a Tax liability and an officer of a member of the Remainco 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 Remainco Group identifying the information being so relied upon, the chief financial officer of RMT Partner (or any officer of Spinco or RMT Partner as designated by the chief financial officer of RMT Partner), shall certify in writing that to his or her knowledge (based upon consultation with appropriate employees) the information so supplied is accurate and complete.

Section 7.04 Reliance by the RMT Parties. If any member of the Remainco Group supplies information to a member of the RMT Group in connection with a Tax liability and an officer of a member of the RMT 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 RMT Group identifying the information being so relied upon, the chief financial officer of Remainco (or any officer of Remainco as designated by the chief financial officer of Remainco) shall certify in writing that to his or her knowledge (based upon consultation with appropriate employees) the information so supplied is accurate and complete.

Section 7.05 The Separation. The Remainco Group and the RMT Group shall cooperate in good faith with respect to the structuring and implementation of the Separation. Without limiting the generality of the foregoing:

(a) the Remainco Group shall use its reasonable best efforts to structure the Separation and related transactions to minimize the extent to which the Separation, the Contribution, the Initial Spin, the Spinco Distribution, the Spinco Special Cash Payment and the Merger is structured through taxable transactions (including that the Remainco Group may structure the Separation to include transactions that are Tax-free under Section 368(a)(1)(D) and/or Section 355 to the extent a “should” level Tax Opinion can be obtained by Remainco with respect to such transactions);

(b) the Remainco Group and the RMT Group shall cooperate in good faith and use their respective reasonable best efforts to provide customary representations, warranties or covenants, in each case, not extending more than two years from the Spinco Distribution Date with respect to any transactions forming part of the Separation to preserve the Tax-free nature of such transactions or to obtain a Tax Opinion or Ruling on such transactions; and

(c) the Remainco Group and the RMT Group shall cooperate in good faith and use their respective reasonable best efforts to minimize the impacts and restrictions associated with the Separation following the Spinco Distribution (including any representations, warranties or covenants with respect thereto) to the Spinco Group, consistent with the intended Tax-free nature of any such transactions and any Tax Opinions or Rulings thereon.

Section 7.06 Tax Sharing Agreements. Any and all existing Tax sharing or Tax allocation agreements or arrangements, written or unwritten, between any member of the Remainco Group, on the one hand, and any member of the Spinco Group, on the other hand, if not previously terminated, shall be terminated as of the Spinco Distribution Date without any further action by the parties thereto. Following the Spinco Distribution Date, no member of the Remainco Group or the Spinco Group shall have any further rights, liabilities or obligations thereunder and all Tax allocations matters between the Remainco Group, on the one hand, and the Spinco Group, on the other hand, shall be governed exclusively pursuant to the terms of this Agreement.

Section 8. Tax Records.

Section 8.01 Retention of Tax Records. Each of Remainco and Spinco shall preserve and keep all Tax Records exclusively relating to the assets and activities of its Group for Pre-Distribution Periods, and Remainco shall preserve and keep all other Tax Records relating to Taxes of the Remainco and Spinco Groups for Pre-Distribution Periods, for so long as the contents thereof may be or 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) the expiration of any applicable statutes of limitations, or (ii) seven (7) years after the Spinco Distribution Date (such later date, the “Retention Date”). After the Retention Date, each of Remainco and Spinco may dispose of such Tax Records upon sixty (60) Business Days’ prior written notice to the other Parties. If, prior to the Retention Date, (a) Remainco or Spinco reasonably determines that any Tax Records which it would otherwise be required to preserve and keep under this Section 8.01 are no longer material in the administration of any matter under the Code or other applicable Tax Law and the other Parties agree, then such first Party may dispose of such Tax Records upon sixty (60) Business Days’ prior notice to the other Parties. Any notice of an intent to dispose given pursuant to this Section 8.01 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 Parties shall have the opportunity, at their cost and expense, to copy or remove, within such sixty (60) Business Day period, all or any part of such Tax Records. If, at any time prior to the Retention Date, a Party or any of its Affiliates determines to decommission or otherwise discontinue any computer program or information technology system used to access or store any Tax Records, then such program or system may be decommissioned or discontinued upon ninety (90) Business Days’ prior notice to the other Party and the other Party shall have the opportunity, at its cost and expense, to copy, within such ninety (90) Business Day period, all or any part of the underlying data relating to the Tax Records accessed by or stored on such program or system.

Section 8.02 Access to Tax Records. The Parties and their respective Affiliates shall make available to each other for inspection and copying during normal business hours upon reasonable notice all Tax Records (and, for the avoidance of doubt, any pertinent underlying data accessed or stored on any computer program or information technology system) in their possession pertaining to (i) in the case of any Tax Return of the Remainco Group, the portion of such Tax Return that relates to Taxes for which the Spinco Group or the RMT Group may be liable pursuant to this Agreement or (ii) in the case of any Tax Return of the Spinco Group or the RMT Group, the portion of such Tax Return that relates to Taxes for which the Remainco Group may be liable pursuant to this Agreement, and shall permit the other Parties and their Affiliates, authorized agents and representatives and any representative of a Tax Authority or other Tax auditor direct access, at the cost and expense of the requesting Party, during normal business hours upon reasonable notice to any computer program or information technology system used to access or store any Tax Records, in each case to the extent reasonably required by the other Party in connection with the preparation of Tax Returns or financial accounting statements, audits, litigation, or the resolution of items under this Agreement.

Section 8.03 Preservation of Privilege. The Parties and their respective Affiliates shall not provide access to, copies of, or otherwise disclose to any Person any documentation relating to Taxes existing prior to the Spinco Distribution Date to which Privilege may reasonably be asserted without the prior written consent of the other Party, such consent not to be unreasonably withheld, conditioned or delayed.

Section 9. Tax Contests.

Section 9.01 Notice. Each of Remainco, Spinco and RMT Partner shall provide prompt notice to the other Parties of any written communication from a Tax Authority regarding any pending Tax audit, assessment or proceeding or other Tax Contest of which it becomes aware related to Taxes for Tax Periods for which it is indemnified by another Party hereunder or for which it may be required to indemnify another Party hereunder, or otherwise relating to the Intended Tax Treatment or the Separation, the Initial Spin, the Contribution, the Spinco Distribution, the Spinco Special Cash Payment or the Merger (including the resolution of any Tax Contest relating thereto). Such notice shall attach 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 and shall be accompanied by copies of any notice and other documents received from any Tax Authority in respect of any such matters. If an indemnified Party has knowledge of an asserted Tax liability with respect to a matter for which it is to be indemnified hereunder and such Party fails to give the indemnifying Party prompt notice of such asserted Tax liability and the indemnifying Party is entitled under this Agreement to contest the asserted Tax liability, then (i) if the indemnifying Party is precluded from contesting the asserted Tax liability in any forum as a result of the failure to give prompt notice, the indemnifying Party shall have no obligation to indemnify the indemnified Party for any Taxes arising out of such asserted Tax liability, and (ii) if the indemnifying Party is not precluded from contesting the asserted Tax liability in any forum, but such failure to give prompt notice results in a material monetary detriment to the indemnifying Party, then any amount which the indemnifying Party is otherwise required to pay the indemnified Party pursuant to this Agreement shall be reduced by the amount of such detriment.

Section 9.02 Control of Tax Contests.

(a) Remainco Control. Remainco shall have the right to control any Tax Contest with respect to Tax matters relating to (i) any Joint Return for any Pre-Distribution Period, (ii) any member of the Remainco Group, (iii) any member of the Spinco Group relating to a Remainco Ownership Period and (iv) Transaction Taxes. Subject to Section 9.02(c) and Section 9.02(d), Remainco shall have reasonable discretion with respect to any decisions to be made, or the nature of any action to be taken, with respect to any such Tax Contest that Remainco has the right to control relating to a Spinco Separate Return for a Straddle Period, and absolute discretion with respect to any decisions to be made, or the nature of any action to be taken, with respect to any other such Tax Contest that Remainco has the right to control; provided, that notwithstanding anything in this Section 9.02(a) to the contrary, in the case of any Transaction Taxes for which RMT Partner may be liable under this Agreement, RMT Partner and Remainco shall have joint rights to control any Tax Contest relating thereto.

(b) RMT Partner Control. Except as otherwise provided in this Section 9.02, RMT Partner shall have the right to control any Tax Contest with respect to any member of the Spinco Group to the extent related to solely to any Post-Distribution Period. Subject to Section 9.02(c) and Section 9.02(d), RMT Partner shall have absolute discretion with respect to any decisions to be made, or the nature of any action to be taken, with respect to any such Tax Contest.

(c) 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; provided, that to the extent any such Tax Contest may give rise to a claim for indemnity by the Controlling Party or its Affiliates against the Non-Controlling Party or its Affiliates under this Agreement or would be reasonably expected to affect adversely the Non-Controlling Party in any material respect with respect to Taxes, the Controlling Party shall not settle any such Tax Contest without the Non-Controlling Party's prior written consent (which consent may not be unreasonably withheld, conditioned, or delayed). Subject to Section 9.02(e), and unless waived by the Parties 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 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 timely 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 or filings submitted to any Tax Authority or judicial authority in connection with such potential adjustment in such Tax Contest; (iv) the Controlling Party shall consult with the Non-Controlling Party and offer the Non-Controlling Party a reasonable opportunity to comment before submitting any written materials prepared or furnished in connection with such potential adjustment in such Tax Contest; and (v) the Controlling Party shall defend such Tax Contest diligently and in good faith. 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 and/or obligation which it may have to the Controlling Party under this Agreement 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. In the case of any Tax Contest described in this Section 9, "Controlling Party" means the Party entitled to control the Tax Contest under such Section and "Non-Controlling Party" means (x) Remainco if RMT Partner is the Controlling Party and (y) RMT Partner if Remainco is the Controlling Party.

(d) Tax Contest Participation. Subject to Section 9.02(e), and unless waived by the Parties in writing, the Controlling Party shall provide the Non-Controlling Party with written notice reasonably in advance of, and the Non-Controlling Party shall have the right to attend, any scheduled meetings with Tax Authorities or hearings or proceedings before any judicial authorities in connection with any potential adjustment in a Tax Contest pursuant to which the Non-Controlling Party may reasonably be expected to become liable to make any indemnification payment to the Controlling Party under this Agreement. The failure of the Controlling Party to provide any notice specified in this Section 9.02(d) 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 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.

(e) Remainco Consolidated Federal Income Tax Return. Notwithstanding anything in this Section 9 to the contrary, in the case of a Tax Contest related to a Joint Return of Remainco with respect to U.S. federal income Taxes, the rights of the RMT Parties and their Affiliates under Section 9.02(c) and Section 9.02(d) shall be limited in scope to the portion of such Tax Contest relating to Taxes for which the RMT Parties may reasonably be expected to become liable to make any indemnification payment to Remainco under this Agreement.

(f) Power of Attorney. Each member of the RMT Group shall execute and deliver to Remainco (or such member of the Remainco Group as Remainco shall designate) any power of attorney or other similar document reasonably requested by Remainco (or such designee) in connection with any Tax Contest (as to which Remainco is the Controlling Party) described in this Section 9. Each member of the Remainco Group shall execute and deliver to RMT Partner (or such member of the RMT Group as RMT Partner shall designate) any power of attorney or other similar document requested by RMT Partner (or such designee) in connection with any Tax Contest (as to which RMT Partner is the Controlling Party) described in this Section 9.

Section 10. Effective Date. Except as expressly set forth in this Agreement, the Separation Agreement or the RMT Transaction Agreement, as between Remainco and Spinco, this Agreement shall become effective upon the consummation of the Spinco Distribution, and as between Remainco, Spinco and RMT Partner, this Agreement shall become effective upon the consummation of the Merger.

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. Tax Treatment of Payments. The Tax characterization of payments made hereunder shall be determined under the principles of Section 9.16 of the Separation Agreement.

Section 13. Miscellaneous.

Section 13.01 Survival. Except as otherwise contemplated by this Agreement, all covenants and agreements of the Parties contained in this Agreement shall survive the Spinco Distribution and remain in full force and effect in accordance with their applicable terms.

Section 13.02 Other Agreements. Except as expressly set forth herein, this Agreement is not intended to address, and should not be interpreted to address, the matters specifically and expressly covered by the Separation Agreement, the RMT Transaction Agreement or the Ancillary Agreements.

Section 13.03 Certain Provisions. Section 11.4 (Governing Law and Venue; Submission to Jurisdiction; Selection of Forum; Waiver of Trial by Jury), Section 11.5 (Specific Performance), Section 11.6 (Notices), Section 11.14 (Successors and Assigns) and Section 11.16 (Interpretation and Construction) of the RMT Transaction Agreement are incorporated by reference herein and are effective *mutatis mutandis* with respect to this Agreement as if set forth herein in their entirety.

Section 13.04 Modification or Amendment Waiver.

(a) This Agreement may not be modified or amended except by an agreement in writing specifically designated as an amendment hereto signed by each of the Parties. Any provision of this Agreement may be waived, if and only if, such waiver is in writing and signed by the Party against whom the waiver is to be effective; provided, that prior to the Spinco Distribution, Spinco shall not waive any provision of this Agreement without the prior written consent of RMT Partner.

(b) No failure or delay by any Party in exercising any right, power or privilege hereunder or under applicable Law shall operate as a waiver of such rights and, except as otherwise expressly provided herein, no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Law.

Section 13.05 Counterparts. This Agreement may be executed in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 13.06 Complete Agreement; Construction. This Agreement, together with the Separation Agreement, the RMT Transaction Agreement and the Ancillary Agreements constitute the entire agreement of the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements and undertakings, both written and oral, among the Parties with respect to the subject matter hereof and thereof; for the avoidance of doubt, the preceding clause shall apply to all other agreements, whether or not written, in respect of any Tax between or among any member or members of the Remainco Group, on the one hand, and any member or members of the Spinco Group, on the other hand, which agreements shall be of no further effect between the parties thereto and any rights or obligations existing thereunder shall be fully and finally settled, calculated as of the date hereof. Except as expressly set forth in the Separation Agreement, the RMT Transaction Agreement or any Ancillary Agreement: (i) all matters relating to Taxes and Tax Returns of the Parties and their respective Subsidiaries, to the extent such matters are the subject of this Agreement, shall be governed exclusively by this Agreement; and (ii) for the avoidance of doubt, in the event of any conflict between the Separation Agreement, the RMT Transaction Agreement or any Ancillary Agreement, on the one hand, and this Agreement, on the other hand, with respect to such matters, the terms and conditions of this Agreement shall govern.

Section 13.07 Third Party Beneficiaries. Except as specifically provided herein, the Parties hereby agree that their respective agreements and covenants set forth in this Agreement are solely for the benefit of the other Parties, as the case may be, on the terms and subject to the conditions set forth in this Agreement, and this Agreement is not intended to, and does not, confer upon any Person other than the Parties and their respective successors, legal representatives and permitted assigns any rights or remedies, express or implied. For the avoidance of doubt, no stockholder of Remainco, Spinco or RMT Partner shall be third-party beneficiaries for any purpose prior to the Spinco Distribution, and no stockholder (or Party on behalf of their respective stockholders) shall be entitled to bring any claim for damages prior to the Spinco Distribution based on a decrease in share value or lost premiums.

Section 13.08 Termination. This Agreement shall terminate immediately upon the valid termination of the RMT Transaction Agreement, if the RMT Transaction Agreement is validly terminated in accordance with its terms prior to the Spinco Distribution. After the Spinco Distribution, this Agreement may not be terminated except by an agreement in writing signed by a duly authorized officer of each of Remainco and Spinco. In the event of any termination of this Agreement, neither Party (or any of their respective directors, officers, members or managers) shall have any Liability or further obligation to any other Party by reason of this Agreement.

Section 13.09 Payment Terms.

(a) Except as otherwise expressly provided to the contrary in this Agreement, any amount to be paid or reimbursed by a Party (where applicable, or a member of such Party's Group) to the other Party (where applicable, or a member of such other Party's Group) under this Agreement shall be paid or reimbursed hereunder within thirty (30) days after presentation of an invoice or a written demand therefor, in either case setting forth, or accompanied by, reasonable documentation or other reasonable explanation supporting such amount.

(b) Except as expressly provided to the contrary in this Agreement, any amount not paid when due pursuant to this Agreement (and any amount billed or otherwise invoiced or demanded and properly payable that is not paid within thirty (30) days of such bill, invoice or other demand) shall bear interest at a rate per annum equal to Interest Rate on the date on which such payment was due, calculated for the actual number of days elapsed, accrued from the date on which such payment was due up to the date of the actual receipt of payment.

(c) Without the Consent of the Party receiving any payment under this Agreement specifying otherwise, all payments to be made under this Agreement shall be made in U.S. dollars. Except as expressly provided herein, any amount which is not expressed in U.S. dollars shall be converted into U.S. dollars by using the Bloomberg fixing rate at 5:00 pm New York City Time on the day before the date the payment is required to be made or, as applicable, on which an invoice is submitted or in the *Wall Street Journal* on such date if not so published on Bloomberg. Except as expressly provided herein, in the event that any indemnification payment required to be made hereunder may be denominated in a currency other than U.S. dollars, the amount of such payment shall be converted into U.S. dollars on the date in which notice of the claim is given to the indemnifying Party.

Section 13.10 Subsidiaries. Each of the Parties shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any Subsidiary of such Party or by any Person that becomes a Subsidiary of such Party at or after the time of the Spinco Distribution, in each case to the extent such Subsidiary remains a Subsidiary of the applicable Party.

Section 13.11 Severability. The provisions of this Agreement shall be deemed severable and the illegality, invalidity or unenforceability of any provision shall not affect the legality, validity or enforceability of the other provisions of this Agreement. If any provision of this Agreement, or the application of such provision to any Person or any circumstance, is illegal, invalid or unenforceable, (a) a suitable and equitable provision to be negotiated by the Parties, each acting reasonably and in good faith, shall be substituted therefor in order to carry out, so far as may be legal, valid and enforceable, the intent and purpose of such illegal, invalid or unenforceable provision, and (b) the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected by such illegality, invalidity or unenforceability, nor shall such illegality, invalidity or unenforceability affect the legality, validity or enforceability of such provision, or the application of such provision, in any other jurisdiction.

Section 13.12 No Duplication; No Double Recovery. Nothing in this Agreement is intended to confer to or impose upon any Party a duplicative right, entitlement, obligation or recovery with respect to any matter arising out of the same facts and circumstances.

[End of page left intentionally blank]

IN WITNESS WHEREOF, the Parties have caused this Tax Matters Agreement to be duly executed as of the date first above written.

BERRY GLOBAL GROUP, INC.

By: /s/ Jason K. Greene

Name: Jason K. Greene

Title: Chief Legal Officer

TREASURE HOLDCO, INC.

By: /s/ Jason K. Greene

Name: Jason K. Greene

Title: Chief Legal Officer

GLATFELTER CORPORATION

By: /s/ Thomas M. Fahnemann

Name: Thomas M. Fahnemann

Title: President and Chief Executive Officer

[Signature Page to Tax Matters Agreement]

EMPLOYEE MATTERS AGREEMENT

by and among

BERRY GLOBAL GROUP, INC.,

TREASURE HOLDCO, INC.,

and

GLATFELTER CORPORATION

Dated as of February 6, 2024

EMPLOYEE MATTERS AGREEMENT

EMPLOYEE MATTERS AGREEMENT (this “Agreement”), dated as of February 6, 2024, by and among BERRY GLOBAL GROUP, INC., a Delaware corporation (“Remainco”), TREASURE HOLDCO, INC., a Delaware corporation and a wholly owned indirect Subsidiary of Remainco (“Spinco”), and GLATFELTER CORPORATION, a Pennsylvania corporation (“RMT Partner”). Each of Remainco, Spinco and RMT Partner is sometimes referred to herein as a “Party” and collectively, as the “Parties.”

RECITALS

WHEREAS, Remainco, acting through itself, its direct wholly-owned Subsidiary, Berry Global, Inc., a Delaware corporation, and other direct and indirect Subsidiaries, currently conducts the Remainco Business and the Spinco Business;

WHEREAS, Remainco intends to separate the Spinco Business from the Remainco Business subject to the conditions set forth in the Separation and Distribution Agreement, dated as of the date hereof, by and among Remainco, Spinco and RMT Partner (the “Separation Agreement”) and the other Transaction Documents;

WHEREAS, immediately following the Spinco Distribution and pursuant to the RMT Transaction Agreement, Spinco shall be merged with and into First Merger Sub, with Spinco as the surviving corporation, and then immediately thereafter, Spinco will merge with and into Second Merger Sub, with Second Merger Sub being the surviving limited liability company and wholly owned Subsidiary of RMT Partner, all upon the terms and subject to the conditions set forth in the RMT Transaction Agreement; and

WHEREAS, in connection with the transactions contemplated by the Separation Agreement and the RMT Transaction Agreement, the Parties wish to enter into this Agreement in respect of certain employee matters.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements, provisions and covenants contained in this Agreement, the Parties hereby agree as follows:

ARTICLE I DEFINITIONS

Section 1.1 **Definitions.** As used in this Agreement, the following terms shall have the meanings set forth below:

“Accrued Vacation” shall have the meaning set forth in Section 7.5.

“Affiliate” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Agreement” shall have the meaning set forth in the Preamble.

“Benefit Plan” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Closing” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Closing Date” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“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 Section 4980B of the Code and Sections 601 through 608 of ERISA.

“Code” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Continuation Period” shall have the meaning set forth in Section 3.4(a).

“Deferred Compensation Plan” shall have the meaning set forth in Section 6.1.

“DOL” means the U.S. Department of Labor.

“Employee Representative Body” means any trade union, labor organization, works council, or other agency or representative body certified or otherwise recognized for the purposes of bargaining collectively or established for the purposes of notification of or consultation on behalf of any employees.

“Equity Compensation” means, collectively, the Remainco DER Awards, Remainco Option Awards, Remainco PSU Awards, Remainco RSU Awards, RMT Partner DER Awards, RMT Partner Option Awards, RMT Partner PSU Awards and RMT Partner RSU Awards.

“ERISA” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Excluded Employees” means employees currently employed by the Spinco Group who do not provide substantial services relating to the Spinco Business as of immediately prior to the Spinco Distribution Date.

“First Merger Sub” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Former Remainco Employees” means any individual who, as of immediately prior to the Spinco Distribution Date is a former employee of Remainco or the Remainco Group, or any of their respective predecessors or former Affiliates and who, upon his or her last termination of employment with all members of the Remainco Group and their respective predecessors or former Affiliates (a) was identified in the system then of record as an employee of an entity with a business identifier attributable as of the date hereof to the Remainco Business or (b) otherwise upon such termination of employment was primarily dedicated to the Remainco Business as evidenced by the records of Remainco or Remainco Group.

“Former Spinco Employee” means any individual who, as of immediately prior to the Spinco Distribution Date is a former employee of Remainco, Spinco or a member of their respective Groups, or any of their respective predecessors or former Affiliates and who, upon his or her last termination of employment with all members of the Spinco Group and Remainco Group and their respective predecessors or former Affiliates (a) was identified in the system then of record as an employee of an entity with a business identifier attributable as of the date hereof to the Spinco Business or (b) otherwise upon such termination of employment was primarily dedicated to the Spinco Business as evidenced by the records of Remainco, Spinco or their respective Groups.

“Governmental Entity” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Group” shall have the meaning ascribed to it in the Separation Agreement.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as amended.

“Inactive Employee” means any Spinco Employee who is on an approved leave of absence from work (which shall, for the avoidance of doubt, exclude anyone who is on paid vacation or other similar paid time off) as of the Separation and Spinco Distribution Date, as set forth on Section 6.8(h) of the Spinco Disclosure Letter.

“Incentive Letters” means those certain letters issued to certain Remainco Employees and Spinco Employees, as set forth on Section 6.8(c) and Section 8.1(vi) of the Spinco Disclosure Letter, in connection with the Transactions detailing each such employee’s leadership incentive package approved by Remainco and offered to each such employee in an effort to support the successful Closing of the Transactions and/or post-Closing operations.

“Information” shall have the meaning ascribed to it in the Separation Agreement.

“IRS” shall have the meaning assigned to it in the RMT Transaction Agreement.

“Laws” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Liabilities” shall have the meaning ascribed to it in the Separation Agreement.

“Merger Sub” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“NYSE” shall have the meaning assigned to it in the RMT Transaction Agreement.

“Party” and “Parties” shall have the meaning set forth in the Preamble.

“Person” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Remainco” shall have the meaning set forth in the Preamble.

“Remainco Benefit Plan” means any employee benefit plan that would be a Benefit Plan except that it is sponsored, maintained, contributed to or required to be sponsored, maintained, or contributed to by Remainco or any member of the Remainco Group.

“Remainco Business” shall have the meaning ascribed to it in the Separation Agreement.

“Remainco Common Stock” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Remainco DER Award” means a unit representing a general unsecured promise by Remainco to deliver a cash payment, upon satisfaction of a vesting requirement with respect to a Remainco Option.

“Remainco Employee” means an employee of a member of the Remainco Group, other than a Spinco Employee.

“Remainco Flexible Spending Accounts Plan” shall have the meaning set forth in Section 7.2.

“Remainco Group” shall have the meaning ascribed to it in the Separation Agreement.

“Remainco Health & Welfare Plans” shall have the meaning set forth in Section 7.1(a).

“Remainco Option Award” means an option to purchase shares of Remainco Common Stock.

“Remainco Participant” means any individual who, immediately following the Spinco Distribution Date, is a Remainco Employee, a Former Remainco Employee or a beneficiary, dependent or alternate payee of any of the foregoing.

“Remainco Pension Plan” shall have the meaning set forth in Section 4.1.

“Remainco PSU Award” means an award of units representing a general unsecured promise by Remainco to deliver a share of Remainco Common Stock (or the cash equivalent of a share of Common Stock), upon the satisfaction of a performance-based vesting requirement.

“Remainco RSU Award” means an award of units representing a general unsecured promise by Remainco to deliver a share of Remainco Common Stock (or the cash equivalent of Remainco Common Stock), upon the satisfaction of a vesting requirement (other than a performance based vesting requirement).

“Remainco Share Plans” means, collectively, the Berry Global Group, Inc. 2012 Long-Term Incentive Plan, as amended, the Amended and Restated 2015 Berry Global Group, Inc. Long-Term Incentive Plan, the Berry Global Group, Inc. 2022 Dividend Equivalent Rights Plan, and any other equity incentive compensation plan or arrangement maintained by Remainco as of immediately before the Spinco Distribution.

“Remainco U.S. Savings Plan” shall have the meaning set forth in Section 5.1.

“RMT Partner” shall have the meaning set forth in the Preamble.

“RMT Partner Common Stock” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“RMT Partner DER Award” means a unit representing a general unsecured promise by RMT Partner to deliver a cash payment, upon satisfaction of a vesting requirement with respect to a RMT Partner Option.

“RMT Partner Equity Adjustment Ratio” means a number, (a) the numerator of which is the volume-weighted average price of a share of Remainco Common Stock on NYSE trading on the “regular way” basis (inclusive of Spinco value) on NYSE for each of the ten (10) trading days ending on the last trading day preceding the Spinco Distribution Date, and (b) the denominator of which is the volume-weighted average of a share of RMT Partner Common Stock on NYSE trading on the “regular way” basis (inclusive of Spinco value) on NYSE for each of the ten (10) trading days starting on the first trading day following the Closing Date.

“RMT Partner Option Award” means an option to purchase shares of RMT Partner Common Stock.

“RMT Partner PSU Award” means an award of units representing a general unsecured promise by RMT Partner to deliver a share of RMT Partner Common Stock (or the cash equivalent of a share of RMT Partner Common Stock), upon the satisfaction of a performance-based vesting requirement.

“RMT Partner RSU Award” means a unit representing a general unsecured promise by RMT Partner to deliver a share of RMT Partner Common Stock (or the cash equivalent of either), upon the satisfaction of a vesting requirement (other than a performance based vesting requirement).

“RMT Partner Share Plan” means, collectively, the Glatfelter Corporation 2022 Long-Term Incentive Plan, and any other equity incentive compensation plan or arrangement maintained by RMT Partner as of immediately before the Spinco Distribution.

“RMT Transaction Agreement” means that certain RMT Transaction Agreement by and among Remainco, Spinco, RMT Partner, and Merger Sub, dated the date hereof, as it may be amended, modified or supplemented from time to time in accordance with its terms.

“Second Merger Sub” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Separation” shall have the meaning ascribed to it in the Separation Agreement.

“Separation Agreement” shall have the meaning set forth in the Recitals.

“Spinco” shall have the meaning set forth in the Preamble.

“Spinco Benefit Plan” means any Benefit Plan sponsored or maintained by Spinco or any member of the Spinco Group that is in place immediately prior to the Spinco Distribution.

“Spinco Business” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Spinco Disclosure Letter” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Spinco Distribution” shall have the meaning ascribed to it in the Separation Agreement.

“Spinco Distribution Date” shall have the meaning ascribed to it in the Separation Agreement.

“Spinco Employee” means, collectively, each employee of the Spinco Group as of the Spinco Distribution Date, including any Inactive Employee; provided that, for the avoidance of doubt, Spinco Employee shall not include any Excluded Employees and/or any Former Spinco Employees.

“Spinco Entity” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Spinco Flexible Spending Accounts Plan” shall have the meaning set forth in Section 7.2.

“Spinco Group” shall have the meaning ascribed to it in the Separation Agreement.

“Spinco Health & Welfare Plans” shall have the meaning set forth in Section 7.1(a).

“Spinco Labor Agreement” means any agreement with any Employee Representative Body to which Remainco or a member of the Remainco Group, or Spinco or a member of the Spinco Group, is a party or bound that pertains to any Spinco Employees and will continue to apply to the Spinco Employees as a matter of Law following both the Separation and Spinco Distribution Date.

“Spinco Participant” means any individual who, immediately following the Spinco Distribution Date, is a Spinco Employee or a beneficiary, dependent or alternate payee of any of the foregoing.

“Spinco U.S. Savings Plan” shall have the meaning set forth in Section 5.1.

“Subsidiary” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Tax” shall have the meaning ascribed to it in the Tax Matters Agreement.

“Tax Matters Agreement” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Transaction Documents” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Transactions” shall have the meaning ascribed to it in the RMT Transaction Agreement.

“Transition Services Agreement” shall have the meaning ascribed to it in the RMT Transaction Agreement.

ARTICLE II IN-SCOPE EMPLOYEES

Section 2.1 In-Scope Employees. The Parties intend that there shall be continuity of employment with respect to the Spinco Employees as set forth below. Each Spinco Employee shall continue to be employed by the Spinco Group on and after the Spinco Distribution Date.

Section 2.2 Certain Cooperation. It is acknowledged that an immaterial number of employees who are currently classified as either Remainco Employees or Spinco Employees provide services for both the Spinco Business and the Remainco Business, and that these employees may need to be redistributed between Remainco and Spinco, as applicable, following the Spinco Distribution Date to satisfy prevailing business needs. The Parties agree to cooperate and redistribute such employees as necessary (such agreement not to be unreasonably withheld, conditioned or delayed). As of the effective date of each such transfer of employment, the Remainco Employee or the Spinco Employee, as applicable, shall be reclassified as a Remainco Employee or a Spinco Employee, as applicable.

ARTICLE III GENERAL PRINCIPLES

Section 3.1 Assumption and Retention of Liabilities; Related Assets.

(a) As of the Spinco Distribution Date, except as otherwise expressly provided for in this Agreement, Spinco shall, or shall cause one or more members of the Spinco Group to, assume or retain and Spinco hereby agrees to pay, perform, fulfill and discharge, in due course in full (i) all Liabilities under all Spinco Benefit Plans, (ii) all Liabilities with respect to the employment, retirement, service, termination of employment or termination of service of all Spinco Employees, their dependents and beneficiaries and other service providers (including 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 of any member of the Spinco Group or in any other employment, non-employment, or retainer arrangement or relationship with any member of the Spinco Group), to the extent arising in connection with or as a result of employment with or the performance of services for any member of the Spinco Group, and (iii) any other Liabilities expressly assumed by or retained by Spinco or any of its Subsidiaries under this Agreement, including, without limitation, Liabilities assumed pursuant to Articles V and VI of this Agreement. For the avoidance of doubt, all Spinco Benefit Plans (including Spinco Benefit Plans not specifically addressed in this Agreement) shall continue to be Spinco Benefit Plans following the Spinco Distribution Date and shall remain obligations of Spinco.

(b) As of the Spinco Distribution Date, except as otherwise expressly provided for in this Agreement, Remainco shall, or shall cause one or more members of the Remainco Group to, assume or retain and Remainco hereby agrees to pay, perform, fulfill and discharge, in due course in full (i) all Liabilities under all Remainco Benefit Plans, (ii) all Liabilities with respect to the employment, service, retirement, termination of employment or termination of service of all Remainco Employees, Former Remainco Employees, Former Spinco Employees, their dependents and beneficiaries and other service providers (including 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 of any member of the Remainco Group or in any other employment, non-employment, or retainer arrangement or relationship with any member of the Remainco Group), (iii) all Liabilities with respect to employment, service, retirement, termination of employment or termination of service of all Spinco Employees arising out of or resulting from the transfer of such Spinco Employees to the Spinco Group and (iv) any other Liabilities expressly assumed or retained by Remainco or any of its Subsidiaries under this Agreement.

Section 3.2 Spinco Participation in Remainco Benefit Plans. Except as otherwise provided in the Transition Services Agreement for continued post-closing participation or as expressly provided for in this Agreement, effective as of the Spinco Distribution Date, each Spinco Participant shall cease to be an active participant in any Remainco Benefit Plan, and Remainco and Spinco shall take all necessary action to effectuate each such cessation.

Section 3.3 Service Recognition. Spinco shall give each Spinco Participant full credit for purposes of eligibility, vesting, determination of level of benefits, and, to the extent applicable, benefit accruals under any Spinco Benefit Plan for such Spinco Participant's service with any member of the Remainco Group or Spinco Group prior to the Spinco Distribution Date to the same extent such service was recognized by the corresponding Remainco Benefit Plans immediately prior to the Spinco Distribution Date; provided, however, that such service shall not be recognized to the extent that such recognition would result in the duplication of benefits.

Section 3.4 Post-Distribution Compensation and Benefit Matters.

(a) Compensation, Benefits. Except as provided in Section 3.4(d) of this Agreement, for the period commencing on the Spinco Distribution Date until December 31, 2025 (or any longer period as may be required by Law) or if shorter, during the period of employment (the "Continuation Period"), Spinco shall, or shall cause the applicable member of the Spinco Group to, provide each Spinco Employee with:

(i) base salary or base wage that is no less favorable than the base salary or base wage such Spinco Employee received immediately prior to the Spinco Distribution Date; provided that in no event shall such Continuation Period be less than one year with respect to such base salary or base wage;

(ii) target annual cash bonus opportunities no less favorable than the target annual cash bonus opportunities such Spinco Employee received immediately prior to the Spinco Distribution Date; provided that in no event shall such Continuation Period be less than one year with respect to such target annual cash bonus opportunities;

(iii) target long-term incentive compensation opportunities (which, for the avoidance of doubt, may be delivered to Spinco Employees in the form of cash awards and/or cash compensation opportunity) that are, in the aggregate, substantially similar to those such Spinco Employees received immediately prior to the Spinco Distribution Date pursuant to those Benefit Plans set forth in Section 6.8(a) of the Spinco Disclosure Letter; provided, that in no event shall such Continuation Period be less than one year with respect to such target long-term incentive compensation opportunities; and

(iv) employee benefits that, in the aggregate, are substantially similar to those such Spinco Employees received immediately prior to the Spinco Distribution Date pursuant to those Benefit Plans set forth in Section 6.8(a) of the Spinco Disclosure Letter (without regard to any defined benefit pension plan benefit, equity and equity-based compensation, nonqualified deferred compensation plan, long-term incentive compensation, retiree medical or post-employment health and welfare benefit, retention bonus, change in control bonus, arrangement for the payment of COBRA coverage and any special or non-recurring payments or bonuses); provided further, that Spinco shall credit each Spinco Employee with all years of service for which such Spinco Employee was credited before the Spinco Distribution Date under any comparable Spinco Benefit Plan for purposes of eligibility to participate, vesting and benefit accrual, except to the extent such credit would result in a duplication of benefits.

(b) Accrued Bonuses/Commissions. Remainco shall honor all obligations under the annual bonus and commission plans or programs with respect to which Spinco Employees participate for the fiscal year in which the Closing Date occurs and Remainco shall pay such bonuses or commissions in the amounts and the times required by such plans or programs.

(c) Severance. Without limiting subsection (a) above, and except as provided in Section 3.4(d) of this Agreement, for the Continuation Period (or any longer period as may be required by Law), Spinco shall, or shall cause the applicable member of the Spinco Group, to provide each Spinco Employee whose employment terminates in such period with severance benefits no less favorable than the severance benefits that would have been provided to such Spinco Employee in connection with a qualifying termination prior to the Spinco Distribution Date while such Spinco Employee was employed by the Remainco Group.

(d) Labor Agreements. Notwithstanding, and without limiting, the foregoing, Spinco shall, or shall cause the applicable member of the Spinco Group, to provide compensation and benefits to each Spinco Participant covered by a Spinco Labor Agreement in accordance with the applicable Spinco Labor Agreement and applicable Law, and Sections 3.4(a), 3.4(b) and 3.4(c) of this Agreement shall not apply to such employees.

(e) Preservation of Right to Amend or Terminate Plans. Except as otherwise expressly provided in this Agreement or the RMT Transaction Agreement, (i) no provision of this Agreement shall be construed as a limitation on the right of Spinco or RMT Partner to amend any Benefit Plan or terminate its sponsorship thereof or participation therein that Spinco or RMT Partner, or any Affiliate thereof, would otherwise have under the terms of such Benefit Plan or otherwise, (ii) no provision of this Agreement shall be construed as a limitation on the right of Remainco to amend any Remainco Benefit Plan or terminate its sponsorship thereof or participation therein that Remainco, or any of its Affiliates, would otherwise have under the terms of such Remainco Benefit Plan or otherwise, and (iii) no provision of this Agreement shall be construed to create a right in any Spinco Participant under a Benefit Plan or Remainco Benefit Plan that such person would not otherwise have under the terms of the Benefit Plan or Remainco Benefit Plan.

ARTICLE IV QUALIFIED DEFINED BENEFIT PLANS

Section 4.1 Remainco Defined Benefit Plan. From and after the Spinco Distribution Date, Remainco shall retain all assets and Liabilities for the benefits payable to the Spinco Participants under the Berry Global, Inc. Defined Benefit Pension Plan (the "Remainco Pension Plan"). Each Spinco Participant shall continue to have such rights, privileges and obligations under the Remainco Pension Plan as is provided thereunder following the Spinco Distribution Date.

Section 4.2 Non-U.S. Defined Benefit Plans. With respect to each Spinco Benefit Plan or Remainco Benefit Plan that is a material defined benefit pension plan and is maintained in, or is contributed to, in respect of Spinco Employees who are principally employed in any jurisdiction outside of the United States (each, a “Non-U.S. Pension Plan”), the pension liabilities and funding status of each Non-U.S. Pension Plan have been provided to RMT Partner as of the date hereof and are fairly and accurately stated in Remainco’s financial statements. Prior to the Spinco Distribution Date, Remainco will cooperate in good faith to provide updated financials and other back-up information reasonably necessary as required by RMT Partner or its qualified actuary to confirm the accuracy of the pension liabilities and funding status of each Non-U.S. Pension Plan (such provision not to be unreasonably withheld, conditioned or delayed).

**ARTICLE V
U.S. QUALIFIED DEFINED CONTRIBUTION PLAN**

Section 5.1 Remainco 401(k) Plan. Prior to the Spinco Distribution Date, Remainco shall (i) cause the trustee of the Berry Global Employees 401(k) Retirement Plan (the “Remainco U.S. Savings Plan”) to segregate the assets of such Remainco U.S. Savings Plan representing the full account balances of Spinco Participants as of the Closing Date, and (ii) make all necessary amendments to the Remainco U.S. Savings Plan and related trust agreement to provide for such segregation of assets and the transfer of assets as described below. As of the Spinco Distribution Date, Spinco shall, or shall cause the applicable members of the Spinco Group to, establish an individual account plan or individual account plans and associated trusts for the benefit of Spinco Participants (the “Spinco U.S. Savings Plan”). Spinco shall reimburse Remainco for costs incurred by Remainco with respect to establishing the Spinco U.S. Savings Plan, except to the extent that such reimbursement would result in duplicate payments by Spinco. As soon as practicable (but no later than 90 days) following the issuance of indemnities satisfactory to Remainco and Spinco, Remainco shall cause the trustee of the Remainco U.S. Savings Plan to transfer in the form of cash (or promissory notes representing outstanding loans of the Spinco Participants) the full account balances of the Spinco Participants under the Remainco U.S. Savings Plan (which account balances will have been credited with appropriate earnings attributable to the period from the Spinco Distribution Date to the date of transfer described herein), reduced by any necessary benefit or withdrawal payments to or in respect of Spinco Participants occurring during the period from the Spinco Distribution Date to the date of transfer described herein, to the appropriate trustee as designated by Spinco or the applicable members of the Spinco Group under the trust agreement forming a part of the Spinco U.S. Savings Plan; provided, however, such transferred amounts shall only be transferred in accordance with Section 414(l) of the Code and all other applicable Law. In consideration for the transfer of assets described herein, Spinco shall, or shall cause the applicable members of the Spinco Group, effective as of the date of transfer described herein, to assume all of the obligations of Remainco or the Remainco U.S. Savings Plan in respect of the account balances accumulated by Spinco Participants under the Remainco U.S. Savings Plan (exclusive of any portion of such account balances which are paid or otherwise withdrawn prior to the date of transfer described herein) on or prior to the Spinco Distribution Date.

**ARTICLE VI
NONQUALIFIED DEFERRED COMPENSATION PLANS**

Section 6.1 Deferred Compensation Plan. Each Spinco Participant who immediately prior to the Spinco Distribution Date was a participant in, or entitled to future benefits under, the Berry Global Deferred Compensation Plan (the “Deferred Compensation Plan”) shall continue to have such rights, privileges and obligations under the Deferred Compensation Plan as is provided thereunder following the Spinco Distribution Date. Remainco shall retain all Liabilities associated with the accounts of each Spinco Participant under the Deferred Compensation Plan as of immediately prior to the Spinco Distribution Date.

ARTICLE VII
U.S. HEALTH AND WELFARE PLANS

Section 7.1 Spinco Health and Welfare Plans.

(a) Establishment of the Spinco Health & Welfare Plans. Remainco or one or more of its Subsidiaries maintains health and welfare plans substantially similar to the health and welfare plans described in Section 6.8(a) of the Spinco Disclosure Letter (the “Remainco Health & Welfare Plans”) for the benefit of eligible Spinco Participants and Remainco Participants. Effective as of the Spinco Distribution Date, Spinco shall adopt health and welfare plans for the benefit of eligible Spinco Participants (collectively, the “Spinco Health & Welfare Plans”) substantially similar to the Remainco Health & Welfare Plans.

(b) Disability. With respect to each Inactive Employee who is receiving disability benefits under a Remainco Health & Welfare Plan immediately prior to the Spinco Distribution Date, the Parties agree to cooperate in good faith to take all actions reasonably necessary or appropriate to ensure continuity in such disability benefit coverage for each Inactive Employee until such Inactive Employee returns to work and commences employment with the Spinco Group, which may include, but is not limited to, providing a continuation of coverage under the applicable Remainco Health & Welfare Plan during such period.

(c) Terms of Participation in Spinco Health & Welfare Plans. Spinco shall use commercially reasonable efforts to cause all Spinco Health & Welfare Plans, if applicable, to (i) waive all limitations as to preexisting conditions, exclusions, and service conditions with respect to participation and coverage requirements applicable to Spinco Participants, other than limitations that were in effect with respect to Spinco Participants immediately prior to the Spinco Distribution Date, (ii) waive any waiting period limitation or evidence of insurability requirement that would otherwise be applicable to a Spinco Participant immediately prior to the Spinco Distribution Date to the extent such Spinco Participant had satisfied any similar limitation under the analogous Remainco Health & Welfare Plan, and (iii) credit each Spinco Participant, for the plan year in which the Spinco Distribution occurs, with the amount of any co-insurance, deductibles and out-of-pocket requirements or maximums such Spinco Participant paid prior to the Spinco Distribution Date during such plan year.

Section 7.2 Flexible Spending Accounts Plan. As of the Spinco Distribution Date, Spinco shall establish a flexible spending accounts plan (the "Spinco Flexible Spending Accounts Plan") with features that are comparable to those contained in the flexible spending account plan maintained by Remainco for the benefit of Spinco Participants immediately prior to the Spinco Distribution Date (the "Remainco Flexible Spending Accounts Plan"). As of the Spinco Distribution Date, Spinco shall be responsible for administering all previously unsubmitted reimbursement claims of Spinco Participants under the Spinco Flexible Spending Accounts Plan with respect to the calendar year in which the Spinco Distribution Date occurs. If the aggregate contributions to the Remainco Flexible Spending Accounts Plan made by Spinco Participants prior to the Spinco Distribution Date for the plan year in which the Spinco Distribution Date occurs is over the aggregate reimbursement payouts made to Spinco Participants prior to the Spinco Distribution Date for such plan year, then (i) Remainco shall make a payment equal to the value of such excess to Spinco by wire transfer of immediately available funds as soon as practicable, but in no event later than 45 days, following the Spinco Distribution Date and (ii) Spinco shall cause such amounts to be credited to each such Spinco Participant's account under the Spinco Flexible Spending Accounts Plan. In connection with such transfer, Spinco shall deem that such employees' deferral elections made under the Remainco Flexible Spending Accounts Plan for the plan year in which the Spinco Distribution Date occurs shall continue in effect under the Spinco Flexible Spending Accounts Plan for the remainder of the plan year in which the Spinco Distribution Date occurs. If the aggregate reimbursement payouts made to Spinco Participants from the Remainco Flexible Spending Accounts Plan prior to the Spinco Distribution Date for the plan year in which the Spinco Distribution Date occurs exceed the aggregate accumulated contributions made by the Spinco Participants to such plan prior to the Spinco Distribution Date for such plan year, then (i) Spinco shall make a payment equal to the value of such excess to Remainco by wire transfer of immediately available funds as soon as practicable, but in no event later than 45 days, following the Spinco Distribution Date and (ii) Spinco shall cause such amounts to be debited from each such Spinco Participant's account under the Spinco Flexible Spending Accounts Plan.

Section 7.3 COBRA and HIPAA. 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 Health & Welfare Plans, with respect to any Spinco Participant who incurs a qualifying event or loss of coverage under the Spinco Health & Welfare Plans on or after the Spinco Distribution Date. Remainco shall retain responsibility for compliance with the health care continuation coverage requirements of COBRA with respect to Spinco Participants who, as of the day prior to the Spinco Distribution Date, were covered under a Remainco Health & Welfare Plan pursuant to COBRA or who had incurred a COBRA "qualifying event" and were eligible to elect COBRA under a Remainco Health & Welfare Plan. The Parties hereto agree that neither the Separation nor any transfers of employment directly from the Remainco Group to the Spinco Group that occur before the Spinco Distribution Date shall constitute a COBRA "qualifying event".

Section 7.4 Liabilities.

(a) Health & Welfare. Except as expressly provided in this Agreement, Remainco shall retain all Liabilities under any Remainco Health & Welfare Plans that are not, after the Spinco Distribution Date, sponsored or maintained by Spinco or a member of the Spinco Group, including Liabilities arising under any group life, accident, medical, dental or disability plan or similar arrangement (whether or not insured) (other than severance pay plans) maintained by an entity other than Spinco or a member of the Spinco Group for the benefit of Spinco Participants under each such plan or similar arrangement to the extent that such Liabilities relate to claims which have been incurred on or prior to the Spinco Distribution Date. For the avoidance of doubt, Spinco shall be responsible for all Liabilities, whenever incurred, under any employee benefit or compensation plan, program, policy or arrangement that is sponsored or maintained by Spinco or a member of the Spinco Group.

(b) **Workers' Compensation.** Spinco shall assume all Liabilities of Remainco, with respect to each Spinco Participant, arising under any workers' compensation laws relating to accidents or occupational diseases that occurred on, before or after the Spinco Distribution Date, except that Remainco shall retain responsibility for any and all claims that relate to events occurring prior to the Spinco Distribution Date that are covered under an applicable Remainco workers' compensation insurance policy, including, without limitation, any such policies issued by a captive insurer.

(c) **Incurred Claim Definition.** For purposes of this Section 7.4, a claim or Liability is deemed to be incurred (i) with respect to medical, dental, vision and/or prescription drug benefits, upon the rendering of health services or provision of supplies giving rise to such claim or Liability; (ii) with respect to life insurance, accidental death and dismemberment and business travel accident insurance, upon the occurrence of the event giving rise to such claim or Liability; (iii) with respect to disability benefits, upon the date of an individual's disability, as determined by the disability benefit insurance carrier or claim administrator, giving rise to such claim or Liability; and (iv) with respect to a period of continuous hospitalization (or any medical or other service or supply performed or provided during the period of continuous hospitalization), upon the date of admission to the hospital.

Section 7.5 Time-Off Benefits. Spinco shall retain all Liabilities for earned but unused vacation time, sick time and other time-off benefits of the Spinco Participants ("**Accrued Vacation**") through the Spinco Distribution Date. During the Continuation Period, Spinco shall not take away from any Spinco Employee any such Accrued Vacation to the extent such Accrued Vacation was not subject to forfeiture in accordance with the terms and conditions of the applicable vacation policy of any member of the Remainco Group or the Spinco Group pursuant to which it was earned as in effect on the date hereof.

ARTICLE VIII EQUITY COMPENSATION

Section 8.1 Equity Compensation. The Parties, including through instructions with their respective administrators and recordkeepers, shall use commercially reasonable efforts and shall cooperate in good faith to take all actions reasonably necessary or appropriate for the adjustment of the Equity Compensation under the Remainco Share Plans, for the issuance of the Equity Compensation under the RMT Partner Share Plans, and to coordinate the tax treatment of such Equity Compensation as set forth in this **Article VIII**, in connection with the Spinco Distribution and all in a manner consistent Code Sections 409A and 424, as applicable, and the provisions of this **Article VIII**.

Section 8.2 Replacement of Remainco Equity Awards with RMT Partner Equity Awards.

(a) **Remainco RSU Awards Held By Spinco Employees as of Signing.** Upon the Closing, each Remainco RSU Award held by a Spinco Employee, other than Remainco RSU Awards held by Spinco Employees identified on **Exhibit A** to this Agreement, that was granted prior to the date hereof and is outstanding (whether vested or unvested) as of the Closing shall be cancelled as of the Closing and replaced with a RMT Partner RSU Award granted to the Spinco Employee by RMT Partner immediately following the Closing. The number of shares of RMT Partner Common Stock to which such RMT Partner RSU Award relates shall be equal to the product, rounded up to the nearest whole number of shares, obtained by multiplying (i) the number of shares of Remainco Common Stock to which the corresponding Remainco RSU Award related immediately prior to the Closing by (ii) the RMT Partner Equity Adjustment Ratio, and the RMT Partner RSU Award shall otherwise be subject to the same terms and conditions as the terms and conditions applicable to the corresponding Remainco RSU Award immediately prior to the Closing.

(b) Remainco Stock Option Awards Held By Spinco Employees as of Signing. Upon or following the Closing, each Remainco Option Award held by a Spinco Employee, other than Remainco Option Awards held by Spinco Employees identified on Exhibit A to this Agreement, that was granted prior to the date hereof and is outstanding as of the Closing shall be replaced with a RMT Partner Option Award denominated in RMT Partner Common Stock having an exercise price and value, in each case on the date of grant, as determined in a manner which complies with Code Sections 424 and 409A, as applicable, provided that the number of shares of RMT Partner Common Stock subject to the RMT Partner Option Award granted to the Spinco Employee shall result in the same economic benefit to such employee as each Remainco Option Award held by the Spinco Employee immediately before the substitution of the RMT Partner Option Award for the Remainco Option Award. The RMT Partner Option Award shall otherwise be subject to the same terms and conditions as the terms and conditions applicable to the corresponding Remainco Option Award immediately prior to the Closing.

(c) Remainco DER Awards Held By Spinco Employees as of Signing. Upon the Closing, each unvested Remainco DER Award held by a Spinco Employee, other than an unvested Remainco DER Award held by Spinco Employees identified on Exhibit A to this Agreement, that was granted prior to the date hereof and is outstanding as of the Closing shall be cancelled as of the Closing and replaced with a RMT Partner DER Award granted to the Spinco Employee by RMT Partner immediately following the Closing. The number of shares of RMT Partner Common Stock to which such RMT Partner DER Award relates shall be equal to the number of shares to which the unvested RMT Partner RSUs granted pursuant to Section 8.2(a), and RMT Partner Option Awards granted pursuant to Section 8.2(b) above relate, and the RMT Partner DER Award shall otherwise be subject to the same terms and conditions as the terms and conditions applicable to the corresponding Remainco DER Award immediately prior to the Closing. Remainco shall pay to any applicable Spinco Employee any unpaid but vested portion of any Remainco DER Award in cash at Closing and shall be responsible for ensuring the satisfaction of all applicable Tax payment and withholding requirements in respect thereof, including all associated payroll and employment Taxes, and for ensuring the collection and remittance of applicable Taxes to the applicable Governmental Entity.

(d) Payment; Tax Deductions.

(i) From and after Closing, RMT Partner shall have sole responsibility for the settlement of and/or delivery of shares of RMT Partner Common Stock or cash, as applicable, pursuant to RMT Partner equity awards (including RMT Partner RSU Awards, RMT Option Awards, RMT Partner PSU Awards and RMT Partner DER Awards held by Spinco Employees). Upon the vesting, payment or settlement, as applicable, of RMT Partner equity awards (including RMT Partner RSU Awards, RMT Option Awards, RMT Partner PSU Awards and RMT Partner DER Awards), RMT Partner shall claim any federal, state and/or local tax deductions, and Remainco shall not claim such deductions, and Spinco shall be responsible for ensuring the satisfaction of all applicable Tax payment and withholding requirements in respect thereof and for ensuring the collection and remittance of applicable Taxes to the applicable Governmental Entity.

(ii) If either Remainco or Spinco determines in its reasonable judgment that there is a substantial likelihood that a tax deduction that was assigned to RMT Partner or Spinco pursuant to this Section 8.2 will instead be available only to Remainco (whether as a result of a determination by the IRS, a change in the Code or the regulations or guidance thereunder, or otherwise), it will notify the other party and both Parties will negotiate in good faith to resolve the issue, such that the party entitled to the deduction shall pay to the other party an amount that places the other party in a financial position equivalent to the financial position the party would have been in had the party received the deduction as intended under this Section 8.2. Such amount shall be paid within 90 days of filing the last tax return necessary to make the determination described in the preceding sentence.

Section 8.3 Cooperation. If, after the Spinco Distribution Date, Spinco or Remainco identify an administrative error in the individuals identified as holding Equity Compensation, the amount of Equity Compensation so held, the vesting level of such Equity Compensation, or any other similar error, Spinco and RMT Partner shall take such actions as are necessary or appropriate to place, as nearly as reasonably practicable, the individual and Spinco and RMT Partner in the position in which they would have been had the error not occurred.

Section 8.4 SEC Registration. At or promptly following Closing, RMT Partner shall have filed a registration statement on Form S-8 (or other applicable form) with respect to the RMT Partner Common Stock authorized for issuance under the awards converted pursuant to Section 8.2. The Parties mutually agree to take such additional actions as are deemed necessary or advisable to comply with securities laws and other legal requirements associated with equity compensation awards in the U.S. and affected non-U.S. jurisdictions with respect to the shares of RMT Partner Common Stock authorized for issuance under RMT Partner RSU Awards, RMT Partner Option Awards or RMT Partner PSU Awards, as applicable.

ARTICLE IX ADDITIONAL COMPENSATION AND BENEFITS MATTERS

Section 9.1 Cash Incentive Awards. Remainco shall retain responsibility for all Liabilities, and fully perform, pay and discharge all Liabilities when such Liabilities become due, relating to any annual bonus, commission, short- and long- term cash incentive and retention bonus awards, or portion of any such incentive awards, that any Spinco Participant is eligible to receive with respect to the portion of the calendar year prior to the Spinco Distribution Date.

Section 9.2 Individual Arrangements.

(a) Spinco Individual Arrangements. Spinco acknowledges and agrees that, on and after the Spinco Distribution Date, except as otherwise provided herein, it shall have full responsibility with respect to any Liabilities and the payment or performance of any obligations arising out of or relating to any employment, separation, severance, consulting, non-competition, retention or other compensatory arrangement previously provided by any member of the Spinco Group or Remainco Group to any Spinco Participant (including payments pursuant to the Incentive Letters).

(b) Remainco Individual Arrangements. Remainco acknowledges and agrees that, on and after the Spinco Distribution Date, except as otherwise provided herein, it shall have full responsibility with respect to any Liabilities and the payment or performance of any obligations arising out of or relating to any employment, separation, severance, consulting, non-competition, retention or other compensatory arrangement previously provided by any member of the Spinco Group or Remainco Group to any Remainco Participant and Former Spinco Employees.

(c) Restrictive Covenants in Employment and Other Agreements. Effective on the Spinco Distribution Date, Spinco shall be considered to be a third-party beneficiary with respect to, all agreements containing restrictive covenants (including confidentiality, non-competition, and non-solicitation provisions) between Remainco and a Spinco Employee or a Former Spinco Employee, such that Spinco shall enjoy all the rights and benefits, in addition to Remainco, under such agreements (including rights and benefits as a third-party beneficiary), with respect to the Spinco Business. Following the Spinco Distribution Date, Remainco and its Affiliates shall not enforce against any Spinco Employee any confidentiality obligations (solely to the extent such obligations relate to the Spinco Business), or non-competition, non-solicitation or similar contractual obligations, or otherwise assert with respect to any such Spinco Employee or Spinco Entity claims that would otherwise prohibit or place conditions on any such Spinco Employee's employment with Spinco or any of its Affiliates, or any actions taken by such Spinco Employee as an employee of Spinco or any of its Affiliates, in each case, solely to the extent such Spinco Employee is acting in furtherance of the operations or activities relating to the Spinco Business.

Section 9.3 Labor Matters

(a) Notwithstanding anything to the contrary in this Agreement, as of the Spinco Distribution Date, Spinco shall, or shall cause the applicable members of the Spinco Group to, assume, in accordance with their terms, each of the Spinco Labor Agreements covering Spinco Employees as of immediately prior to both the Separation and the Spinco Distribution and which continue to apply to the Spinco as a matter of Law following both the Separation and Spinco Distribution Date. For the avoidance of doubt, nothing in this Section 9.3 shall prohibit Spinco or the applicable members of the Spinco Group from amending, modifying or terminating a Spinco Labor Agreement in accordance with its terms and applicable Law.

(b) Prior to the Spinco Distribution Date, the Parties (to the extent applicable) shall satisfy all legal or contractual requirements that may apply to them between the date of this Agreement and the Spinco Distribution Date to provide notice to, or to enter into any consultation or bargaining procedure with, any employee or any Employee Representative Body that is representing any employee, in connection with the Transactions contemplated by the Separation Agreement and/or the RMT Transaction Agreement. To the extent applicable, each Party (and each of its respective Affiliates) agrees to cooperate and use its reasonable best efforts to assist the other Party in satisfying information and consultation obligations owed to any employee or Employee Representative Body in relation to the Transactions.

Section 9.4 Section 409A. Notwithstanding anything in this Agreement to the contrary (including the treatment of supplemental and deferred compensation plans, outstanding long-term incentive awards and annual incentive awards as described herein), the Parties agree to negotiate in good faith regarding the need for any treatment different from that otherwise provided herein to ensure that the treatment of such supplemental or deferred compensation or long-term incentive award, annual incentive award or other compensation does not cause the imposition of a Tax under Section 409A of the Code.

ARTICLE X INDEMNIFICATION

Section 10.1 Indemnification. All Liabilities retained or assumed by or allocated to Spinco or the Spinco Group pursuant to this Agreement ("Spinco Employee Liabilities") shall be deemed to be "Spinco Assumed Liabilities" (as defined in the Separation Agreement) for purposes of the Separation Agreement, and all Assets retained or assumed by or allocated to Spinco or the Spinco Group pursuant to this Agreement ("Spinco Employee Assets") shall be deemed to be "Spinco Assets" (as defined in the Separation Agreement). All Liabilities retained or assumed by or allocated to Remainco or the Remainco Group pursuant to this Agreement ("Remainco Employee Liabilities") shall be deemed to be "Excluded Liabilities" (as defined in the Separation Agreement) for purposes of the Separation Agreement, and all Assets retained or assumed by or allocated to Remainco or the Remainco Group pursuant to this Agreement ("Remainco Employee Assets") shall be deemed to be "Excluded Assets" (as defined in the Separation Agreement).

ARTICLE XI RMT PARTNER

Section 11.1 Obligations of RMT Partner. Following the Closing, in accordance with Section 9.13 of the Separation Agreement, RMT Partner agrees to cause, and to take all actions to enable, Spinco and the members of the Spinco Group to adhere to each provision of this Agreement which requires an act on the part of Spinco or any member of the Spinco Group or any of its or their Affiliates to cause or enable Spinco and the Spinco Group to comply with their obligations under this Agreement. In connection with the foregoing, to the extent applicable and permitted by applicable Law, RMT Partner may satisfy any Spinco obligation to provide or establish compensation or benefits to Spinco Participants in accordance with this Agreement pursuant to a Benefit Plan sponsored or maintained by RMT Partner or any of its Subsidiaries.

ARTICLE XII GENERAL AND ADMINISTRATIVE

Section 12.1 Sharing of Information. Remainco and Spinco (acting directly or through their respective Subsidiaries) shall provide to the other and their respective agents and vendors all Information as the other may reasonably request to enable the requesting Party to administer efficiently and accurately each of its Spinco Benefit Plans or Remainco Benefit Plans, as applicable, to assist Spinco in obtaining its own insurance policies to provide benefits under Spinco Benefit Plans, and to determine the scope of, as well as fulfill, its obligations under this Agreement; provided, however, that, in the event that any Party reasonably determines that any such provision of Information could be commercially detrimental to such Party or any member of its Group, violate any Law or agreement to which such Party or member of its Group is a party, or waive any attorney-client privilege applicable to such Party or member of its Group, the Parties shall provide any such Information and the Parties shall take all reasonable measures to comply with the obligations pursuant to this Section 11.1 in a manner that mitigates any such harm or consequence to the extent practicable, and the Parties agree to cooperate with each other and take such commercially reasonable steps as may be practicable to preserve the attorney-client privilege with respect to the disclosure of any such Information. Such Information shall, to the extent reasonably practicable, be provided in the format and at the times and places requested, but in no event shall the Party providing such Information be obligated to incur any out-of-pocket expenses not reimbursed by the Party making such request or make such Information available outside of its normal business hours and premises. Any Information shared or exchanged pursuant to this Agreement shall be subject to the same confidentiality requirements set forth in Article VI of the Separation Agreement.

Section 12.2 Reasonable Efforts/Cooperation. Each of the Parties hereto will use its commercially reasonable efforts to promptly take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable Laws and regulations to consummate the transactions contemplated by this Agreement, including adopting plans or plan amendments. Each of the Parties hereto shall cooperate fully on any issue relating to the transactions contemplated by this Agreement for which the other Party seeks a determination letter or private letter ruling from the IRS, an advisory opinion from the DOL or any other filing, consent or approval with respect to or by a Governmental Entity.

Section 12.3 No Third-Party Beneficiaries. No provision of this Agreement or the Separation Agreement shall be construed to create any right, or accelerate entitlement, to any compensation or benefit whatsoever on the part of any Remainco Employee or Spinco Employee or other future, present, or former employee of any member of the Remainco Group or Spinco Group under any Remainco Benefit Plan or Spinco Benefit Plan or otherwise. This Agreement is solely for the benefit of the Parties hereto and their respective successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to or shall confer upon any other person or persons (including any employee or former employee of Remainco or Spinco or any of their respective Subsidiaries or any beneficiary or dependent thereof) any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement. No provision in this Agreement shall modify or amend any other agreement, plan, program, or document unless this Agreement explicitly states that the provision “amends” that other agreement, plan, program, or document. This Section 11.3 shall not prevent the Parties entitled to enforce this Agreement from enforcing any provision in this Agreement, but no other person shall be entitled to enforce any provision in this Agreement on the grounds that it is an amendment to another agreement, plan, program, or document unless the provision is explicitly designated as such in this Agreement, and the person is otherwise entitled to enforce the other agreement, plan, program, or document. If a person not entitled to enforce this Agreement brings a lawsuit or other action to enforce any provision in this Agreement as an amendment to another agreement, plan, program, or document, and that provision is construed to be such an amendment despite not being explicitly designated as one in this Agreement, that provision in this Agreement shall be void *ab initio*, thereby precluding it from having any amendatory effect. Furthermore, nothing in this Agreement is intended to confer upon any employee or former employee of Remainco, Spinco or any of their respective Subsidiaries any right to continued employment, or any recall or similar rights to an individual on layoff or any type of approved leave.

Section 12.4 Consent of Third Parties. If any provision of this Agreement is dependent on the consent of any third party and such consent is withheld, the Parties hereto shall use their reasonable best 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 such third party to consent, the Parties hereto shall negotiate in good faith to implement the provision in a mutually satisfactory manner.

Section 12.5 Access to Employees. Following the Spinco Distribution Date, Remainco and Spinco shall, or shall cause each of their respective Subsidiaries to, make available to each other those of their employees who may reasonably be needed in order to defend or prosecute any legal or administrative action (other than a legal action between any member of the Remainco Group and any member of the Spinco Group) to which any employee, director, Spinco Benefit Plan, or Remainco Benefit Plan is a party and which relates to the Spinco Benefit Plans or Remainco Benefit Plans prior to the Spinco Distribution Date.

Section 12.6 Beneficiary Designation. To the extent permitted by applicable Law and except as otherwise provided for in this Agreement, all beneficiary designations made by or relating to Spinco Participants under Remainco Benefit Plans shall be transferred to and be in full force and effect under the corresponding Spinco Benefit Plans until such beneficiary designations are replaced or revoked by, or no longer apply to, the relevant Spinco Participant.

ARTICLE XIII MISCELLANEOUS

Section 13.1 Effect If Separation Does Not Occur. Notwithstanding anything in this Agreement to the contrary, if the Separation Agreement is terminated prior to the Spinco Distribution Date, then all actions and events that are, under this Agreement, to be taken or occur effective immediately prior to or as of the Spinco Distribution Date, or otherwise in connection with the transactions, shall not be taken or occur except to the extent specifically agreed to in writing by Spinco and Remainco and neither Party shall have any Liability to the other Party under this Agreement.

Section 13.2 Miscellaneous. Section 11.4 (Governing Law and Venue; Submission to Jurisdiction; Selection of Forum; Waiver of Trial by Jury), Section 11.5 (Specific Performance), Section 11.6 (Notices), Section 11.14 (Successors and Assigns) and Section 11.16 (Interpretation and Construction) of the RMT Transaction Agreement are incorporated by reference herein and are effective *mutatis mutandis* with respect to this Agreement as if set forth herein in their entirety.

Section 13.3 Complete Agreement; Construction. This Agreement, together with the Transaction Documents, shall constitute the entire agreement between the Parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings with respect to such subject matter.

Section 13.4 Counterparts. This Agreement may be executed and delivered (including by facsimile or other means of electronic transmission, such as by electronic mail in "pdf" form) in more than one counterpart, all of which shall be considered one and the same agreement, each of which when executed shall be deemed to be an original, and shall become effective when one or more such counterparts have been signed by each of the Parties and delivered to each of the Parties.

Section 13.5 Survival of Agreements. Except as otherwise contemplated by this Agreement, all covenants and agreements of the Parties contained in this Agreement shall survive the Spinco Distribution Date.

Section 13.6 Waivers. Any provision of this Agreement may be waived if, and only if, such waiver is in writing and signed by the Party against whom the waiver is to be effective. Notwithstanding the foregoing, no failure to exercise and no delay in exercising, on the part of any Party, any right, remedy, power or privilege hereunder shall operate as a waiver hereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. Any consent required or permitted to be given by any Party to any other Party under this Agreement shall be in writing and signed by the Party giving such consent and shall be effective only against such Party (and the members of its Group).

Section 13.7 Amendments. This Agreement may not be modified or amended except by an agreement in writing signed by each of the Parties.

Section 13.8 Subsidiaries. Each of the Parties shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any entity that is contemplated to be a Subsidiary of such Party after the Spinco Distribution Date.

Section 13.9 No Circumvention. The Parties agree not to directly or indirectly take any actions, act in concert with any Person who takes an action, or cause or allow any member of any such Party's Group to take any actions (including the failure to take a reasonable action) such that the resulting effect is to materially undermine the effectiveness of any of the provisions of this Agreement (including adversely affecting the rights or ability of any Party to successfully pursue indemnification or payment pursuant to this Agreement or Article V of the Separation Agreement).

Section 13.10 Title and Headings. Titles and headings to Sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

Section 13.11 Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby. The Parties shall endeavor in good faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 13.12 No Duplication; No Double Recovery. Nothing in this Agreement is intended to confer to or impose upon any Party a duplicative right, entitlement, obligation or recovery with respect to any matter arising out of the same facts and circumstances (including with respect to the rights, entitlements, obligations and recoveries that may arise out of this Agreement or any of the Transaction Documents).

[End of page left intentionally blank]

IN WITNESS WHEREOF, the Parties have caused this Employee Matters Agreement to be duly executed as of the date first above written.

BERRY GLOBAL GROUP, INC.

By /s/ Jason K. Greene

Name: Jason K. Greene

Title: Chief Legal Officer

TREASURE HOLDCO, INC.

By /s/ Jason K. Greene

Name: Jason K. Greene

Title: Chief Legal Officer

GLATFELTER CORPORATION

By /s/ Thomas M. Fahnemann

Name: Thomas M. Fahnemann

Title: President and Chief Executive Officer

[Signature Page to Employee Matters Agreement]
