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

FORM 6-K

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

Date of Report: June 2024

Commission File Number: 001-39368

MAXEON SOLAR TECHNOLOGIES, LTD.
(Exact Name of registrant as specified in its charter)

8 Marina Boulevard #05-02
Marina Bay Financial Centre
018981, Singapore
(Address of principal executive office)

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

Form 20-F ☒ Form 40-F ☐

Closing of Private Exchange Transactions

On June 20, 2024, Maxeon Solar Technologies, Ltd. (the "**Company**"), in connection with the closing of the previously announced private exchange transactions contemplated by the exchange agreements (the "**Exchange Agreements**") entered into between the Company and certain holders of the Company's 6.50% Green Convertible Senior Notes due 2025 (the "**Existing 2025 Notes**"), issued (x) $138,950,000 principal amount of new Tranche A Note Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028 (the "**Tranche A Exchange Notes**"), (y) $65,069,403 principal amount of new Tranche B Note Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028 (the "**Tranche B Exchange Notes**," and together with Tranche A Exchange Notes, the "**Exchange Notes**") and (z) 9,925,000 warrants (the **"Exchange Warrants**" and, together with the Exchange Notes, the "**Exchange Securities**") granting such holders the right to purchase ordinary shares, no par value (the "**Shares**"), of the Company subject to the terms and conditions set forth therein, in exchange for $198,500,000 aggregate principal amount of the Existing 2025 Notes, representing approximately 99.25% of the outstanding principal amount of the Existing 2025 Notes, and $5,519,403 of interest outstanding thereon on the closing date.

The Exchange Securities issued in the transactions contemplated by the Exchange Agreements were offered and sold pursuant to the exemption provided by Section 3(a)(9) of the Securities Act of 1933, as amended (the "**Securities Act**"). The Company did not receive any cash proceeds from the issuance of the Exchange Securities.

Indenture Relating to the Exchange Notes

The Exchange Notes were issued pursuant to, and are governed by, an indenture (the "**Exchange Notes Indenture**"), dated as of June 20, 2024, among the Company, the guarantors party thereto (the "**Guarantors**"), Deutsche Bank Trust Company Americas, as trustee (the "**Trustee**"), DB Trustees (Hong Kong) Limited, as the collateral trustee (the "**Collateral Trustee**") and, solely with respect to the Philippine collateral, RCBC Trust Corporation as supplemental collateral trustee. The Tranche A Exchange Notes and the Tranche B Exchange Notes have identical terms and conditions, except that (i) the conversion prices for Tranche A Exchange Notes and Tranche B Exchange Notes are different (as discussed below); (ii) the Tranche A Exchange Notes will be subject to the Optional Exchange (as defined below); (iii) the conversion rate with respect to the Tranche B Exchange Notes is subject to adjustment, as set forth in the Exchange Notes Indenture, in the event such Tranche B Exchange Notes are converted prior to the closing of the Company's previously announced purchase of Shares (the "**Forward Purchase Shares**") by the Investor (as defined below), subject to the terms and conditions set forth in that certain forward purchase agreement, at an aggregate purchase price of $100 million (the "**Forward Purchase Investment**"); and (iv) the Tranche B Exchange Notes Conversion Price will be reset based on the average of the daily VWAP of the Company's Shares for 10 consecutive trading days ending on the trading day prior to the date on which all requisite regulatory approvals are obtained (the "**Forward Purchase VWAP**") for the Forward Purchase Investment, if the Forward Purchase VWAP is lower than the Initial Pricing VWAP (as defined below).

The Exchange Notes will mature on January 15, 2028, unless earlier repurchased, redeemed or converted. The Exchange Notes will accrue interest at a rate of 9.50% per annum from the date of issuance until (a) December 20, 2024 or (b) if the Forward Purchase Investment does not occur on or prior to December 20, 2024, the interest payment date immediately after the closing of Forward Purchase Investment (such date, the "**Rate Adjustment Date**"). Such interest is payable semi-annually and will be paid as follows: (a) 4% shall be paid in cash and (b) the remainder shall be paid, at the Company's election, (i) in cash, (ii) by increasing the principal amount of the outstanding Tranche A Exchange Notes or Tranche B Exchange Notes as applicable, or by issuing additional Tranche A Exchange Notes or Tranche B Exchange Notes as applicable in a corresponding amount, (iii) subject to certain conditions, in Shares with the number of Shares determined using the daily VWAP of the Company's Shares for the 10 consecutive trading days ending three business days prior to the payment date or (iv) in a combination of the forms of payment as described in clauses (i), (ii), and (iii) above. On and from the Rate Adjustment Date, the Exchange Notes will accrue interest at a rate of 8.00% per annum, payable solely in cash.

The Exchange Notes are convertible, at the option of each holder of the Exchange Notes, from and after the Conversion Commencement Date (as defined in the Exchange Notes Indenture) until the fifth scheduled trading day immediately preceding the maturity date of the Exchange Notes, in accordance with the terms and conditions set forth in the Exchange Notes Indenture.

Upon the conversion of any Tranche A Exchange Note, the Company has the option to settle such conversion by way of cash and/or newly issued Shares, at an initial conversion price of US$0.3543 per Share, subject to adjustment as set forth in the Exchange Notes Indenture (the "**Tranche A Exchange Notes Conversion Price**"). Upon the conversion of any Tranche B Exchange Note, the Company has the option to settle such conversion by way of cash and/or newly issued Shares, at an initial conversion price of US$1.6422 per Share, which is equal to the average of the daily VWAP of the Company's Shares for the 10 consecutive trading days starting from May 31, 2024 (the "**Initial Pricing VWAP**"), subject to adjustment as set forth in the Exchange Notes Indenture (the "**Tranche B Exchange Notes Conversion Price**," and together with the Tranche A Exchange Notes Conversion Price, the "**Exchange Notes Conversion Price**"). The Tranche B Exchange Notes Conversion Price will be reset based on the Forward Purchase VWAP, if the Forward Purchase VWAP is lower than the Initial Pricing VWAP.

The Company may redeem the Exchange Notes (a) on or after January 15, 2026 if the closing sale price per Share exceeds 150% of the Exchange Notes Conversion Price then in effect for at least 20 trading days (whether or not consecutive) during the 30 consecutive trading days ending on, and including, the trading day immediately before the date of the redemption notice and (b) at any time upon the occurrence of certain changes in relevant tax laws, at a redemption price equal to 100% of the principal amount of the Exchange Notes plus accrued and unpaid interest, in accordance with the terms and conditions set forth in Exchange Notes Indenture.

Upon the receipt (or waiver) of all requisite regulatory approvals with respect to the Forward Purchase Investment, the Company may, at its option, at any time until the fifth scheduled trading immediately preceding the maturity date of the Exchange Notes, require all of the then-outstanding Tranche A Exchange Notes to be exchanged into the Company's Shares at the Tranche A Exchange Notes Conversion Price (the "**Optional Exchange**").

The Company is entitled to not effect any conversion (including in connection with the Optional Exchange) that will result in any holder thereof, together with any Attribution Parties (as defined in the Exchange Notes Indenture), beneficially owning more than 9.9% of the Company's Shares (the "**Exchange Cap**"), after giving effect to such conversion (including in connection with the Optional Exchange). The Company's obligation to deliver any Shares that will result in any holder thereof to exceed the Exchange Cap (the "**Excess Shares**") is not extinguished and is suspended until such holder advises the Company in writing that it may receive the Excess Shares without exceeding the Exchange Cap. In the event that (i) all of the Tranche A Exchange Notes and the Tranche B Exchange Notes were to be fully converted into Shares by the holders thereof on the basis of the Tranche A Exchange Notes Conversion Price or the Tranche B Exchange Notes Conversion Price, as the case may be, in effect on June 20, 2024 in accordance with the terms and conditions of the Exchange Notes Indenture, and (ii) the Company elects physical settlement, the holders of the Exchange Notes would hold approximately 89% of the outstanding Shares of the Company (based on the closing share price as of June 18, 2024, without giving effect to the consummation of the other transactions described in this Form 6-K or approximately 32% of the outstanding Shares of the Company (assuming that the share price of any future priced securities is $1.11 per share, which was the closing share price on June 18, 2024, and the consummation of all other transactions described in this Form 6-K).

Payment of principal of, and premium, if any, and interest on the Exchange Notes is fully and unconditionally guaranteed on a senior secured basis, jointly and severally, by the Guarantors.

In addition, to secure respective obligations under the Exchange Notes Indenture and the Exchange Notes, the Company, the Guarantors and a certain other subsidiary of the Company entered into or have agreed to enter into, on June 20, 2024 or such other later date as set forth in the Exchange Notes Indenture, as the case may be, one or more security agreements, pledge agreements, collateral assignments, joinders or other grants or transfers, or other customary secured transaction documentation (together with any ancillary documentation required in order to give effect to the foregoing security documentation, the "**Exchange Notes Security Documents**"), which grants the holders of the Exchange Notes second lien security interest over the collateral as described in the Exchange Notes Security Documents. The Exchange Notes Security Documents include all-asset debentures (subject to certain exceptions) over the assets of the Company and assets of certain of its subsidiaries incorporated in Singapore, Hong Kong, Bermuda, the Cayman Islands and Switzerland, including but not limited to certain intellectual property, and pledges of the shares of certain subsidiaries incorporated in Singapore, Hong Kong, Bermuda, the Cayman Islands, Switzerland, France, Malaysia and the Philippines. In addition, the Exchange Notes Indenture contains certain covenants which, among other things, restrict the Company's ability to incur secured indebtedness, subject to exceptions to be set forth in the Exchange Notes Indenture.

The foregoing description is only a summary and is qualified in its entirety by reference to the Exchange Notes Indenture that is attached to this Form 6-K as an exhibit and incorporated herein by reference.

Exchange Warrants

The terms of the Exchange Warrants are governed by a warrant agency agreement, dated June 20, 2024 (the "**Warrant Agreement**"), between the Company and Computershare, Inc., as warrant agent.

The Exchange Warrants have an initial exercise price per warrant equal to 175% of the price per Share at which the purchaser purchases the Forward Purchase Shares pursuant to the terms of the Forward Purchase Investment. The Exchange Warrants will be exercisable at any time on or after the 10th business day after the closing of the Forward Purchase Investment until January 15, 2028, unless terminated earlier as described below. The Exchange Warrants entitle the holders thereof to purchase a number of Ordinary Shares equal in the aggregate to 9.925% of the equity interest in the Company on a fully diluted basis on the 10th business day after the closing of the Forward Purchase Investment. The Exchange Warrants shall automatically terminate and be of no effect, if following the closing of the Forward Purchase Investment and the issuance of Shares in the Optional Exchange, the former holders of Tranche A Exchange Notes and their transferees would beneficially own at least 30.0% of the Company's equity interests in the aggregate. The Exchange Warrants are exercisable on a cashless basis under certain circumstances.

The number of Shares for which an Exchange Warrant is exercisable, and the exercise price thereof, are subject to adjustment from time to time upon the occurrence of certain events, including: (1) any dividends paid and distributions of any kind issued to all holders of Shares; (2) any combination (by share split, share dividend, recapitalization or otherwise) or subdivision (by consolidation, combination, reverse share split or otherwise) in respect of Shares; (3) any grant, issuance or sale of any options, convertible securities or rights to purchase share, warrants, securities or other property, in each case pro rata to the holders of Shares; or (4) certain fundamental transaction, including change of control and sale of all or substantially all assets of the Company, subject to the adjustment set out in the Exchange Warrants.

The foregoing description is only a summary and is qualified in its entirety by reference to the Warrant Agreement that is attached to this Form 6-K as an exhibit and incorporated herein by reference.

Amendment of Existing 1L Notes

On June 20, 2024, the Company entered into a supplemental indenture (the "**Supplemental Indenture**") to the indenture dated as of August 17, 2022, as amended and/or supplemented from time to time prior to the date hereof (the "**Existing 1L Indenture**" and, as supplemented by the Supplemental Indenture, the "**1L Indenture**"), among the Company, the Guarantors, the Trustee and the Collateral Trustee, relating to the Company's existing 7.50% Convertible First Lien Senior Secured Notes due 2027 (the "**Existing 1L Notes**" and, as amended by the Supplemental Indenture, the "**Amended 1L Notes**," and together with the New 1L Notes (as defined below), the "**1L Notes**"). The Supplemental Indenture relating to the Amended 1L Notes amends and modifies the terms of the Existing 1L Notes in order to, among other things, (a) extend the maturity date of the Existing 1L Notes from August 17, 2027 to August 17, 2029; (b) amend the interest rate of the Existing 1L Notes from 7.50% per annum to (i) 8.50% per annum, if the Company elects to pay the interest in cash and payment-in-kind interest or (ii) 7.50% per annum, if the Company elects to pay the interest solely in cash; (c) change the per share conversion price to equal the New 1L Notes Conversion Price as defined below, subject to reset in the future based on the Forward Purchase VWAP, if the Forward Purchase VWAP is less than the then-current New 1L Notes Conversion Price (such new conversion price, the "**Amended 1L Notes Conversion Price**"); (d) amend certain covenants of the Existing 1L Notes to permit the incurrence of indebtedness under the New 1L Notes, the Exchange Notes and certain additional senior secured indebtedness of the Company and/or certain other parties to the Supplemental Indenture (the "**Permitted Secured Indebtedness**"); (d) amend certain covenants of the Existing 1L Notes to permit the incurrence of security interest over the collateral securing the Amended 1L Notes, to secure the New 1L Notes on a *pari passu* basis and to secure the Exchange Notes on a second lien basis, and to secure the Permitted Secured Indebtedness on a *pari passu* basis or on a second lien basis, as the case may be; and (e) add new provisions with respect to the entry of an intercreditor agreement. The Amended 1L Notes are currently 100% held by Zhonghuan Singapore Investment and Development Pte. Ltd. (the "**Investor**"). The Investor is a direct wholly owned subsidiary of Zhonghuan Renewable Energy Technology Co., Ltd. ("**TZE**"), and is a current shareholder of the Company with shared voting and dispositive power over 23.53% of the Shares as of June 20, 2024, and , in the event all of the Amended 1L Notes were to be fully converted into Shares by the Investor on the basis of the Amended 1L Notes Conversion Price in effect as of June 20, 2024, and in accordance with the terms and conditions of the 1L Indenture, the Investor would hold approximately 70% of the outstanding Shares of the Company (inclusive of its existing 23.53% ownership as of June 20, 2024 and without giving effect to the other transactions described in this Form 6-K).

The foregoing description is only a summary and is qualified in its entirety by reference to the Supplemental Indenture that is attached to this Form 6-K as an exhibit and the Existing 1L Indenture that was attached to the Company's Form 6-K submitted with the Commission on August 17, 2022 and, in each case, incorporated herein by reference.

Issuance of New 1L Notes

On June 20, 2024, the Company completed its previously announced sale of US$97,500,000 in aggregate principal amount of the Company's 9.00% Convertible First Lien Senior Secured Notes due 2029 (the "**New 1L Notes**") to the Investor at an aggregate purchase price of US$97,500,000, which consists of (x) US$70,000,000 paid by the Investor in the form of cash consideration for its purchase of US$70,000,000 principal amount of New 1L Notes, (y) US$25,000,000 in aggregate principal amount of additional Existing 1L Notes that were tendered by the Investor to the Company in exchange for US$25,000,000 principal amount of New 1L Notes and (z) US$2,500,000, which amount is being paid by the Investor on behalf of the Company to a global consulting firm for services rendered on or prior to the date hereof, as consideration for the Investor's purchase of US$2,500,000 aggregate principal amount of New 1L Notes, pursuant to the terms of a securities purchase agreement entered into between the Company and the Investor on May 30, 2024. In connection with the issuance of the New 1L Notes, the Company also issued to the Investor of a warrant (the "**Investor Warrant**") for no additional consideration granting such holder the right to purchase Shares of the Company (as described in more detail below). The offer and sale of the New 1L Notes and the Investor Warrant were made pursuant to an exemption from registration provided by Regulation D under the Securities Act.

In connection with the issuance of the New 1L Notes, the Company received gross cash proceeds of $70,000,000. The Company will use such cash proceeds for general corporate purposes, as approved by the Strategy and Transformation Committee of the Board of Directors of the Company.

Indenture Relating to the New 1L Notes

The New 1L Notes were issued pursuant to, and are governed by, an indenture (the "**New 1L Notes Indenture**"), dated as of June 20, 2024, among the Company, the Guarantors, the Trustee, the Collateral Trustee and, solely with respect to the Philippine collateral, RCBC Trust Corporation as supplemental collateral trustee.

The New 1L Notes will mature on June 20, 2029, unless earlier repurchased, redeemed or converted. Interest on the New 1L Notes accrues at a rate of 9.00% per annum and is payable aid semi-annually as follows: (a) a portion shall be paid in cash and (b) the remainder shall be paid, at the Company's election, (i) in cash, (ii) by increasing the principal amount of the outstanding New 1L Notes in global form or issuing additional certificated New 1L Notes in a corresponding amount and/or (iii) a combination of the forms of payment as described in clauses (i) and (ii) above.

The New 1L Notes are convertible, at the option of the holder of the New 1L Notes, from and after the issuance date until the fifth scheduled trading day immediately preceding the maturity date of the New 1L Notes, in accordance with the terms and conditions set forth in the New 1L Indenture. Upon the conversion of any New 1L Note, the Company has the option to settle such conversion by way of cash and/or newly issued Shares, at an initial conversion price of the Initial VWAP, subject to adjustments to be set forth in the New 1L Indenture (the "**New 1L Notes Conversion Price**"). The Company shall reset the New 1L Notes Conversion Price based on the Forward Purchase VWAP, if the Forward Purchase VWAP is lower than the Initial Pricing VWAP. In the event all of the New 1L Notes were to be fully converted into Shares by the Investor on the basis of the New 1L Notes Conversion Price in effect as of June 20, 2024, and in accordance with the terms and conditions of the New 1L Indenture, the Investor would hold approximately 51% of the outstanding Shares of the Company (inclusive of its existing 23.53% ownership as of June 20, 2024 and without giving effect to the other transactions described in this Form 6-K).

The Company may redeem the New 1L Notes (a) on or after June 20, 2026, if the closing sale price per Share exceeds 130% of the New 1L Notes Conversion Price then in effect on at least 20 trading days (whether or not consecutive) during the 30 consecutive trading days ending on, and including, the trading day immediately before the date of the redemption notice and (b) at any time upon the occurrence of certain changes in relevant tax laws, at a redemption price equal to 100% of the principal amount of the New 1L Notes plus accrued and unpaid interest, in accordance with the terms and conditions to be set forth in the New 1L Notes Indenture.

The New 1L Indenture contains financial covenants that require the Company to maintain (i) consolidated net leverage ratio of no greater than (a) 8.00 to 1.00 as of December 31, 2025, March 31, 2026, June 30, 2026 and September 30, 2026, (b) 3.00 to 1.00 as of December 31, 2026, March 31, 2027, June 30, 2027 and September 30, 2027 and (c) 2.00 to 1.00 as of December 31, 2027, and (ii) total cash liquidity of no less than $40 million, as measured at the end of each quarter, commencing on the first quarter of 2025.

Payment of principal of, and premium, if any, and interest on the New 1L Notes is fully and unconditionally guaranteed on a senior secured basis, jointly and severally by the Guarantors.

In addition, to secure their respective obligations under the New 1L Indenture and the New 1L Notes, the Company and/or the Guarantors, as applicable entered into or have agreed to enter into, on June 20, 2024 or such other later date as will be set forth in the New 1L Indenture, one or more security agreements, pledge agreements, collateral assignments, joinders or other grants or transfers, or other customary secured transaction documentation (together with any ancillary documentation required in order to give effect to the foregoing security documentation, the "**New 1L Security Documents**") which grant the holders of the New 1L Notes first lien security interest over the collateral described in the New 1L Security Documents. The New 1L Security Documents include all-asset debentures (subject to certain exceptions) over the assets of the Company and assets of certain of its subsidiaries incorporated in Singapore, Hong Kong, Bermuda, the Cayman Islands and Switzerland, including but not limited to certain intellectual property, and pledges of the shares of certain subsidiaries incorporated in Singapore, Hong Kong, Bermuda, the Cayman Islands, Switzerland, France, Malaysia and the Philippines. In addition, the New 1L Indenture contains certain covenants which, among other things, restrict the Company's ability to incur indebtedness, incur liens, make investments in subsidiaries of the Company that are not Guarantors and make restricted payments, in each case subject to exceptions to be set forth in the New 1L Indenture.

The foregoing description is only a summary and is qualified in its entirety by reference to the New 1L Notes Indenture that is attached to this Form 6-K as an exhibit and incorporated herein by reference.

Investor Warrant

In connection with the issuance of the New 1L Notes, the Company also issued to the Investor on June 20, 2024, the Investor Warrant. The Investor Warrant grants the Investor the right to purchase a certain number of Shares as described below. The Investor Warrant has an initial exercise price of $0.01 per Share. The Investor Warrant is exercisable after the date of issuance upon the occurrence of (a) one or more of the holders of the Exchange Notes converting all or a portion of such Exchange Notes for Shares or (b) the Company exercising its option with respect to the Optional Exchange of the Exchange Notes as described under "Closing of Private Exchange Transactions" above (each, an "**Exercisability Event**"). Following the occurrence of any Exercisability Event, the Investor is entitled to purchase a number of Shares under the Investor Warrant such that it maintains an ownership of 23.53% of the equity interest of the Company after giving effect to the relevant Exercisability Event and the potential issuance under the Investor Warrant. The Investor Warrant expires on the later of (a) the closing of the Forward Purchase Investment or (b) five Business Days after the consummation of the Optional Exchange, and only upon the occurrence of any conversion and/or the Optional Exchange of the Exchange Notes as described under "Closing of Private Exchange Transactions" above.

The Investor Warrant is exercisable on a cashless basis under certain circumstances. The number of Shares for which the Investor Warrant is exercisable is subject to adjustment from time to time upon the occurrence of certain events, including: (1) any dividends paid and distributions of any kind issued to all holders of Shares; (2) any combination (by share split, share dividend, recapitalization or otherwise) or subdivision (by consolidation, combination, reverse share split or otherwise) in respect of Shares; (3) any grant, issuance or sale of any options, convertible securities or rights to purchase share, warrants, securities or other property, in each case pro rata to the holders of Shares; or (4) certain fundamental transaction, including change of control and sale of all or substantially all assets of the Company, subject to the adjustment set out in the Investor Warrant.

The foregoing description is only a summary and is qualified in its entirety by reference to the Investor Warrant that is attached to this Form 6-K as an exhibit and incorporated herein by reference.

Registration Rights Agreement

On June 20, 2024, in connection with the amendment to the Existing 1L Notes and the issuance of the New 1L Notes, the Company entered into an amended and restated registration rights agreement with the Investor (the "**Registration Rights Agreement**"). Pursuant to the Registration Rights Agreement, the Company has agreed to file with the Commission no later than 90 days after the date of a written demand made by the Investor, a shelf registration statement for the resale of all of the Registrable Securities (as defined in the Registration Rights Agreement) (the "**Shelf Registration Statement**"). Pursuant to the Registration Rights Agreement, the Company shall use its reasonable best efforts to keep such Shelf Registration Statement continuously effective in order to permit the sales of all of the Registrable Securities on any day after such Shelf Registration Statement has been declared effective by the Securities and Exchange Commission, for so long as the securities registered under the Shelf Registration Statement continue to constitute Registrable Securities under the Registration Rights Agreement. If such Shelf Registration Statement ceases to be effective, the Company shall promptly notify each holder of registrable securities and shall file with the Commission another shelf registration statement within 20 business days, in accordance with the terms and conditions of the Registration Rights Agreement. The Company will generally pay all expenses incurred in connection with the Shelf Registration Statement, except for any underwriting discounts, selling commissions and stock transfer taxes applicable to the sale of the Registrable Securities. The Registration Rights Agreement also provides for customary indemnification obligations of both the Company and the Investor in connection with any registration statement.

The foregoing description is only a summary and is qualified in its entirety by reference to the Registration Rights Agreement that is attached to this Form 6-K as an exhibit and incorporated herein by reference.

As of June 19, 2024, there were 55,705,553 Shares of the Company outstanding.

Amendment of Shareholders Agreement

On June 20, 2024, in connection with transactions described in this Form 6-K, the Company entered into a supplemental deed to its existing shareholders agreement, dated August 26, 2020 (the "**SHA Amendment**") with TotalEnergies Solar INTL SAS, TotalEnergies Gaz Electricite Holdings SAS and the Investor, in order to, among other things, provide for the establishment of the Strategy and Transformation Committee (the "**Strategy and Transformation Committee**") of the Board of Directors (the "**Board**") of the Company, effective as of June 20, 2024. Pursuant to the SHA Amendment, the Strategy and Transformation Committee will consist of one TZE designee and two other directors as selected by the Board. The Company has appointed Xu Luo Luo, a current member of the Board, as Chief Transformation Officer of the Company effective June 20, 2024, in accordance with the charter of the Strategy and Transformation Committee.

The foregoing description is only a summary and is qualified in its entirety by reference to the SHA Amendment that is attached to this Form 6-K as an exhibit and incorporated herein by reference.

Incorporation by Reference

The information contained in this report is hereby incorporated by reference into the Company's registration statements on Form F-3 (File No. 333-271971), Form F-3 (File No. 333-265253), Form F-3 (File No. 333-268309), Form S-8 (File No. 333-277501) and Form S-8 (File No. 333-241709), each filed with the Securities and Exchange Commission.

Forward-Looking Statements

This current report on Form 6-K contains "forward-looking statements" within the meaning of Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), including but not limited to, statements regarding the Company's anticipated use of the net proceeds from the Issuance. The forward-looking statements can be also identified by terminology such as "may," "might," "could," "will," "aims," "expects," "anticipates," "future," "intends," "plans," "believes," "estimates" and similar statements.

These forward-looking statements are based on our current assumptions, expectations and beliefs and involve substantial risks and uncertainties that may cause results, performance or achievement to materially differ from those expressed or implied by these forward-looking statements. These statements are not guarantees of future performance and are subject to a number of risks. The reader should not place undue reliance on these forward-looking statements, as there can be no assurances that the plans, initiatives or expectations upon which they are based will occur. A detailed discussion of factors that could cause or contribute to such differences and other risks that affect our business is included in filings we make with the Commission from time to time, including our most recent report on Form 20-F, particularly under the heading "Risk Factors". Copies of these filings are available online from the SEC at www.sec.gov, or on the SEC Filings section of our Investor Relations website at https://corp.maxeon.com/investor-relations. All forward-looking statements in this current report on Form 6-K are based on information currently available to us, and we assume no obligation to update these forward-looking statements in light of new information or future events.

EXHIBIT INDEX

Exhibit No.	Description
99.1+	Indenture, dated June 20, 2024, relating to the Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028, by and among, Maxeon Solar Technologies, Ltd., the guarantors party thereto, Deutsche Bank Trust Company Americas, as trustee, DB Trustees (Hong Kong) Limited, as the collateral trustee and, solely with respect to the Philippine collateral, RCBC Trust Corporation.
99.2	Warrant Agency Agreement, dated June 20, 2024, between Maxeon Solar Technologies, Ltd. and Computershare, Inc., as warrant agent.
99.3+	Supplemental Indenture No. 7, dated June 20, 2024, , to the indenture dated August 17, 2022, by and among, Maxeon Solar Technologies, Ltd., the guarantors party thereto, Deutsche Bank Trust Company Americas, as trustee, DB Trustees (Hong Kong) Limited, as the collateral trustee and, solely with respect to the Philippine collateral, Rizal Commercial Banking Corporation – Trust and Investment Group.
99.4+	Indenture, dated June 20, 2024, relating to the 9.00% Convertible First Lien Senior Secured Notes due 2029, by and among, Maxeon Solar Technologies, Ltd., the guarantors party thereto, Deutsche Bank Trust Company Americas, as trustee, DB Trustees (Hong Kong) Limited, as the collateral trustee and, solely with respect to the Philippine collateral, Rizal Commercial Banking Corporation – Trust and Investment Group.
99.5	Warrant to Purchase Ordinary Shares, dated June 20, 2024, by and between Maxeon Solar Technologies, Ltd. and Zhonghuan Singapore Investment and Development Pte. Ltd.
99.6	Amended and Restated Registration Rights Agreement, dated June 20, 2024, by and between Maxeon Solar Technologies, Ltd. and Zhonghuan Singapore Investment and Development Pte. Ltd.
99.7	Supplemental Deed to the Shareholders Agreement, dated as of June 20, 2024, by and among Maxeon Solar Technologies, Ltd., TotalEnergies Solar INTL SAS, TotalEnergies Gaz Electricite Holdings SAS and Zhonghuan Singapore Investment and Development Pte. Ltd.

+Certain of the exhibits and schedules to this Exhibit have been omitted in accordance with Regulation S-K Item 601(a)(5). The Company agrees to furnish a copy of all omitted exhibits and schedules to the SEC upon its request.

SIGNATURES

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

MAXEON SOLAR TECHNOLOGIES, LTD. (Registrant)

Date: June 21, 2024

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Chief Financial Officer

Exhibit 99.1

MAXEON SOLAR TECHNOLOGIES, LTD.,

THE GUARANTORS PARTY HERETO,

and

DEUTSCHE BANK TRUST COMPANY AMERICAS

as Trustee

and

DB TRUSTEES (HONG KONG) LIMITED

as Collateral Trustee

and

RCBC TRUST CORPORATION

as Philippine Supplemental Collateral Trustee

INDENTURE

Dated as of June 20, 2024

Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028

THIS INDENTURE IS SUBJECT TO THE PROVISIONS OF THE INTERCREDITOR AGREEMENT (AS DEFINED HEREIN).

TABLE OF CONTENTS

CONVERTIBLE SECOND LIEN SENIOR SECURED NOTES INDENTURE, dated as of June 20, 2024, among Maxeon Solar Technologies, Ltd. (Company Registration No: 201934268H), a company incorporated in Singapore, as issuer (the "**Company**"), the guarantors listed on the signature pages hereof (each, a "**Guarantor**" and collectively, the "**Guarantors**"), Deutsche Bank Trust Company Americas, a New York Banking Corporation, as trustee (the "**Trustee**"), DB Trustees (Hong Kong) Limited as the collateral trustee (in such capacity, and including any successor collateral trustee or additional collateral trustee, the Philippine Supplemental Collateral Trustee (as defined below) or Supplemental Collateral Trustee (as defined herein) pursuant to the applicable provisions of this Indenture, and thereafter, the "**Collateral Trustee"**) and RCBC Trust Corporation as collateral trustee with respect to the Philippine Collateral (as defined below) (in such capacity and solely with respect to the Philippine Collateral, the "**Philippine Supplemental Collateral Trustee**").

Each party to this Indenture (as defined below) agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders (as defined below) of the Company's Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028 (the "**Notes**").

Article 1. DEFINITIONS; RULES OF CONSTRUCTION

Section 1.01. Definitions.

"**2025 Notes**" means any 6.50% Green Convertible Senior Notes due 2025 of the Company outstanding as of the Issue Date, after giving effect to the issuance of the Notes and certain warrants in exchange for certain 2025 Notes, that were issued originally in $200.0 million aggregate principal amount under an indenture dated July 17, 2020 between the Company and Deutsche Bank Trust Company Americas, as trustee.

"**Additional Notes"** means additional Notes in aggregate principal amount of up to US$18,800,000, which, for the avoidance of doubt, have the same terms and conditions as the initial Tranche B Notes issued pursuant to **Section 2.03(A)** (including the benefit of the Subsidiary Guarantees and the Collateral) in all respects except for the issue date, issue price, the date of the first payment of interest and, to the extent not fungible with the initial Tranche B Notes for U.S. federal income tax purposes, CUSIP and ISIN numbers. For the avoidance of doubt, the Additional Notes may only be issued in the form of Tranche B Notes.

"**Affiliate**" has the meaning set forth in Rule 144 as in effect on the Issue Date.

"**Amended 2029 First Lien Notes**" means $207 million Variable-Rate First Lien Senior Secured Convertible Notes due 2029 of the Company, which is evidenced by an amendment of the Company's $207 million 7.50% Convertible First Lien Senior Secured Notes due 2027 pursuant to the Amended 2029 First Lien Notes Indenture, and any additional notes which may be issued pursuant to and in accordance with the terms of the Amended 2029 First Lien Notes Indenture, as may be further amended and supplemented from time to time.

"**Amended 2029 First Lien Notes Collateral Trustee**" means DB Trustees (Hong Kong) Limited, as the collateral trustee for the Amended 2029 First Lien Notes, and/or any successor collateral trustee, additional collateral trustee, or supplemental collateral trustee appointed pursuant to the terms of the Amended 2029 First Lien Notes Indenture.

"**Amended 2029 First Lien Notes Indenture**" means the indenture entered into among the Company, the Guarantors named therein, Deutsche Bank Trust Company Americas, as trustee, DB Trustees (Hong Kong) Limited, as the collateral trustee, and RCBC Trust Corporation, as Philippine Supplemental Collateral Trustee, as amended and supplemented by a supplemental indenture dated June 20, 2024, in relation to the Amended 2029 First Lien Notes, as may be further amended and supplemented from time to time.

"**Amended 2029 First Lien Notes Philippine Supplemental Collateral Trustee**" means RCBC Trust Corporation as collateral trustee with respect to the Philippine Collateral (as defined in the Amended 2029 First Lien Notes Indenture), in such capacity and solely with respect to such collateral.

"**Amended 2029 First Lien Notes Trustee**" means Deutsche Bank Trust Company Americas, a New York Banking Corporation, as trustee for the Amended 2029 First Lien Notes or its successors or assignees appointed pursuant to the terms of the Amended 2029 First Lien Notes Indenture.

"Appropriated Instruments Holders" means the Notes Secured Parties (or their Affiliates) in their capacity as holders of any Charged Property as a result of an Appropriation of such Charged Property.

"**Appropriation**" means the appropriation (or similar process) of the shares or financial securities issued by the Company or any of the Company's Subsidiaries by the Collateral Trustee (or any receiver or delegate) which is effected (to the extent permitted and subject to any requirements under the relevant Notes Security Document and applicable law) by enforcement of the security interest created under any Notes Security Document (including, in respect of French Security Documents, pursuant to a *pacte commissoire* or a foreclosure (*attribution judiciaire*)).

"**Attribution Parties**" means, with respect to a holder of the Notes, collectively, the following persons and entities: (i) any direct or indirect Affiliates of the holder, (ii) any person acting or who could be deemed to be acting as a "group" (within the meaning of Section 13(d)(3) of the Exchange Act) together with such holder or any Attribution Parties and (iii) any other persons whose beneficial ownership of the Company's Ordinary Shares would or could be aggregated with the holder's and/or any other Attribution Parties for purposes of Section 13(d) of the Exchange Act.

"**Authorized Denomination**" means, with respect to a Note, a principal amount thereof equal to $1,000 or any integral multiple of $1.00 in excess thereof.

"**Average Life**" means, at any date of determination with respect to any Indebtedness, the quotient obtained by dividing (1) the sum of the products of (a) the number of years from such date of determination to the dates of each successive scheduled principal payment of such Indebtedness and (b) the amount of such principal payment by (2) the sum of all such principal payments.

"**Bankruptcy Law**" means title 11 of the United States Code or any similar U.S. federal or state or non-U.S. law for the relief of debtors.

"**Board of Directors**" means the board of directors of the Company or a committee of such board duly authorized to act on behalf of such board.

"**Business Day**" means any day other than a Saturday, a Sunday, or any day on which banking institutions in The City of New York, Hong Kong or Singapore (or in any other place in which payments on the Notes are to be made) are authorized by law or governmental regulation to close.

"**Capital Expenditures**" means with respect to the Company and the Subsidiaries for any period, the aggregate amount, without duplication, of (a) all expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized as a capital lease) that would, in accordance with U.S. GAAP, be included as additions to property, plant and equipment, (b) other capital expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized as capital leases) that are reported in the Company's consolidated statement of cash flows for such period and (c) other capital expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized as capital leases, including, without limitation, any capitalized bonus payment).

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

"**Change in Tax Law**" means any change or amendment in the laws, rules or regulations of a Relevant Taxing Jurisdiction, or any change in an official written interpretation, administration or application of such laws, rules or regulations by any legislative body, court, governmental taxing authority or regulatory or administrative authority of such Relevant Taxing Jurisdiction (including the enactment of any legislation and the publication of any judicial decision or regulatory or administrative interpretation or determination) affecting taxation, which change or amendment (A) had not been publicly announced before; and (B) becomes effective on or after the Issue Date (or, if the Relevant Taxing Jurisdiction was not a Relevant Taxing Jurisdiction on such date, the date on which such Relevant Taxing Jurisdiction became a Relevant Taxing Jurisdiction).

"**Charged Property**" means all of the assets which from time to time are, or are expressed to be, the subject of any security interest created under a French Security Document.

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

"**Closing Security Documents**" means the Security Document set forth in Schedule V hereto.

"**Collateral**" means, other than the Excluded Assets, all of the property and assets now owned or at any time hereafter acquired by the Company and Restricted Subsidiaries or in which the Company or any Restricted Subsidiary now has or at any time in the future may acquire any right, title or interest wherever located, upon which a Lien is granted or purported to be granted by the Company or the relevant Restricted Subsidiary as security for all or any part of the Obligations in accordance with the terms of this Indenture, the relevant Notes Security Documents and the Intercreditor Agreement.

"**Collections**" means (i) all cash net proceeds (including all cash net proceeds received in the form of checks, credit card slips or receipts, notes, instruments, and other items of payment) from Sales Contracts of the Company Indenture Parties (including cash net proceeds from any Receivable Financing permitted under the Priority Lien Debt Documents to the extent such Receivable Financing is entered into with respect to any Sales Contract) but not including any revenue from any Sales Contract which constitutes Receivable Financing Assets) and (ii) all net cash proceeds from dispositions permitted under the Priority Lien Debt Documents.

"**Company**" means the Person named as such in the first paragraph of this Indenture and, subject to **Article 6**, its successors and assigns.

"**Company Indenture Parties**" means, collectively, the Company and each Guarantor and each of them is a "**Company Indenture Party**".

"**Company Order**" means a written request or order signed on behalf of the Company by one (1) of its Officers and delivered to the Trustee.

"**Conversion Commencement Date**" means July 2, 2024.

"**Conversion Date**" means, with respect to a Note, the first Business Day on or after the Conversion Commencement Date on which the requirements set forth in **Section 5.02(A)** to convert such Note are satisfied.

"**Conversion Price**" means, as of any time, an amount equal to (A) one thousand dollars ($1,000) *divided by* (B) the Conversion Rate in effect at such time.

"**Conversion Rate**" means:

(a) with respect to Tranche A Notes, initially 2,822.2288 Ordinary Shares per $1,000 principal amount of Notes; and

(b) with respect to Tranche B Notes, initially (A) the number of Ordinary Shares equal to (i) one thousand dollars ($1,000) *divided by* (ii) the Initial Pricing VWAP, or (B) upon the occurrence of Forward Purchase Adjustment Event, the number of Ordinary Shares equal to (i) one thousand dollars ($1,000) *divided by* (ii) the FPA VWAP, whichever is greater;

in each case of (a) and (b), provided, that the Conversion Rate is subject to adjustment pursuant to **Article 5**; *provided*, *further*, that whenever this Indenture refers to the Conversion Rate as of a particular date without setting forth a particular time on such date, such reference will be deemed to be to the Conversion Rate immediately after the Close of Business on such date.

"**Conversion Share**" means any Ordinary Share issued or issuable upon conversion of any Note.

"**Daily Cash Amount**" means, with respect to any VWAP Trading Day, the lesser of (A) the applicable Daily Maximum Cash Amount; and (B) the Daily Conversion Value for such VWAP Trading Day.

"**Daily Conversion Value**" means, with respect to any VWAP Trading Day, one-thirtieth (1/30th) of the product of (A) the Conversion Rate on such VWAP Trading Day; and (B) the Daily VWAP per Ordinary Share on such VWAP Trading Day.

"**Daily Maximum Cash Amount**" means, with respect to the conversion of any Note, the quotient obtained by dividing (A) the Specified Dollar Amount applicable to such conversion by (B) thirty (30).

"**Daily Share Amount**" means, with respect to any VWAP Trading Day, the quotient obtained by dividing (A) the excess, if any, of the Daily Conversion Value for such VWAP Trading Day over the applicable Daily Maximum Cash Amount by (B) the Daily VWAP for such VWAP Trading Day. For the avoidance of doubt, the Daily Share Amount will be zero for such VWAP Trading Day if such Daily Conversion Value does not exceed such Daily Maximum Cash Amount.

"**Daily VWAP**" means, for any VWAP Trading Day, the per share volume-weighted average price of the Ordinary Shares as displayed under the heading "Bloomberg VWAP" on Bloomberg page identified by "MAXN" (or such other ticker symbol for such Ordinary Shares) appended by the suffix "<EQUITY> AQR" (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such VWAP Trading Day (or, if such volume- weighted average price is unavailable, the market value of one Ordinary Share on such VWAP Trading Day, reasonably determined, using a volume-weighted average price method, by a nationally recognized independent investment banking firm selected by the Company). The Daily VWAP will be determined without regard to after-hours trading or any other trading outside of the regular trading session.

"**Default**" means any event that is (or, after notice, passage of time or both, would be) an Event of Default.

"**Default Settlement Method**" means Combination Settlement with a Specified Dollar Amount of $1,000 per $1,000 principal amount of Notes; *provided*, *however*, that subject to **Section 5.03(A)(ii)**, the Company may, from time to time, change the Default Settlement Method by sending notice of the new Default Settlement Method to the Holders, the Trustee and the Conversion Agent.

"**Depositary**" means The Depository Trust Company or its successor.

"**Depositary Participant**" means any member of, or participant in, the Depositary.

"**Depositary Procedures**" means, with respect to any conversion, transfer, exchange or transaction involving a Global Note or any beneficial interest therein, the rules and procedures of the Depositary applicable to such conversion, transfer, exchange or transaction.

"Early Conversion Adjustment" means, with respect to the conversion of any Tranche B Notes prior to the Forward Purchase Closing on any Conversion Date, for each $1,000 principal amount of the Notes being converted, (i) the Relevant Amount set forth on Schedule IV hereof in respect of (a) the Relevant Date falling immediately preceding to such Conversion Date, if such Conversion Date does not fall on a Relevant Date set forth on Schedule IV, or (b) such Conversion Date, if such Conversion Date falls on a Relevant Date set forth on Schedule IV, *divided* by (ii) the simple average of the Daily VWAP for the 10 consecutive Trading Days ending on, and including, the Trading Day immediately preceding such Conversion Date.

"**Enforcement Action**" means any action or decision taken in connection with the exercise of remedial rights of the Holders of the Notes and the Trustee and/or Collateral Trustee, representing the interests of the Holders of the Notes (including in respect of the Collateral pursuant to the Notes Security Documents) following the occurrence and during the continuation of an Event of Default in accordance with the terms of this Indenture, the Intercreditor Agreement and/or the relevant Notes Security Documents, as the case may be.

"**Environmental Law**" means any applicable law in any jurisdiction in which the Company or any Restricted Subsidiary conducts its business, which relates to the pollution or protection of the environment or harm to or the protection of human health or the health of animals or plants.

"**Equity Payment Conditions**" means, at the time of the relevant payment to a Holder, any necessary approval of the Company's shareholders shall have been obtained for such issuance of Ordinary Shares.

"**Ex-Dividend Date**" means, with respect to an issuance, dividend or distribution on the Ordinary Shares, the first date on which Ordinary Shares trade on the applicable exchange or in the applicable market, regular way, without the right to receive such issuance, dividend or distribution (including pursuant to due bills or similar arrangements required by the relevant stock exchange). For the avoidance of doubt, any alternative trading convention on the applicable exchange or market in respect of the Ordinary Shares under a separate ticker symbol or CUSIP number will not be considered "regular way" for this purpose.

"**Exchange Act**" means the U.S. Securities Exchange Act of 1934, as amended.

"**Excluded Accounts**" means a deposit or securities account (i) which is used for the sole purpose of (x) making payroll and other employee wage and benefit payments and accrued and unpaid employee compensation (including salaries, wages, benefits and expense reimbursements) and/or (y) making payments to applicable government authorities or bodies, including with respect to withholding, sales and other taxes or duties and utilities, (ii) is a zero balance account, (iii) constituting a custodian, trust, fiduciary or other escrow account established for the benefit of third parties in the ordinary course of business in connection with transactions permitted hereunder, (iv) the incurrence of a Lien in favor the Collateral Trustee over which is prohibited under applicable laws, rules or regulations; (v) the creation of any Lien on which would restrict the use of funds in the ordinary course of business any time prior to the time when such Lien becomes enforceable, or have a material adverse effect on the normal operations of the relevant Company Indenture Party in its ordinary course of business; (vi) which constitutes Receivable Financing Assets; (vii) the Company's account that is pledged to secure the Indebtedness under the SCB Agreement; (viii) which, together with other accounts (other than those identified in clauses (i) through (vii)), collectively has average daily closing balances for any fiscal quarter of less than the equivalent of $5,000,000 in the aggregate; and (ix) for as long as any Priority Lien Secured Obligations are still outstanding, which constitutes an "Excluded Account" under the Priority Lien Debt Documents.

"**Excluded Assets**" means:

(A) shares in SunPower Corporation Mexico, S. de R.L. de C.V. and dividends and other related rights in respect of such shares; and

(B) solely in respect to any property in the United States, the property and assets described in the definition of "Excluded Property," as such term is defined in the security agreement, dated as of June 20, 2024, by and between the Company, each grantor party thereto, and the Collateral Trustee.

"**Final Discharge Date**" means the first date on which all Obligations have been fully and finally discharged in accordance with the terms of this Indenture, whether or not as the result of an enforcement, and the Notes Secured Parties (in that capacity) are under no further obligation to provide financial accommodation to the Company or any of the Guarantors under the Indenture Documents.

"**First Lien Notes**" means, collectively, the Amended 2029 First Lien Notes and the New 2029 First Lien Notes.

*"***First Lien Notes Collateral Trustees**" means, collectively, the Amended 2029 First Lien Notes Collateral Trustee and the New 2029 First Lien Notes Collateral Trustee.

"**First Lien Notes Indentures**" means, collectively, the Amended 2029 First Lien Notes Indenture and the New 2029 First Lien Notes Indenture.

"**First Lien Notes Philippine Supplemental Collateral Trustee**" means, collectively, the Amended 2029 First Lien Notes Philippine Supplemental Collateral Trustee and the New 2029 First Lien Notes Philippine Supplemental Collateral Trustee.

"**Forward Purchase Adjustment Event**" occurs, as soon as practicable after the FPA VWAP is known to the Company, if the Company has determined, in good faith, that the FPA VWAP is less than the Initial Pricing VWAP.

"**Forward Purchase Agreement**" means that certain forward purchase agreement dated June 14, 2024 between the Company and Zhonghuan Singapore Investment and Development Pte. Ltd. (in such capacity, the "**Forward Purchaser**"), pursuant to which the Forward Purchaser agrees to purchase certain Ordinary Shares for an aggregate purchase price of $100,000,000 (the "**FPA Shares**"), subject to the terms and conditions therein (the "**Forward Purchase Investment**"). The closing of the issuance, sale and purchase of the FPA Shares pursuant to the terms and conditions of the Forward Purchase Agreement is hereinafter referred to as "**Forward Purchase Closing**."

"**FPA VWAP**" means the average of the Daily VWAP for 10 consecutive Trading Days used in calculating the per share price that the Forward Purchaser will pay for each FPA Share at the Forward Purchase Closing, as determined pursuant to the terms and conditions of the Forward Purchase Agreement.

"**French Civil Code**" means the French *Code civil.*

"**French Security Documents**" means any Notes Security Document governed by the laws of France.

"**Fundamental Change**" means any of the following events:

(A) a "person" or "group" (within the meaning of Section 13(d)(3) of the Exchange Act), other than the Company or its Wholly Owned Subsidiaries, or their respective employee benefit plans), files a Schedule TO (or any successor schedule, form or report) or any report under the Exchange Act disclosing that such person or group has become the direct or indirect "beneficial owner" (as defined below) of Ordinary Shares representing more than fifty percent (50%) of the voting power of all of the Ordinary Shares; *provided*, *however*, that, for purposes of this **clause (A)**, no person or group will be deemed to be a beneficial owner of any securities tendered pursuant to a tender offer or exchange offer made by or on behalf of such person or group until such tendered securities are accepted for purchase or exchange in such offer;

(B) the consummation of (i) any sale, lease or other transfer, in one transaction or a series of transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person, other than solely to one or more of the Company's Wholly Owned Subsidiaries; or (ii) any transaction or series of related transactions in connection with which (whether by means of merger, consolidation, share exchange, combination, reclassification, recapitalization, acquisition, liquidation or otherwise) (other than changes solely resulting from a subdivision or combination of the Ordinary Shares or solely a change in the par value or nominal value of the Ordinary Shares) all of the Ordinary Shares are exchanged for, converted into, acquired for, or constitute solely the right to receive, other securities, cash or other property; *provided*, *however*, that any transaction described in **clause (B) (ii)** above pursuant to which the Persons that directly or indirectly "beneficially owned" (as defined below) all classes of the Company's common equity immediately before such transaction directly or indirectly "beneficially own," immediately after such transaction, more than fifty percent (50%) of all classes of common equity of the surviving, continuing or acquiring company or other transferee, as applicable, or the parent thereof, in substantially the same proportions vis-à-vis each other as immediately before such transaction will be deemed not to be a Fundamental Change pursuant to this **clause (B)**;

(C) the Company's shareholders approve any plan or proposal for the liquidation or dissolution of the Company;

(D) at any time after Issue Date, the Ordinary Shares are not listed on any of The New York Stock Exchange, The NASDAQ Global Market or The NASDAQ Global Select Market (or any of their respective successors)(each, the "**Stock Exchange**"); or

(E) the Investor or any of its Affiliates become the direct or indirect "beneficial owner" of Ordinary Shares representing more than the greater of (i) eighty-five percent (85%) of the voting power of all of the Ordinary Shares, and (ii) the Relevant Investor Ownership Percentage;

provided, *however*, that (i) a transaction or event described in **clause (A)** or **(B)** above will not constitute a Fundamental Change if at least ninety percent (90%) of the consideration received or to be received by the holders of Ordinary Shares (excluding cash payments for fractional shares or pursuant to dissenters rights), in connection with such transaction or event, consists of ordinary shares or shares of common stock or other corporate common equity listed on any of the Stock Exchanges, or that will be so listed when issued or exchanged in connection with such transaction or event, and such transaction or event constitutes an Ordinary Share Change Event whose Reference Property consists of such consideration; or (ii) a transaction or event described in clause (A) above will not constitute a Fundamental Change, if such a transaction or event occurs as a result of (w) the Investor's beneficial ownership of any First Lien Notes or any of the Notes or the Ordinary Shares such First Lien Notes or Notes are convertible into, (x) the Investor's exercise of its right to convert any First Lien Notes or Notes beneficially owned by it pursuant to the terms of the First Lien Notes Indentures or the Indenture, (y) the receipt by the Investor of any Ordinary Shares issued by the Company in payment of interest due and payable on any First Lien Notes or the Notes pursuant to the terms of the First Lien Notes Indentures or the Indenture, as the case may be, (z) the receipt by the Investor of the FPA Shares at the Forward Purchase Closing, (aa) the receipt by the Investor of any Ordinary Shares in connection with any exercise under the Investor Warrant, and/or (bb) any other transaction entered into or action taken by the Investor pursuant to other agreements and/instruments existing on the Issue Date, through which the Investor acquires Capital Stock of the Company or options, warrants, convertible notes or other securities convertible or exercisable into Capital Stock of the Company (the events and/or transactions described in clauses (w) through (bb), collectively, the "**Relevant Investor Events**").

For the purposes of this definition, any transaction or event described in both **clause (A)** and in **clause (B)** above (without regard to the proviso in **clause (B)**) will be deemed to occur solely pursuant to **clause (B)** above (subject to such proviso).

For the purpose of this Indenture, whether a Person is a "**beneficial owner**" and whether shares are "**beneficially owned**" will be determined in accordance with Rule 13d-3 under the Exchange Act.

"**Fundamental Change Repurchase Date**" means the date fixed for the repurchase of any Notes by the Company pursuant to a Repurchase Upon Fundamental Change.

"**Fundamental Change Repurchase Notice**" means a notice (including a notice substantially in the form of the "Fundamental Change Repurchase Notice" set forth in **Exhibit A-1** or **Exhibit A-2**) containing the information, or otherwise complying with the requirements, set forth in **Section 4.02(F)(i)** and **Section 4.02(F)(ii)**.

"**Fundamental Change Repurchase Price**" means the cash price payable by the Company to repurchase any Note upon its Repurchase Upon Fundamental Change, calculated pursuant to **Section 4.02(D)**.

"**Global Note**" means a Note that is represented by a certificate substantially in the form set forth in **Exhibit A-1** or **Exhibit A-2**, registered in the name of the Depositary or its nominee, duly executed by the Company and authenticated by the Trustee, and deposited with the Trustee, as custodian for the Depositary.

"**Global Note Legend**" means a legend substantially in the form set forth in **Exhibit B-2**.

"**Guaranteed Obligations**" shall have the meaning specified in **Section 12.01(A)(ii).**

"**Guarantors**" means SunPower Corporation Limited, SunPower Energy Corporation Limited, SunPower Manufacturing Corporation Limited, Maxeon Rooster HoldCo, Ltd., Maxeon Solar Pte. Ltd., SunPower Bermuda Holdings, SunPower Technology Ltd., SunPower Philippines Manufacturing Ltd., Rooster Bermuda DRE, LLC, SunPower Systems Sàrl and any Person that hereafter provides a Guarantee hereunder pursuant to a joinder (or supplemental indenture) to this Indenture, and each of them is a "**Guarantor**."

"**Hedging Agreement**" means any rate protection agreement, foreign currency exchange agreement, commodity price protection agreement or other interest or currency exchange rate or commodity price hedging agreement or agreement designed to protect a Person against fluctuations in interest rates, current exchange or commodity prices.

"**Holder**" means a person in whose name a Note is registered on the Registrar's books.

"**Indebtedness**" means as to any Person, without duplication, whether or not contingent, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments and all reimbursement or other obligations in respect of letters of credit, bankers acceptances or other financial products, (c) all obligations or liabilities of such Person to pay the deferred purchase price of assets (other than trade payables incurred in the ordinary course of business and repayable in accordance with customary trade practices), (d) all obligations of such Person owing under Hedging Agreements (which amount shall be calculated based on the amount that would be payable by such Person if the Hedging Agreement were terminated on the date of determination), (e) all obligations or liabilities of others secured by a Lien on the assets of such Person, irrespective of whether such obligation or liability is assumed; *provided* that the amount of such Indebtedness shall be the lesser of the (y) the fair market value of such asset at such date of determination and (z) the amount of such Indebtedness, (f) all finance leases that appear as a liability on such Person's consolidated balance sheet (excluding the footnotes thereto), and any obligation of such Person guarantying or intended to guaranty (whether directly or indirectly) any obligation of any other Person that constitutes Indebtedness under clauses (a) through (f) above.

The amount of Indebtedness of any Person at any date shall be the outstanding balance at such date of all unconditional obligations as described above and, with respect to contingent obligations, the maximum liability upon the occurrence of the contingency giving rise to the obligation; provided that:

(A) the amount outstanding at any time of any Indebtedness issued with original issue discount is the face amount of such Indebtedness less the remaining unamortized portion of the original issue discount of such Indebtedness at such time as determined in conformity with the applicable accounting principles; and

(B) money borrowed and set aside at the time of the incurrence of any Indebtedness in order to prefund the payment of the interest on such Indebtedness shall not be deemed to be "Indebtedness" so long as such money is held to secure the payment of such interest.

"**Indenture**" means this Indenture, as amended or supplemented from time to time.

"**Indenture Documents**" means this Indenture, the Notes, the Intercreditor Agreement, the Notes Security Documents, the Subsidiary Guarantees, and any other instrument or agreement entered into, now or in the future, by any Company Indenture Party or any of its Subsidiaries or the Collateral Trustee, the Philippine Supplemental Collateral Trustee and/or Trustee in connection with the Indenture.

"**Initial Pricing VWAP**" means $1.6422.

"**Intellectual Property**" means any patents, trademarks, service marks, designs, business and trade names, copyrights, database rights, design rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered, and the benefit of all applications and rights to use such assets, of the Company and/or its Subsidiaries.

"**Interest Make-Whole Amount**" means a number of Ordinary Shares calculated by dividing (i) an amount in cash equal to the present value as of the applicable Make-Whole Event Effective Date of all scheduled interest payments due on $1,000 principal amount of the Notes on each Interest Payment Date through the Maturity Date (assuming (1) the then-applicable interest rate shall apply through the Maturity Date and (2) the maximum amount of PIK Interest is paid on each Interest Payment Date and interest payable for subsequent periods is payable on such PIK Interest), computed using a discount rate equal to the Treasury Rate as of such Make-Whole Event Effective Date plus 50 basis points by (ii) the simple average of the Daily VWAP for the 10 consecutive Trading Days ending on, and including, the Trading Day immediately preceding such Make-Whole Event Effective Date.

"**Intercreditor Agreement**" means the intercreditor agreement, dated on or about the Issue Date, made between, among others, the Company, the Guarantors, the Trustee, the Amended 2029 First Lien Notes Trustee, the New 2029 First Lien Notes Trustee, the Collateral Trustee, the Amended 2029 First Lien Notes Collateral Trustee, the New 2029 First Lien Notes Collateral Trustee, the Philippine Supplemental Collateral Trustee, the Amended 2029 First Lien Notes Philippine Supplemental Collateral Trustee and the New 2029 First Lien Notes Philippine Supplemental Collateral Trustee and the other parties named therein, as amended, restated or otherwise modified or varied from time to time.

"**Interest Payment Date**" means, with respect to a Note, each June 20 and December 20 of each year, commencing on December 20, 2024 (or commencing on such other date specified in the certificate representing such Note). For the avoidance of doubt, the Maturity Date is an Interest Payment Date.

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

"**Investor**" means Zhonghuan Singapore Investment and Development Pte. Ltd., and/or its Affiliates.

"**Investor Warrant**" means a warrant of the Company, dated June 20, 2024, issued to the Investor.

"**Issue Date**" means June 20, 2024.

"**Junior Lien Indebtedness**" means any Indebtedness of the Company or any Restricted Subsidiary secured by a Lien on all or any portion of the Collateral that has a priority that is contractually (or otherwise) junior in priority to the Lien on such Collateral that secure the Notes.

"**Last Reported Sale Price**" of the Ordinary Shares for any Trading Day means the closing sale price per Ordinary Share (or, if no closing sale price is reported, the average of the last bid price and the last ask price per Ordinary Share or, if more than one in either case, the average of the average last bid prices and the average last ask prices per Ordinary Share) on such Trading Day as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed. If the Ordinary Shares are not listed on a U.S. national or regional securities exchange on such Trading Day, then the Last Reported Sale Price will be the last quoted bid price per Ordinary Share on such Trading Day in the over-the-counter market as reported by OTC Markets Group Inc. or a similar organization. If the Ordinary Shares are not so quoted on such Trading Day, then the Last Reported Sale Price will be the average of the mid-point of the last bid price and the last ask price per Ordinary Share on such Trading Day from each of at least three (3) nationally recognized independent investment banking firms selected by the Company. Neither the Trustee nor the Conversion Agent will have any duty to determine the Last Reported Sale Price.

"**Lien**" means any statutory or other lien, security interest, mortgage, pledge, charge, hypothecation, assignment for collateral purposes, encumbrance, option, purchase right, call right, easement, right-of-way, restriction (including zoning restrictions), defect, preferential arrangement, preference, priority, exception or material irregularity in title or similar charge or encumbrance, including any agreement to give any of the foregoing, any conditional sale or other title retention agreement or any lease in the nature thereof; *provided* that in no event shall an operating lease be deemed to constitute a Lien.

"**Majority Holders**" means, at any applicable time, Holders owning more than 50.0% of the aggregate principal amount of the Notes then outstanding.

"**Make-Whole Event**" means (A) a Fundamental Change (determined after giving effect to the proviso immediately after **clause (E)** of the definition thereof, but without regard to the proviso to **clause (B)(ii)** of such definition) (an event referred to in this **clause (A)**, a "**Make-Whole Fundamental Change**"); or (B) the sending of a Redemption Notice pursuant to **Section 4.03(G)** in respect of a Provisional Redemption or a Tax Redemption; *provided*, *however*, that the sending of a Redemption Notice for a Provisional Redemption of less than all of the outstanding Notes will constitute a Make-Whole Event only with respect to the Notes called (or deemed to be called pursuant to **Section 4.03(K)**) for Provisional Redemption pursuant to such Redemption Notice and not with respect to any other Notes. For the avoidance of doubt, the sending of any Redemption Notice for a Tax Redemption will constitute a Make-Whole Event with respect to all outstanding Notes.

"**Make-Whole Event Conversion Period**" has the following meaning:

(A) in the case of a Make-Whole Event pursuant to **clause (A)** of the definition thereof, the period from, and including, the Make-Whole Event Effective Date of such Make-Whole Event to, and including, the thirty fifth (35th) Trading Day after such Make-Whole Event Effective Date (or, if such Make-Whole Event also constitutes a Fundamental Change, to, but excluding, the related Fundamental Change Repurchase Date); and

(B) in the case of a Make-Whole Event pursuant to **clause (B)** of the definition thereof, the period from, and including, the Redemption Notice Date for the related Redemption to, and including, the second (2nd) Business Day immediately before the related Redemption Date;

provided, *however*, that if the Conversion Date for the conversion of a Note that has been called (or deemed, pursuant to **Section 4.03(K)**, to be called) for Redemption occurs during the Make- Whole Event Conversion Period for both a Make-Whole Fundamental Change occurring pursuant to **clause (A)** of the definition of "Make-Whole Event" and a Make-Whole Event resulting from such Redemption pursuant to **clause (B)** of such definition, then, notwithstanding anything to the contrary in **Section 5.07**, solely for purposes of such conversion, (x) such Conversion Date will be deemed to occur solely during the Make-Whole Event Conversion Period for the Make-Whole Event with the earlier Make-Whole Event Effective Date; and (y) the Make-Whole Event with the later Make-Whole Event Effective Date will be deemed not to have occurred.

"**Make-Whole Event Effective Date**" means (A) with respect to a Make-Whole Event pursuant to **clause (A)** of the definition thereof, the date on which such Make-Whole Event occurs or becomes effective; and (B) with respect to a Make-Whole Event pursuant to **clause (B)** of the definition thereof, the applicable Redemption Notice Date.

"**Make-Whole Fundamental Change**" has the meaning set forth in the definition of Make-Whole Event.

"**Market Disruption Event**" means, with respect to any date, the occurrence or existence, during the one-half hour period ending at the scheduled close of trading on such date on the principal U.S. national or regional securities exchange or other market on which the Ordinary Shares are listed for trading or trades, of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Ordinary Shares or in any options contracts or futures contracts relating to the Ordinary Shares.

"**Maturity Date**" means January 15, 2028.

"**New 2029 First Lien Notes**" means $97.5 million 9.00% Convertible First Lien Senior Secured Convertible Notes due 2029 issued by the Company pursuant to the New 2029 First Lien Notes Indenture, and any additional notes which may be issued pursuant to and in accordance with the terms of the New 2029 First Lien Notes Indenture, as may be further amended and supplemented from time to time.

"**New 2029 First Lien Notes Collateral Trustee**" means DB Trustees (Hong Kong) Limited, as the collateral trustee for the New 2029 First Lien Notes, and/or any successor collateral trustee, additional collateral trustee, and/or New 2029 First Lien Notes Philippine Supplemental Collateral Trustee, and/or any other supplemental collateral trustee appointed pursuant to the terms of New 2029 First Lien Notes Indenture.

"**New 2029 First Lien Notes Indenture**" means an indenture dated June 20, 2024 between the Company, the Guarantors named therein, DB Trustees (Hong Kong) Limited, as the collateral trustee, and Deutsche Bank Trust Company Americas, as trustee, in relation to the New 2029 First Lien Notes, as may be amended and supplemented from time to time.

"**New 2029 First Lien Notes Philippine Supplemental Collateral Trustee**" means RCBC Trust Corporation as collateral trustee with respect to the Philippine Collateral (as defined in the New 2029 First Lien Notes Indenture), in such capacity and solely with respect to such collateral.

"**New 2029 First Lien Notes Trustee**" means Deutsche Bank Trust Company Americas, a New York Banking Corporation, as trustee for New 2029 First Lien Notes or its successors or assignees appointed pursuant to the terms of New 2029 First Lien Notes Indenture.

"**Non-recourse Receivable Financing**" means Receivable Financing (i) under which none of the Company nor the Restricted Subsidiaries (other than pursuant to Standard Non-recourse Receivable Financing Undertakings) provides guarantee or recourse with respect to the Receivable Financing Assets, undertakes to repurchase any Receivable Financing Assets, subjects any of its properties or assets, directly or indirectly, contingently or otherwise, to the satisfaction of any obligation related to the Receivable Financing Assets or undertakes to maintain or preserve the financial condition or operating results of the entity that purchases or otherwise receives the Receivable Financing Assets and (ii) is not reflected as liability on the consolidated balance sheet of the Company.

"**Note Agent**" means any Registrar, Paying Agent or Conversion Agent.

"**Notes**" means (i) the Initial Notes, (ii) following the issuance of the Additional Notes pursuant to the terms of this Indenture, the Additional Notes, and (iii) the PIK Notes, treated as a single class. For the avoidance of doubt, Tranche A Notes and Tranche B Notes shall vote together on all matters as one class, and except as where expressly provided otherwise, shall be deemed to constitute a single class or series for all purposes under this Indenture.

"**Notes Secured Parties**" means, collectively, the Collateral Trustee (or any receiver and delegate appointed by the Collateral Trustee on any Notes Security Document), the Philippine Supplemental Collateral Trustee, the Trustee and the Holders.

"**Notes Security Documents**" means all security and/or other collateral documents that create or purport to create a Lien in favor of the Collateral Trustee for the benefit of itself and of the Notes Secured Parties and entered into in connection with the Indenture and the Notes (including the Closing Security Documents and Post-Closing Security Documents), as amended, restated, modified and/or supplemented in accordance with the provisions hereof.

"**Notes Security Property**" means:

(A) the security interest over the Collateral expressed to be granted in favour of the Collateral Trustee for the benefit of itself and of the Notes Secured Parties, which shall include Holders, the Trustee and the Collateral Trustee;

(B) all obligations expressed to be undertaken by any grantor of the security interest over the Collateral to pay amounts in respect of the Obligations to the Collateral Trustee for the benefit of itself and of the Notes Secured Parties, which shall include Holders, the Trustee and the Collateral Trustee; or

(C) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Collateral Trustee is required by the terms of the Indenture Documents to hold as trustee on trust for the Notes Secured Parties or as agent in favour of the Notes Secured Parties.

"**Obligations**" means (a) obligations of the Company and the other Company Indenture Parties from time to time to pay (and otherwise arising under or in respect of the due and punctual payment of) (i) principal, interest (including interest accruing during the pendency of any insolvency proceeding, regardless of whether allowed or allowable in such proceeding) and all other obligations under the Indenture Documents (including, without limitation, any applicable premium) of the Company and the other Company Indenture Parties under this Indenture, the Notes issued hereunder and the other Indenture Documents when and as due, whether at maturity, by acceleration, upon one or more dates set for redemption or otherwise (including, for the avoidance of doubt, the "Parallel Debt", the "Collateral Trustee Claim" and any similar defined term as defined in this Indenture (or the equivalent provision thereof), including all Parallel Debt and the Collateral Trustee Claim described in Section 11 of this Indenture), and (ii) all other monetary obligations, including fees, costs, expenses and indemnities, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any insolvency proceeding, regardless of whether allowed or allowable in such proceeding), of the Company and the other Company Indenture Parties under this Indenture and the other Indenture Documents, and (b) the due and punctual performance of all covenants, agreements, obligations and liabilities of the Company and the other Company Indenture Parties under or pursuant to this Indenture and the other Indenture Documents.

"**Observation Period**" means, with respect to any Note to be converted, (A) subject to **clause (B)** below, if the Conversion Date for such Note occurs on or before the thirty fifth (35th) Scheduled Trading Day immediately before the Maturity Date, the thirty (30) consecutive VWAP Trading Days beginning on, and including, the third (3rd) VWAP Trading Day immediately after such Conversion Date; (B) if such Conversion Date occurs on or after the date the Company has sent a Redemption Notice calling all or any Notes for Provisional Redemption or Tax Redemption pursuant to **Section 4.03(G)** and before the related Redemption Date, the thirty (30) consecutive VWAP Trading Days beginning on, and including, the thirty first (31st) Scheduled Trading Day immediately before such Redemption Date; and (C) subject to **clause (B)** above, if such Conversion Date occurs after the thirty fifth (35th) Scheduled Trading Day immediately before the Maturity Date, the thirty (30) consecutive VWAP Trading Days beginning on, and including, the thirty first (31st) Scheduled Trading Day immediately before the Maturity Date.

"**Officer**" means any member of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Group Treasurer, any Treasury Director, the Controller, the Secretary or any Vice-President of the Company.

"**Officer's Certificate**" means a certificate that is signed on behalf of the Company by one (1) of its Officers and that meets the requirements of **Section 13.03**.

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

"**Opinion of Counsel**" means an opinion, from legal counsel (including an employee of, or counsel to, the Company or any of its Subsidiaries) reasonably acceptable to the Trustee, and, when applicable, the Collateral Trustee, that meets the requirements of **Section 13.03**, subject to customary qualifications and exclusions.

"**Optional Exchange Date**" means the date fixed, pursuant to **Section 4.04(C)**, for the settlement of the exchange of any Notes by the Company pursuant to the Optional Exchange.

"**Optional Exchange Notice Date**" means, with respect to the Optional Exchange, the date on which the Company sends the Optional Exchange Notice for the Optional Exchange pursuant to **Section 4.04(E)**. For the avoidance of doubt, the Optional Exchange Date shall be no less than five (5) Scheduled Trading Days and no more than eight (8) Scheduled Trading Days after the Optional Exchange Notice Date.

"**Optional Exchange Triggering Event**" means the receipt (including the receipt, termination or expiration, as applicable, of waivers, consents, approvals, waiting periods or agreements required under the applicable laws and regulations) or waiver by the Company and the Forward Purchaser, each in its sole discretion (as the case may be), of each of the regulatory and other authorizations set forth in Schedule III – Part 1 hereof.

"**Ordinary Shares**" means the ordinary shares of the Company, subject to **Section 5.09**.

"**Permitted Investment**" has the meaning given to it in the First Lien Notes Indentures.

"**Person**" or "**person**" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or other agency or political subdivision thereof. Any division or series of a limited liability company, limited partnership or trust will constitute a separate "person" under this Indenture.

"**Philippine Collateral**" means the Collateral governed by a "second ranking" Philippine law governed all-asset omnibus security agreement to be entered into between the Philippine Supplemental Collateral Trustee and SunPower Philippines Manufacturing Ltd., as may be amended or supplemented from time to time (the "**Philippine Security Document**").

"**Physical Note**" means a Note (other than a Global Note) that is represented by a certificate substantially in the form set forth in **Exhibit A-1** or **Exhibit A-2**, registered in the name of the Holder of such Note and duly executed by the Company and authenticated by the Trustee.

"**Post-Closing Security Documents**" means the security documents and all other security and/or other collateral documents to be entered into in connection with the Indenture and the Notes listed on **Schedule 1.01** and each of the other agreements, instruments or documents entered into or to be entered into in connection with such security documents that create or purport to create a Lien in favor of the Collateral Trustee, on behalf of and for the benefit of the Notes Secured Parties, which shall include, among others, the Holders, the Trustee and the Collateral Trustee.

"**PP&E**" means, as of any date, the total consolidated property, plant and equipment of the Company and its Subsidiaries measured in accordance with U.S. GAAP as of the last date of the most recent fiscal quarter for which consolidated financial statements of the Company (which the Company will use its reasonable best efforts to compile in a timely manner) are available (which may be internal consolidated financial statements).

"**Priority Lien**" means a Lien granted by the Company Indenture Parties in favor of the Priority Lien Secured Parties at any time, upon any property of any Company Indenture Party to secure Priority Lien Secured Obligations.

"**Priority Lien Debt Documents**" means the definitive documents in respect of the Priority Lien Secured Obligations as determined in accordance with the Intercreditor Agreement, which, for the avoidance of doubt, shall initially include the First Lien Notes Indentures.

"**Priority Lien Secured Obligations**" means all obligations of and all other present and future liabilities and obligations at any time due, owing or incurred by the Company Indenture Parties and by each of them to any Priority Lien Secured Party under (or in connection with) the Priority Lien Debt Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity (including any refinancing thereof).

"**Priority Lien Secured Parties**" means, collectively, the creditors of the Priority Lien Secured Obligations as determined in accordance with the Intercreditor Agreement.

"**Priority Lien Security Documents**" means all security and/or other collateral documents that create or purport to create a Lien in favor of the applicable First Lien Notes Collateral Trustees for the benefit of itself and of the relevant Priority Lien Secured Parties, and entered into in connection with the applicable First Lien Notes Indenture and the applicable series of First Lien Notes, as amended, restated, modified and/or supplemented in accordance with the provisions thereof.

"**Rate Adjustment Date**" means (A) December 20, 2024, or (B) if the Forward Purchase Closing does not occur on or prior to December 20, 2024, the Interest Payment Date immediately after the Forward Purchase Closing.

"**Receivable Financing**" means any financing transaction or series of financing transactions that have been or may be entered into by any of the Company and the Restricted Subsidiaries pursuant to which the Company or such Restricted Subsidiary, as the case may be, may sell, convey or otherwise transfer to another Person, or may grant a security interest in, any receivables, royalty, other revenue streams or interests therein (including without limitation, all security interests in goods financed thereby (including equipment and property), the proceeds of such receivables, and other assets which are customarily sold or in respect of which security interests are customarily granted in connection with securitization or factoring transactions involving such assets) for credit or liquidity management purposes (including discounting, securitization or factoring transactions) either (i) in the ordinary course of business or (ii) by way of selling securities that are, or are capable of being, listed on any stock exchange or in any securities market and are offered using an offering memorandum or similar offering document.

"**Receivable Financing Assets**" means assets that are underlying and are sold, conveyed or otherwise transferred or pledged in a Receivable Financing.

"**Redemption**" means a Provisional Redemption or a Tax Redemption.

"**Redemption Date**" means the date fixed, pursuant to **Section 4.03(E)**, for the settlement of the repurchase of any Notes by the Company pursuant to a Provisional Redemption or a Tax Redemption.

"**Redemption Notice Date**" means, with respect to a Provisional Redemption or a Tax Redemption, the date on which the Company sends the Redemption Notice for such Redemption pursuant to **Section 4.03(G)**.

"**Redemption Price**" means in the case of a Provisional Redemption or Tax Redemption, the cash price determined and payable by the Company to redeem any Note upon its Redemption, calculated pursuant to **Section 4.03(F)**.

"**Regular Record Date**" has the following meaning with respect to an Interest Payment Date: (A) if such Interest Payment Date occurs on June 20, the immediately preceding June 5; (B) if such Interest Payment Date occurs on December 20, the immediately preceding December 5 and (C) if such Interest Payment Date occurs on the Maturity Date, the date falling 15 calendar days prior to the Maturity Date.

"**Relevant Cash Interest Rate**" means 4.00% per annum.

"**Relevant Investor Ownership Percentage**" means, at any time of determination, a percentage equal to the sum of (A) (x) the voting power of all of the Ordinary Shares beneficially owned by the Investor or any of its Affiliates at such time, after giving effect to the Relevant Investor Events, divided by (y) the voting power of all of the outstanding Ordinary Shares of the Company, after giving effect to the Relevant Investor Events and assuming the settlement of the Optional Exchange in full (without giving any effect to **Section 4.05** hereof) and (B) five percent (5%).

"**Relevant PIK Interest Rate**" means 5.50% per annum.

"**Repurchase Upon Fundamental Change**" means the repurchase of any Note by the Company pursuant to **Section 4.02**.

"**Responsible Officer**" means (A) any officer within the Corporate Trust Administration of the Trustee (or any successor group of the Trustee) having direct responsibility for the administration of this Indenture; and (B) with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his or her knowledge of, and familiarity with, the particular subject.

"**Restricted Collateral Subsidiary**" means, SunPower Systems Sàrl, SunPower Philippines Manufacturing Ltd., SunPower Energy Solutions France SAS, or to the extent it is not a Guarantor, SunPower Malaysia Manufacturing Sdn Bhd, or any successor thereof.

"**Restricted Note Legend**" means a legend substantially in the form set forth in **Exhibit B-1**.

"**Restricted Payment**" has the meaning given to it in the First Lien Notes Indentures.

"**Restricted Share Legend**" means, with respect to any Conversion Share, a legend substantially to the effect that the offer and sale of such Conversion Share have not been registered under the Securities Act and that such Conversion Share cannot be sold or otherwise transferred except pursuant to a transaction that is registered under the Securities Act or that is exempt from, or not subject to, the registration requirements of the Securities Act.

"**Restricted Subsidiary**" means any Subsidiary of the Company other than an Unrestricted Subsidiary.

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

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

"**Sales Contract**" means contracts or agreements pursuant to which any Company Indenture Party provides services or goods to their respective customers.

"**Sale/Leaseback Transaction**" means an arrangement relating to property now owned or acquired after the Issue Date by the Company or any Restricted Subsidiary whereby the Company or such Restricted Subsidiary transfers such property to a Person and the Company or such Restricted Subsidiary contemporaneously lease it from such Person pursuant to a lease on reasonable market terms.

"**SCB Agreement**" means the revolving credit agreement dated February 15, 2018 between SunPower Malaysia Manufacturing Sdn. Bhd. and Standard Chartered Bank Malaysia Berhad, as amended or supplemented from time to time.

"**Scheduled Trading Day**" means any day that is scheduled to be a Trading Day on the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed or, if the Ordinary Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Ordinary Shares are then traded. If the Ordinary Shares are not so listed or traded, then "Scheduled Trading Day" means a Business Day.

"**SDA**" means that certain Separation and Distribution Agreement dated November 8, 2019 by and between SunPower Corporation, a Delaware corporation, and the Company, as amended, restated, modified and/or supplemented from time to time.

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

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

"**Security**" means any Note or Conversion Share.

"**Secured Indebtedness**" means, with respect to any Person, any Indebtedness of such Person that is secured by any Lien on any of such Person's property or assets or any of the property or assets of its Subsidiaries, whether owned on the date hereof or thereafter acquired.

"**Settlement Method**" means Cash Settlement, Physical Settlement or Combination Settlement.

"**Significant Subsidiary**" has the meaning set forth in Article I, Rule 1-02(w) of Regulation S-X promulgated by the SEC (or any successor rule); *provided*, *however*, that if a Subsidiary that meets the criteria of clause (3) of such rule but not clause (1) or (2) thereof, in each case as such rule is in effect on the Issue Date, then such Subsidiary will not be deemed to be a Significant Subsidiary unless such Subsidiary's income (or loss) from continuing operations before income taxes, exclusive of amounts attributable to any non-controlling interests, for the last completed fiscal year prior to the date of determination exceeds twenty five million dollars ($25,000,000) (with such amount calculated pursuant to Rule 1-02(w) as in effect on the Issue Date). For the avoidance of doubt, a Subsidiary that satisfies the condition set forth in the proviso to the preceding sentence will not be deemed to be a "Significant Subsidiary" unless such Subsidiary also constitutes a "Significant Subsidiary" within the meaning set forth in Article I, Rule 1-02(w) of Regulation S-X promulgated by the SEC (or any successor rule).

"**Soulte**" means, in relation to any enforcement of any Notes Security Document occurring by way of Appropriation (including pursuant to a *pacte commissoire* or a foreclosure (*attribution judiciaire*) or any similar enforcement mechanism) or judicial foreclosure of any French Security Document, the amount by which the value of the Charged Property (as determined on the date of the relevant Appropriation by a valuation expert in accordance with the provisions of the relevant Notes Security Document) appropriated or foreclosed pursuant to that enforcement exceeds the amount of obligations secured by that security interest which is discharged as a result of that enforcement being carried out.

"**Special Interest**" means any interest that accrues on any Note pursuant to **Section 7.03**.

"**Specified Dollar Amount**" means, with respect to the conversion of a Note to which Combination Settlement applies, the maximum cash amount per $1,000 principal amount of such Note deliverable upon such conversion (excluding cash in lieu of any fractional Ordinary Share).

"**Standard Non-recourse Receivable Financing Undertakings**" means representations, warranties, undertakings, covenants and indemnities entered into by the Company or any Restricted Subsidiary which the Company or such Restricted Subsidiary has determined in good faith to be customary for a seller or servicer of assets in Non-recourse Receivable Financings.

"**Stated Interest**" means (1) from (and including) the Issue Date to (but excluding) the Rate Adjustment Date, 9.50% per annum, payable at the Relevant Cash Interest Rate and Relevant PIK Interest Rate, and (2) on and from the Rate Adjustment Date, 8.00% per annum, payable solely in cash.

"**Stated Maturity**" means, (1) with respect to any Indebtedness, the date specified in such debt security as the fixed date on which the final installment of principal of such Indebtedness is due and payable as set forth in the documentation governing such Indebtedness and (2) with respect to any scheduled installment of principal of or interest on any Indebtedness, the date specified as the fixed date on which such installment is due and payable as set forth in the documentation governing such Indebtedness, and shall not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

"**Stock Transfer Agent**" means initially Computershare Trust Company, N.A., or any other stock transfer agent engaged by the Company from time to time.

"**Subsidiary**" means, with respect to any Person, (A) any corporation, association or other business entity (other than a partnership or limited liability company) of which more than fifty percent (50%) of the total voting power of the Capital Stock entitled (without regard to the occurrence of any contingency, but after giving effect to any voting agreement or shareholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees, as applicable, of such corporation, association or other business entity is owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person; and (B) any partnership or limited liability company where (i) more than fifty percent (50%) of the capital accounts, distribution rights, equity and voting interests, or of the general and limited partnership interests, as applicable, of such partnership or limited liability company are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person, whether in the form of membership, general, special or limited partnership or limited liability company interests or otherwise; and (ii) such Person or any one or more of the other Subsidiaries of such Person is a controlling general partner of, or otherwise controls, such partnership or limited liability company.

"**Subsidiary Guarantee**" means the joint and several guarantee pursuant to **Article 12** hereof by a Guarantor of its Guaranteed Obligations.

"**Supermajority Holders**" means, at any applicable time, Holders owning more than 66 ⅔ % of the aggregate principal amount of the Notes then outstanding.

"**Swiss Federal Tax Administration**" means the tax authorities referred to in article 34 of the Swiss Federal Act on Withholding Tax of 13 October 1965 (*Bundesgesetz über die Verrechnungssteuer*).

"**Swiss Withholding Tax**" means any taxes imposed under the Swiss Federal Act on Withholding Tax of 13 October 1965 (*Bundesgesetz über die Verrechnungssteuer*).

"**Tax**" means any tax, duty, levy, impost, assessment or other governmental charge (including penalties and interest and other similar liabilities related thereto).

"**Tax Redemption**" means the Redemption of any Note pursuant to **Section 4.03(C)(i)**.

"**Total Solarization Agreement**" means the Second Amended and Restated Initial Implementing Agreement, dated February 22, 2021, between the Company and TotalEnergies SE in relation to the supply of certain PV modules to TotalEnergies SE.

"**Trading Day**" means any day on which (A) trading in the Ordinary Shares generally occurs on the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed or, if the Ordinary Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Ordinary Shares are then traded; and (B) there is no Market Disruption Event. If the Ordinary Shares are not so listed or traded, then "Trading Day" means a Business Day.

"**Tranche A Notes**" means any Notes evidenced by a certificate substantially in the form set forth in **Exhibit A-1**, registered in the name of the Depositary or its nominee (in case of a Global Note), or the name of Holder of such Note (in case of a Physical Note), duly executed by the Company and authenticated by the Trustee, and deposited with the Trustee (in case of a Global Note), as custodian for the Depositary, such Notes being subject to the provisions set forth in **Section 4.04**.

"**Tranche B Notes**" means any Notes evidenced by a certificate substantially in the form set forth in **Exhibit A-2**, registered in the name of the Depositary or its nominee (in case of a Global Note), or the name of Holder of such Note (in case of a Physical Note), duly executed by the Company and authenticated by the Trustee, and deposited with the Trustee (in case of a Global Note), as custodian for the Depositary.

"**Transfer-Restricted Security**" means any Security that constitutes a "restricted security" (as defined in Rule 144); *provided*, *however*, that such Security will cease to be a Transfer- Restricted Security upon the earliest to occur of the following events:

(A) such Security is sold or otherwise transferred to a Person (other than the Company or an Affiliate of the Company) pursuant to a registration statement that was effective under the Securities Act at the time of such sale or transfer;

(B) such Security is sold or otherwise transferred to a Person (other than the Company or an Affiliate of the Company) pursuant to an available exemption (including Rule 144) from the registration and prospectus-delivery requirements of, or in a transaction not subject to, the Securities Act and, immediately after such sale or transfer, such Security ceases to constitute a "restricted security" (as defined in Rule 144); and

(C) such Security is eligible for resale, by a Person that is not an Affiliate of the Company and that has not been an Affiliate of the Company during the immediately preceding three (3) months, pursuant to Rule 144 without any limitations thereunder as to volume, manner of sale, availability of current public information or notice.

The Trustee is under no obligation to determine whether any Security is a Transfer- Restricted Security and may conclusively rely on an Officer's Certificate with respect thereto.

"**Treasury Rate**" means, as of the applicable Conversion Date, as determined by the Company, the yield to maturity as of such Conversion Date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to such Conversion Date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from such Conversion Date to the Maturity Date; *provided*, however, that if the period from such Conversion Date to the Maturity Date is less than one year, the weekly average yield on actively traded United States Treasury securities adjusted to a constant maturity of one year will be used.

"**Trust Indenture Act**" means the U.S. Trust Indenture Act of 1939, as amended.

"**Trustee**" means the Person named as such in the first paragraph of this Indenture until a successor replaces it in accordance with the provisions of this Indenture and, thereafter, means such successor.

"**U.S. GAAP**" means the generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time.

"**Unsecured Indebtedness**" means, with respect to any Person, any Indebtedness of such Person that is not secured, in whole or in part, by a Lien.

"**Unrestricted Subsidiary**" means each of Maxeon Power, Inc., SunPower Energy Systems Southern Africa (Pty) Ltd, SunPower Technologies France SAS, SunPower Manufacturing de Vernejoul SAS, Maxeon Americas, Inc, any future Subsidiaries of the Company which is primarily engaged in projects and/or business which are initially primarily funded by Capital Expenditures duly approved by the Board of Directors (as designated from time to time by the Company through the delivery of written notices to the Trustee and the Holders) and their respective Subsidiaries; *provided*, *however*, that (A) prior to the Forward Purchase Closing, any Subsidiary of the Company may be designated as an "Unrestricted Subsidiary" under this Indenture only if and for so long as such Subsidiary is designated as an "Unrestricted Subsidiary" under each of the First Lien Notes Indentures (to the extent either of the First Lien Notes Indentures remains in force and effect) and any other Indebtedness of the Company and its Restricted Subsidiaries, to the extent the instrument governing such other Indebtedness provides for the designation of "Unrestricted Subsidiaries" similar to that provided for under this Indenture; or (B) on and from the Forward Purchase Closing, to the extent either of the First Lien Notes Indentures remains in force and effect, any Subsidiary of the Company may be designated as an "Unrestricted Subsidiary" under this Indenture only if and for so long as such Subsidiary is designated as an "Unrestricted Subsidiary" under such First Lien Notes Indenture.

"**VWAP Market Disruption Event**" means, with respect to any date, (A) the failure by the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed, or, if the Ordinary Shares are not then listed on a U.S. national or regional securities exchange, the principal other market on which the Ordinary Shares are then traded, to open for trading during its regular trading session on such date; or (B) the occurrence or existence, for more than one half hour period in the aggregate, of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Ordinary Shares or in any options contracts or futures contracts relating to the Ordinary Shares, and such suspension or limitation occurs or exists at any time before 1:00 p.m., New York City time, on such date.

"**VWAP Trading Day**" means a day on which (A) there is no VWAP Market Disruption Event; and (B) trading in the Ordinary Shares generally occurs on the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed or, if the Ordinary Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Ordinary Shares are then traded. If the Ordinary Shares are not so listed or traded, then "VWAP Trading Day" means a Business Day.

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

Section 1.02. Other Definitions.

Term	Defined in Section
"Additional Amounts"	**3.05(A)**
"Additional Intercreditor Agreement"	**14.02(A)**
"Applicable Terrorism Law"	**13.11**
"Bank Account Perfection Actions"	**3.12(A)**
"Business Combination Event"	**6.01(B)**
"Cash Settlement"	**5.03(A)**
"Combination Settlement"	**5.03(A)**
"Company Business Combination Event"	**6.01(A)**
"Confidential Information"	**3.02(A)**
"Conversion Agent"	**2.06(A)**
"Conversion Consideration"	**5.03(B)(i)**
"Default Interest"	**2.05(B)**
"Defaulted Amount"	**2.05(B)**
"Event of Default"	**7.01(A)**
"Excess Shares"	**4.05(F)**
"Exchange Cap"	**4.05(F)**
"Exchange Cap Limitation"	**4.05(F)**
"Executed Documentation"	**13.01**
"Expiration Date"	**5.05(A)(v)**
"Expiration Time"	**5.05(A)(v)**
"FATCA"	**3.05(A)(iv)**
"Freely Disposable Amount"	**12.06(B)(i)**
"Fundamental Change Notice"	**4.02(E)**
"Fundamental Change Repurchase Right"	**4.02(A)**
"Guarantor Business Combination Event"	**6.01(B)**
"holder of the Notes"	**4.05(F)**
"Initial Notes"	**2.03(A)**
"Italian Security Documents"	**11.03(D)**
"Maximum Percentage"	**4.05(F)**
"Optional Exchange"	**4.04(A)**
"Optional Exchange Consideration"	**4.04(D)**
"Ordinary Share Change Event"	**5.09(A)**
"Paying Agent"	**2.06(A)**
"Physical Settlement"	**5.03(A)**
"PIK Interest"	**2.05(D)(i)**
"PIK Notes"	**2.05(D)(i)**
"PIK Payment"	**2.05(D)(i)**
"Pro Forma Outstanding Share Numbers"	**4.05(F)**
"Pro Forma Owned Shares"	**4.05(F)**
"Provisional Redemption"	**4.03(B)**
"Redemption Notice"	**4.03(G)**
"Reference Property"	**5.09(A)**
"Reference Property Unit"	**5.09(A)**
"Register"	**2.06(B)**
"Registrar"	**2.06(A)**
"Relevant Taxing Jurisdiction"	**3.05(A)**
"Reported Outstanding Share Number"	**4.05(F)**
"Reporting Event of Default"	**7.03(A)**
"Restricted Obligations"	**12.06(B)(i)**
"Specified Courts"	**13.07**
"Spin-Off Valuation Period"	**5.05(A)(iii)(2)**
"Successor Corporation"	**6.01(A)(i)**
"Successor Guarantor"	**6.01(B)(i)**
"Successor Person"	**5.09(A)**
"Supplemental Collateral Trustee"	**11.09(A)**
"Swiss Guarantor"	**12.06(B)(i)**
"Tax Redemption Opt-Out Election"	**4.03(C)(ii)**
"Tax Redemption Opt-Out Election Notice"	**4.03(C)(ii)(1)**
"Tender/Exchange Offer Valuation Period"	**5.05(A)(v)**
"Transfer Taxes"	**3.05(B)**
"Underlying Issuer"	**5.09(A)**

Section 1.03. Rules of Construction.

For purposes of this Indenture:

(A) "or" is not exclusive;

(B) "including" means "including without limitation";

(C) "will" expresses a command;

(D) the "average" of a set of numerical values refers to the arithmetic average of such numerical values;

(E) a merger involving, or a transfer of assets by, a limited liability company, limited partnership or trust will be deemed to include any division of or by, or an allocation of assets to a series of, such limited liability company, limited partnership or trust, or any unwinding of any such division or allocation;

(F) words in the singular include the plural and in the plural include the singular, unless the context requires otherwise;

(G) "herein," "hereof" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision of this Indenture, unless the context requires otherwise;

(H) references to currency mean the lawful currency of the United States of America, unless the context requires otherwise;

(I) the exhibits, schedules and other attachments to this Indenture are deemed to form part of this Indenture;

(J) notwithstanding anything to the contrary in this Indenture, solely for purposes of determining whether any notice, direction, action to be taken or consent to be given under this Indenture is authorized, provided or given (as the case may be) by Holders of a sufficient aggregate principal amount of Notes, a beneficial owner of an interest in a Note shall be treated as a Holder, and the Trustee shall accept evidence of such beneficial ownership provided by such owner, which may be in the form of "screenshots" or other reasonable or customary electronic or other evidence of such beneficial owner's position; and

(K) the term "**interest**," when used with respect to a Note, includes any Special Interest, unless the context requires otherwise.

Section 1.04. Conflict with Trust Indenture Act.

(A) If any provision hereof limits, qualifies or conflicts with a provision of the Trust Indenture Act that is required under such Trust Indenture Act to be part of and govern this Indenture, the Trust Indenture Act provision shall control. If any provision of this Indenture modifies or excludes any provision of the Trust Indenture Act that may be so modified or excluded, the Trust Indenture Act provision shall be deemed to apply to this Indenture as so modified or to be excluded, as the case may be.

Article 2. THE NOTES

Section 2.01. Form, Dating and Denominations.

The Initial Notes and the Trustee's certificate of authentication will be substantially in the form set forth in **Exhibit A-1** or **Exhibit A-2**, as applicable. Any Additional Notes and PIK Notes and the Trustee's certificate of authentication will be substantially in the form set forth in **Exhibit A-2**. The Notes will bear the legends required by **Section 2.09** and may bear notations, legends or endorsements required by law, stock exchange rule or usage or the Depositary. Each Note will be dated as of the date of its authentication.

Except to the extent otherwise provided in a Company Order delivered to the Trustee in connection with the issuance and authentication thereof, the Notes will be issued initially in the form of one or more Global Notes. Physical Notes may be exchanged for Global Notes, and Global Notes may be exchanged for Physical Notes, only as provided in **Section 2.10**.

The Notes will be issuable only in registered form without interest coupons and only in Authorized Denominations.

Each certificate representing a Note will bear a unique registration number that is not affixed to any other certificate representing another outstanding Note.

The terms contained in the Notes constitute part of this Indenture, and, to the extent applicable, the Company and the Trustee, by their execution and delivery of this Indenture, agree to such terms and to be bound thereby; *provided*, *however*, that, to the extent that any provision of any Note conflicts with the provisions of this Indenture, the provisions of this Indenture will control for purposes of this Indenture and such Note.

Section 2.02. Execution, Authentication and Delivery.

(A) *Due Execution by the Company*. At least one (1) duly authorized Officer will sign the Notes on behalf of the Company by manual, electronically or facsimile signature. A Note's validity will not be affected by the failure of any Officer whose signature is on any Note to hold, at the time such Note is authenticated, the same or any other office at the Company.

(B) Authentication by the Trustee and Delivery.

(i) No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually or electronically signs the certificate of authentication of such Note.

(ii) The Trustee will cause an authorized signatory of the Trustee (or a duly appointed authenticating agent) to manually or electronically sign the certificate of authentication of a Note only if (1) the Company delivers such Note to the Trustee; (2) such Note is executed by the Company in accordance with **Section 2.02(A)**; and (3) the Company delivers a Company Order to the Trustee that (a) requests the Trustee to authenticate such Note; and (b) sets forth the name of the Holder of such Note and the date as of which such Note is to be authenticated. If such Company Order also requests the Trustee to deliver such Physical Note to any Holder, then the Trustee will promptly electronically deliver such Note in accordance with such Company Order.

(iii) The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. A duly appointed authenticating agent may authenticate Notes whenever the Trustee may do so under this Indenture, and a Note authenticated as provided in this Indenture by such an agent will be deemed, for purposes of this Indenture, to be authenticated by the Trustee. Each duly appointed authenticating agent will have the same rights to deal with the Company as the Trustee would have if it were performing the duties that the authentication agent was validly appointed to undertake.

Section 2.03. Initial Notes, Additional Notes and PIK Notes

(A) *Initial Notes*. On the Issue Date, there will be originally issued (i) one hundred and thirty-eight million nine hundred and fifty thousand dollars ($138,950,000) aggregate principal amount of Tranche A Notes and (ii) sixty-five million sixty-nine thousand four hundred and three dollars ($65,069,403) aggregate principal amount of Tranche B Notes, subject to the provisions of this Indenture (including **Section 2.02**). Notes issued pursuant to this **Section 2.03(A)**, and any Notes issued in exchange therefor or in substitution thereof, are referred to in this Indenture as the "**Initial Notes**."

(B) At any time and from time to time after the execution and delivery of this Indenture and in accordance with the terms of this Indenture, the Company may deliver (a) the Additional Notes executed by the Company to the Trustee for authentication, or (b) the PIK Notes executed by the Company to the Trustee for authentication, together with a written order of the Company in the form of an Officer's Certificate for the authentication and delivery of such Additional Notes and PIK Notes, as the case may be, and the Trustee in accordance with such written order of the Company shall authenticate and deliver such Additional Notes and PIK Notes. The Additional Notes shall have the same terms and conditions as the initial Tranche B Notes issued pursuant to **Section 2.03(A)** (including the benefit of the Subsidiary Guarantees and the Collateral) in all respects except for the issue date, issue price and the date of the first payment of interest, and upon issuance, the Additional Notes shall be consolidated with and form a single class with the previously outstanding Notes and vote together as one class on all matters with respect to the Notes. For the avoidance of doubt, the Additional Notes may only be issued in the form of Tranche B Notes; *provided* that, if the Additional Notes are not fungible with the initial Tranche B Notes for U.S. federal income tax purposes, the Additional Notes will be assigned a separate CUSIP and ISIN number.

Section 2.04. Method of Payment.

(A) *Global Notes*. The Company will pay, or cause the Paying Agent to pay, the principal (whether due upon maturity on the Maturity Date, Redemption on a Redemption Date or repurchase on a Fundamental Change Repurchase Date or otherwise) of, cash, interest on, and any cash Conversion Consideration for, any Global Note to the Depositary by wire transfer of immediately available funds no later than the time the same is due as provided in this Indenture.

(B) *Physical Notes*. The Company will pay, or cause the Paying Agent to pay, the principal (whether due upon maturity on the Maturity Date, Redemption on a Redemption Date or repurchase on a Fundamental Change Repurchase Date or otherwise) of, cash, interest on, and any cash Conversion Consideration for, any Physical Note no later than the time the same is due as provided in this Indenture by wire transfer of immediately available funds to an account of the Holder, as specified by the Holder.

(C) *PIK Notes.* At all times prior to the Rate Adjustment Date, PIK Interest on the Notes shall be payable: (i) with respect to Notes represented by one or more Global Notes registered in the name of, or held by, the Depositary (or any successor depository) or its nominee on the relevant record date, by increasing the principal amount of the outstanding Global Notes, effective as of the applicable Interest Payment Date, by an amount equal to the amount of PIK Interest for the applicable interest period (rounded up to the nearest whole dollar) at the request of the Company to increase the principal amount of the outstanding Global Note and (ii) with respect to Physical Notes, if any, by issuing PIK Notes in certificated form, dated as of the applicable Interest Payment Date, in an aggregate principal amount equal to the amount of the PIK Interest for the applicable interest period (rounded up to the nearest whole dollar), and the Trustee will, upon receipt of a Company Order, authenticate and deliver such PIK Notes in certificated form for original issuance to the Holders on the relevant record date, as shown by the records of the register of holders. Following an increase in the principal amount of the outstanding Global Notes as a result of a PIK Payment, such Global Notes will bear interest on such increased principal amount from and after the Interest Payment Date in respect of which such PIK Payment was made. Any PIK Notes issued in certificated form will be dated as of the applicable Interest Payment Date and will bear interest from and after such date. Any certificated PIK Notes will be issued with the description "PIK" on the face of such PIK Note. All Notes issued pursuant to a PIK Payment will mature on the same maturity date as the Notes issued on the Issue Date and will be governed by, and subject to the terms, provisions and conditions of, the Indenture and shall have the same rights and benefits as the Notes issued on the Issue Date.

(D) *Payment of Interest in Ordinary Shares.* If the Company elects to pay interest on the Notes in Ordinary Shares in accordance with the terms of this Indenture, the Company shall notify the Holders, the Trustee and the Stock Transfer Agent in writing of whether it will make such interest payment in Ordinary Shares at least three Trading Days before the relevant Interest Payment Date. If the Company chooses to make such payment in Ordinary Shares, on the applicable Interest Payment Date, the Company shall either (x) if the Stock Transfer Agent is participating in The Depository Trust Company's Fast Automated Securities Transfer Program, credit the number of Ordinary Shares payable as an interest payment to such Holder's or its designee's balance account with the Depositary through its Deposit/Withdrawal at Custodian system, or (y) if the Stock Transfer Agent is not participating in The Depository Trust Company's Fast Automated Securities Transfer Program, issue and dispatch by overnight courier to each Holder, a certificate, or a statement evidencing the Ordinary Shares in book-entry format, registered in the Company's share register in the name of such Holder or its designee for the number of Ordinary Shares to which such Holder is entitled in connection with such payment. If, after providing notice that it will pay an interest payment in Ordinary Shares, the Company becomes unable to deliver such Ordinary Shares on the relevant Interest Payment Date, the Company shall pay such interest payment in cash.

Section 2.05. Accrual of Interest; Defaulted Amounts; When Payment Date is not a Business Day.

(A) *Accrual of Interest*. Each Note will accrue interest at a rate per annum equal to the Stated Interest, plus any Special Interest that may accrue pursuant to **Section 7.03**. Stated Interest on each Note will (i) accrue from, and including, the most recent date to which Stated Interest has been paid or duly provided for (or, if no Stated Interest has theretofore been paid or duly provided for, the date set forth in the certificate representing such Note as the date from, and including, which Stated Interest will begin to accrue in such circumstance) to, but excluding, the date of payment of such Stated Interest; and (ii) be, subject to **Sections 4.02(D)**, **4.03(F)**, **4.04(D)** and **5.02(D)** (but without duplication of any payment of interest), payable semi-annually in arrears on each Interest Payment Date, beginning on the first Interest Payment Date set forth in the certificate representing such Note, to the Holder of such Note as of the Close of Business on the immediately preceding Regular Record Date. Stated Interest, and, if applicable, Special Interest, on the Notes will be computed on the basis of a 360-day year comprised of twelve 30-day months.

(B) *Defaulted Amounts*. If the Company fails to pay any amount (a "**Defaulted Amount**") payable on a Note on or before the due date therefor as provided in this Indenture, then, regardless of whether such failure constitutes an Event of Default, (i) such Defaulted Amount will forthwith cease to be payable to the Holder of such Note otherwise entitled to such payment, other than pursuant to clause (iii) below; (ii) to the extent lawful, interest ("**Default Interest**") will accrue on such Defaulted Amount at a rate per annum equal to the rate per annum at which Stated Interest accrues, from, and including, such due date to, but excluding, the date of payment of such Defaulted Amount and Default Interest; (iii) such Defaulted Amount and Default Interest will be paid on a payment date selected by the Company to the Holder of such Note as of the Close of Business on a special record date selected by the Company, *provided* that such special record date must be no more than fifteen (15), nor less than ten (10), calendar days before such payment date; and (iv) at least fifteen (15) calendar days before such special record date, the Company will send notice to the Trustee and the Holders that states such special record date, such payment date and the amount of such Defaulted Amount and Default Interest to be paid on such payment date.

(C) *Delay of Payment when Payment Date is Not a Business Day*. If the due date for a payment on a Note as provided in this Indenture is not a Business Day, then, notwithstanding anything to the contrary in this Indenture or the Notes, such payment may be made on the immediately following Business Day and no interest will accrue on such payment as a result of the related delay. Solely for purposes of the immediately preceding sentence, a day on which the applicable place of payment is authorized or required by law or executive order to close or be closed will be deemed not to be a "**Business Day**."

(D) *Issuance of PIK Notes; Notice of PIK Interest and Interest payable in Ordinary Shares*.

(i) From (and including) the Issue Date to (but excluding) the Rate Adjustment Date, on each Interest Payment Date, (x) an amount equal to the interest payable at the Relevant Cash Interest Rate as of such Interest Payment Date will be paid solely in cash, and (y) without duplication, an amount equal to the interest payable at the Relevant PIK Interest Rate as of such Interest Payment Date may be paid, at the Company's election, (a) in cash, (b) by (x) increasing the principal amount of the outstanding Notes or (y) if, and in the limited circumstances where, the Notes are no longer held in global form, by issuing Physical Notes (the "**PIK Notes**") (rounded up to the nearest $1.00) under this Indenture, having the same terms and conditions as the Notes ("**PIK Interest**") (in each case, a "**PIK Payment**"), (c) if the Equity Payment Conditions are met, in Ordinary Shares; or (d) a combination of the forms of payment set forth in sub-clauses (a), (b) and (c) above. The value of Ordinary Shares issued to pay any interest on Physical Notes and Global Notes, if the Company elects to make payment of such interest in Ordinary Shares, will be the simple average of the Daily VWAP for the 10 consecutive Trading Days ending on, and including, the third Trading Day immediately preceding the relevant Interest Payment Date as set forth in an Officer's Certificate and delivered to the Trustee and Paying Agent. The Company may only elect to make payment of interest in Ordinary Shares if such Ordinary Shares are not subject to restrictions on transfer under the Securities Act, whether based on an effective registration statement covering such shares or on an applicable exemption from such registration requirement for resale thereof. On and from the Rate Adjustment Date, the interest payable on an Interest Payment Date will be payable solely in cash.

(ii) PIK Interest on the Notes, if elected to be paid, will be payable (x) with respect to Notes represented by one or more global notes registered in the name of, or held by, the Depositary or its nominee on the relevant record date, by increasing the principal amount of the outstanding global Note by an amount equal to the amount of PIK Interest for the applicable interest period (rounded up to the nearest whole dollar) and (y) with respect to Notes represented by certificated notes, by issuing PIK Notes in certificated form in an aggregate principal amount equal to the amount of PIK Interest for the applicable period (rounded up to the nearest whole dollar), and the Trustee will, at the request of the Company, authenticate and deliver such PIK Notes for original issuance to the Holders on the relevant record date, as shown by the records of the register of Holders. Following an increase in the principal amount of the outstanding Global Notes as a result of a PIK Payment, such Global Notes will bear interest on such increased principal amount from and after the date of such PIK Payment. Any PIK Notes issued in certificated form will be dated as of the applicable Interest Payment Date and will bear interest from and after such date. Any certificated PIK Notes will be issued with the description "PIK" on the face of such PIK Note. All Notes issued pursuant to a PIK Payment will mature on the Maturity Date and will be governed by, and subject to the terms, provisions and conditions of this Indenture and shall have the same rights and benefits as the Notes issued on the Issue Date. The references to the "principal" or "principal amount" of all of the PIK Notes shall include any increase in the principal amount of the outstanding Notes as a result of any PIK Payment.

(iii) PIK Interest will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the Issue Date. The calculation of PIK Interest will be made by the Company or on behalf of the Company by such Person as the Company shall designate, and such calculation and the correctness thereof shall not be a duty or obligation of the Trustee. Notwithstanding anything in this Indenture to the contrary, the payment of accrued interest (including interest that would be PIK Interest when paid) in connection with any redemption of Notes as described in **Sections 4.02** or **4.03** shall be made solely in cash. PIK Interest on the Notes will be paid in denominations of $1.00 and integral multiples of $1.00 in excess thereof.

Section 2.06. Registrar, Paying Agent and Conversion Agent.

(A) *Generally*. The Company will maintain (i) an office or agency in the continental United States where Notes may be presented for registration of transfer or for exchange (the "**Registrar**"); (ii) an office or agency in the continental United States where Notes may be presented for payment (the "**Paying Agent**"); and (iii) an office or agency in the continental United States where Notes may be presented for conversion (the "**Conversion Agent**"). If the Company fails to maintain a Registrar, Paying Agent or Conversion Agent, then the Trustee will act as such. For the avoidance of doubt, the Company or any of its Subsidiaries may act as Registrar, Paying Agent or Conversion Agent.

(B) *Duties of the Registrar*. The Registrar will keep a record (the "**Register**") of the names and addresses of the Holders, the Notes held by each Holder and the transfer, exchange, repurchase, Redemption and conversion of Notes. Absent manifest error, the entries in the Register will be conclusive and the Company and the Trustee may treat each Person whose name is recorded as a Holder in the Register as a Holder for all purposes. The Register will be in written form or in any form capable of being converted into written form reasonably promptly.

(C) *Co-Agents; Company's Right to Appoint Successor Registrars, Paying Agents and Conversion Agents*. The Company may appoint one or more co-Registrars, co-Paying Agents and co-Conversion Agents, each of whom will be deemed to be a Registrar, Paying Agent or Conversion Agent, as applicable, under this Indenture. Subject to **Section 2.06(A)**, the Company may change any Registrar, Paying Agent or Conversion Agent (including appointing itself or any of its Subsidiaries to act in such capacity) without notice to any Holder. The Company will notify the Trustee (and, upon request, any Holder) of the name and address of each Note Agent, if any, not a party to this Indenture and will enter into an appropriate agency agreement with each such Note Agent, which agreement will implement the provisions of this Indenture that relate to such Note Agent.

(D) *Initial Appointments*. The Company appoints the Trustee as the initial Paying Agent, the initial Registrar and the initial Conversion Agent.

Section 2.07. Paying Agent and Conversion Agent to Hold Property in Trust.

The Company will require each Paying Agent or Conversion Agent that is not the Trustee to agree in writing that such Note Agent will (A) hold in trust for the benefit of Holders or the Trustee all money and other property held by such Note Agent for payment or delivery due on the Notes; and (B) notify the Trustee of any default by the Company in making any such payment or delivery. The Company, at any time, may, and the Trustee, while any Default continues, may, require a Paying Agent or Conversion Agent to pay or deliver, as applicable, all money and other property held by it to the Trustee, after which payment or delivery, as applicable, such Note Agent (if not the Company or any of its Subsidiaries) will have no further liability for such money or property. If the Company or any of its Subsidiaries acts as Paying Agent or Conversion Agent, then (A) it will segregate and hold in a separate trust fund for the benefit of the Holders or the Trustee all money and other property held by it as Paying Agent or Conversion Agent; and (B) references in this Indenture or the Notes to the Paying Agent or Conversion Agent holding cash or other property, or to the delivery of cash or other property to the Paying Agent or Conversion Agent, in each case for payment or delivery to any Holders or the Trustee or with respect to the Notes, will be deemed to refer to cash or other property so segregated and held separately, or to the segregation and separate holding of such cash or other property, respectively. Upon the occurrence of any event pursuant to **Section 7.01(A)(x)** or **7.01(A)(xi)** with respect to the Company (or with respect to any Subsidiary of the Company acting as Paying Agent or Conversion Agent), the Trustee will serve as the Paying Agent or Conversion Agent, as applicable, for the Notes.

Section 2.08. Holder Lists.

(A) If the Trustee is not the Registrar, the Company and any other obligor of the Notes will furnish to the Trustee, no later than seven (7) Business Days before each Interest Payment Date, and at such other times as the Trustee may request, a list, in such form and as of such date or time as the Trustee may reasonably require, of the names and addresses of the Holders.

(B) The Trustee shall preserve in as current a form as is reasonably practicable, all information as to the names and addresses of the Holders (1) contained in the most recent list furnished to it as provided in **Section 2.08(A)** and (2) received by it in the capacity of Paying Agent (if so acting).

(C) The Holders may communicate pursuant to Section 312(b) of the Trust Indenture Act with other Holders with respect to their rights under this Indenture or any or all series of the Notes.

(D) Each and every Holder, by receiving the Notes and holding the same, agrees with the Company and the Trustee that neither the Company nor the Trustee nor any agent of either of them shall be held accountable by reason of any disclosure of information as to the names and addresses of the Holders in accordance with the provisions of this **Section 2.08**.

Section 2.09. Legends.

(A) *Global Note Legend*. Each Global Note will bear the Global Note Legend (or any similar legend, not inconsistent with this Indenture, required by the Depositary for such Global Note).

(B) [Reserved.]

(C) *Restricted Note Legend*. Subject to **Section 2.12**,

(i) solely to the extent that any Note is issued in one or more transactions that result in such Note constituting a "restricted security" (as defined in Rule 144), each such Note that is a Transfer-Restricted Security will bear the Restricted Note Legend; and

(ii) if a Note is issued in exchange for, in substitution of, or to effect a partial conversion of, another Note (such other Note being referred to as the "old Note" for purposes of this **Section 2.09(C)(ii)**), including pursuant to **Section 2.10(B)**, **2.10(C)**, **2.11** or **2.13**, then such Note will bear the Restricted Note Legend if such old Note bore the Restricted Note Legend at the time of such exchange or substitution, or on the related Conversion Date with respect to such conversion, as applicable; *provided*, *however*, that such Note need not bear the Restricted Note Legend if such Note does not constitute a Transfer-Restricted Security immediately after such exchange or substitution, or as of such Conversion Date, as applicable.

(D) *Other Legends*. A Note may bear any other legend or text, not inconsistent with this Indenture, as may be required by applicable law or by any securities exchange or automated quotation system on which such Note is traded or quoted.

(E) *Acknowledgment and Agreement by the Holders*. A Holder's acceptance of any Note bearing any legend required by this **Section 2.09** will constitute such Holder's acknowledgment of, and agreement to comply with, the restrictions set forth in such legend.

(F) Restricted Share Legend.

(i) Each Conversion Share will bear the Restricted Share Legend if the Note upon the conversion of which such Conversion Share was issued was (or would have been had it not been converted) a Transfer-Restricted Security at the time such Conversion Share was issued; *provided*, *however*, that such Conversion Share need not bear the Restricted Share Legend if the Company determines, in its reasonable discretion, that such Conversion Share need not bear the Restricted Share Legend.

(ii) Notwithstanding anything to the contrary in this **Section 2.09(F)**, a Conversion Share need not bear a Restricted Share Legend if such Conversion Share is issued in an uncertificated form that does not permit affixing legends thereto, *provided* the Company takes measures (including the assignment thereto of a "restricted" CUSIP number) that it reasonably deems appropriate to enforce the transfer restrictions referred to in the Restricted Share Legend.

Section 2.10. Transfers and Exchanges; Certain Transfer Restrictions.

(A) *Provisions Applicable to All Transfers and Exchanges*.

(i) Subject to this **Section 2.10**, Physical Notes and beneficial interests in Global Notes may be transferred or exchanged from time to time and the Registrar will record each such transfer or exchange in the Register.

(ii) Each Note issued upon transfer or exchange of any other Note (such other Note being referred to as the "old Note" for purposes of this **Section 2.10(A)(ii)**) or portion thereof in accordance with this Indenture will be the valid obligation of the Company, evidencing the same indebtedness, and entitled to the same benefits under this Indenture, as such old Note or portion thereof, as applicable.

(iii) The Company, the Trustee and the Note Agents will not impose any service charge on any Holder for any transfer, exchange or conversion of Notes, but the Company, the Trustee, the Registrar and the Conversion Agent may require payment of a sum sufficient to cover any transfer tax or similar governmental charge that may be imposed in connection with any transfer, exchange or conversion of Notes, other than exchanges pursuant to **Section 2.11**, **2.17** or **8.05** not involving any transfer.

(iv) Notwithstanding anything to the contrary in this Indenture or the Notes, a Note may not be transferred or exchanged in part unless the portion to be so transferred or exchanged is in an Authorized Denomination.

(v) The Trustee will have no obligation or duty to monitor, determine or inquire as to compliance with any transfer restrictions imposed under this Indenture or applicable law with respect to any Security, other than to require the delivery of such certificates or other documentation or evidence as expressly required by this Indenture and to examine the same to determine substantial compliance as to form with the requirements of this Indenture.

(vi) Each Note issued upon transfer of, or in exchange for, another Note will bear each legend, if any, required by **Section 2.09**.

(vii) Upon satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Note, the Company will cause such transfer or exchange to be effected as soon as reasonably practicable but in no event later than the second (2nd) Business Day after the date of such satisfaction.

(viii) For the avoidance of doubt, and subject to the terms of this Indenture, as used in this **Section 2.10**, an "exchange" of a Global Note or a Physical Note includes (x) an exchange effected for the sole purpose of removing any Restricted Note Legend affixed to such Global Note or Physical Note; and (y) if such Global Note or Physical Note is identified by a "restricted" CUSIP number, an exchange effected for the sole purpose of causing such Global Note or Physical Note to be identified by an "unrestricted" CUSIP number.

(B) *Transfers and Exchanges of Global Notes*.

(i) Subject to the immediately following sentence, no Global Note may be transferred or exchanged in whole except (x) by the Depositary to a nominee of the Depositary; (y) by a nominee of the Depositary to the Depositary or to another nominee of the Depositary; or (z) by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. No Global Note (or any portion thereof) may be transferred to, or exchanged for, a Physical Note; *provided*, *however*, that a Global Note will be exchanged, pursuant to customary procedures, for one or more Physical Notes if:

(1) (x) the Depositary notifies the Company or the Trustee that the Depositary is unwilling or unable to continue as depositary for such Global Note or (y) the Depositary ceases to be a "clearing agency" registered under Section 17A of the Exchange Act and, in each case, the Company fails to appoint a successor Depositary within ninety (90) days of such notice or cessation;

(2) an Event of Default has occurred and is continuing and the Company, the Trustee or the Registrar has received a written request from the Depositary, or from a holder of a beneficial interest in such Global Note, to exchange such Global Note or beneficial interest, as applicable, for one or more Physical Notes; or

(3) the Company, in its sole discretion, permits the exchange of any beneficial interest in such Global Note for one or more Physical Notes at the request of the owner of such beneficial interest.

(ii) Upon satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Global Note (or any portion thereof):

(1) the Trustee will reflect any resulting decrease of the principal amount of such Global Note by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such Global Note (and, if such notation results in such Global Note having a principal amount of zero, the Company may (but is not required to) instruct the Trustee to cancel such Global Note pursuant to Section 2.15);

(2) if required to effect such transfer or exchange, then the Trustee will reflect any resulting increase of the principal amount of any other Global Note by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such other Global Note;

(3) if required to effect such transfer or exchange, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with Section 2.02, a new Global Note bearing each legend, if any, required by Section 2.09; and

(4) if such Global Note (or such portion thereof), or any beneficial interest therein, is to be exchanged for one or more Physical Notes, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with Section 2.02, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Global Note to be so exchanged; (y) are registered in such name(s) as the Depositary specifies (or as otherwise determined pursuant to customary procedures); and (z) bear each legend, if any, required by Section 2.09.

(iii) Each transfer or exchange of a beneficial interest in any Global Note will be made in accordance with the Depositary Procedures.

(C) *Transfers and Exchanges of Physical Notes*.

(i) Subject to this **Section 2.10**, a Holder of a Physical Note may (x) transfer such Physical Note (or any portion thereof in an Authorized Denomination) to one or more other Person(s); (y) exchange such Physical Note (or any portion thereof in an Authorized Denomination) for one or more other Physical Notes in Authorized Denominations having an aggregate principal amount equal to the aggregate principal amount of the Physical Note (or portion thereof) to be so exchanged; and (z) if then permitted by the Depositary Procedures, transfer such Physical Note (or any portion thereof in an Authorized Denomination) in exchange for a beneficial interest in one or more Global Notes; *provided*, *however*, that, to effect any such transfer or exchange, such Holder must:

(1) surrender such Physical Note to be transferred or exchanged to the office of the Registrar, together with any endorsements or transfer instruments reasonably required by the Company, the Trustee or the Registrar; and

(2) deliver such certificates, documentation or evidence as may be required pursuant to Section 2.10(D).

(ii) Upon the satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Physical Note (such Physical Note being referred to as the "old Physical Note" for purposes of this **Section 2.10(C)(ii)**) of a Holder (or any portion of such old Physical Note in an Authorized Denomination):

(1) such old Physical Note will be promptly cancelled pursuant to Section 2.15;

(2) if such old Physical Note is to be so transferred or exchanged only in part, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with Section 2.02, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such old Physical Note not to be so transferred or exchanged; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by Section 2.09;

(3) in the case of a transfer:

(a) to the Depositary or a nominee thereof that will hold its interest in such old Physical Note (or such portion thereof) to be so transferred in the form of one or more Global Notes, the Trustee will reflect an increase of the principal amount of one or more existing Global Notes by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such Global Note(s), which increase(s) are in Authorized Denominations and aggregate to the principal amount to be so transferred, and which Global Note(s) bear each legend, if any, required by **Section 2.09**; *provided*, *however*, that if such transfer cannot be so effected by notation on one or more existing Global Notes (whether because no Global Notes bearing each legend, if any, required by **Section 2.09** then exist, because any such increase will result in any Global Note having an aggregate principal amount exceeding the maximum aggregate principal amount permitted by the Depositary or otherwise), then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Global Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so transferred; and (y) bear each legend, if any, required by **Section 2.09**; and

(b) to a transferee that will hold its interest in such old Physical Note (or such portion thereof) to be so transferred in the form of one or more Physical Notes, the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so transferred; (y) are registered in the name of such transferee; and (z) bear each legend, if any, required by **Section 2.09**; and

(4) in the case of an exchange, the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so exchanged; (y) are registered in the name of the Person to whom such old Physical Note was registered; and (z) bear each legend, if any, required by **Section 2.09**.

(D) *Requirement to Deliver Documentation and Other Evidence*. If a Holder of any Note that is identified by a "restricted" CUSIP number or that bears a Restricted Note Legend or is a Transfer-Restricted Security requests to:

(i) cause such Note to be identified by an "unrestricted" CUSIP number;

(ii) remove such Restricted Note Legend; or

(iii) register the transfer of such Note to the name of another Person,

then the Company, the Trustee and the Registrar may refuse to effect such identification, removal or transfer, as applicable, unless there is delivered to the Company, the Trustee and the Registrar such certificates or other documentation or evidence as the Company, the Trustee and the Registrar may reasonably require to determine that such identification, removal or transfer, as applicable, complies with the Securities Act and other applicable securities laws.

(E) *Transfers of Notes Subject to Redemption, Repurchase or Conversion*. Notwithstanding anything to the contrary in this Indenture or the Notes, the Company, the Trustee and the Registrar will not be required to register the transfer of or exchange any Note that (i) has been surrendered for conversion, except to the extent that any portion of such Note is not subject to conversion; (ii) is subject to a Fundamental Change Repurchase Notice validly delivered, and not withdrawn, pursuant to **Section 4.02(F)**, except to the extent that any portion of such Note is not subject to such notice or the Company fails to pay the applicable Fundamental Change Repurchase Price when due; or (iii) has been selected for Redemption pursuant to a Redemption Notice, except to the extent that any portion of such Note is not subject to Redemption or the Company fails to pay the applicable Redemption Price when due.

Section 2.11. Exchange and Cancellation of Notes to be Converted or to be Repurchased Pursuant to a Repurchase Upon Fundamental Change or Redemption.

(A) *Partial Conversions of Physical Notes and Partial Repurchases of Physical Notes Pursuant to a Repurchase Upon Fundamental Change or Redemption*. If only a portion of a Physical Note of a Holder is to be converted pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, as soon as reasonably practicable after such Physical Note is surrendered for such conversion or repurchase, as applicable, the Company will cause such Physical Note to be exchanged, pursuant and subject to **Section 2.10(C)**, for (i) one or more Physical Notes that are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be so converted or repurchased, as applicable, and deliver such Physical Note(s) to such Holder; and (ii) a Physical Note having a principal amount equal to the principal amount to be so converted or repurchased, as applicable, which Physical Note will be converted or repurchased, as applicable, pursuant to the terms of this Indenture; *provided*, *however*, that the Physical Note referred to in this **clause (ii)** need not be issued at any time after which such principal amount subject to such conversion or repurchase, as applicable, is deemed to cease to be outstanding pursuant to **Section 2.18**.

(B) *Cancellation of Notes that Are Converted and Notes that Are Repurchased Pursuant to a Repurchase Upon Fundamental Change or Redemption*.

(i) *Physical Notes*. If a Physical Note (or any portion thereof that has not theretofore been exchanged pursuant to **Section 2.11(A)**) of a Holder is to be converted pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, promptly after the later of the time such Physical Note (or such portion) is deemed to cease to be outstanding pursuant to **Section 2.18** and the time such Physical Note is surrendered for such conversion or repurchase, as applicable, (1) such Physical Note will be cancelled pursuant to **Section 2.15**; and (2) in the case of a partial conversion or repurchase, as applicable, the Company will issue, execute and deliver to such Holder, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be so converted or repurchased, as applicable; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by **Section 2.09**.

(ii) *Global Notes*. If a Global Note (or any portion thereof) is to be converted pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, promptly after the time such Note (or such portion) is deemed to cease to be outstanding pursuant to **Section 2.18**, the Trustee will reflect a decrease of the principal amount of such Global Note in an amount equal to the principal amount of such Global Note to be so converted or repurchased, as applicable, by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such Global Note (and, if the principal amount of such Global Note is zero following such notation, cancel such Global Note pursuant to **Section 2.15**).

Section 2.12. Removal of Transfer Restrictions.

Without limiting the generality of any other provision of this Indenture (including **Section 3.04**), the Restricted Note Legend affixed to any Note will be deemed, pursuant to this **Section 2.12** and the footnote to such Restricted Note Legend, to be removed therefrom upon the Company's delivery to the Trustee of notice, signed on behalf of the Company by one (1) of its Officers, to such effect (and, for the avoidance of doubt, such notice need not be accompanied by an Officer's Certificate or an Opinion of Counsel in order to be effective to cause such Restricted Note Legend to be deemed to be removed from such Note). If such Note bears a "restricted" CUSIP or ISIN number at the time of such delivery, then, upon such delivery, such Note will be deemed, pursuant to this **Section 2.12** and the footnotes to the CUSIP and ISIN numbers set forth on the face of the certificate representing such Note, to thereafter bear the "unrestricted" CUSIP and ISIN numbers identified in such footnotes; *provided*, *however*, that if such Note is a Global Note and the Depositary thereof requires a mandatory exchange or other procedure to cause such Global Note to be identified by "unrestricted" CUSIP and ISIN numbers in the facilities of such Depositary, then (i) the Company will effect such exchange or procedure as soon as reasonably practicable; and (ii) for purposes of **Section 3.04**, such Global Note will not be deemed to be identified by "unrestricted" CUSIP and ISIN numbers until such time as such exchange or procedure is effected.

Section 2.13. Replacement Notes.

If a Holder of any Note claims that such Note has been mutilated, lost, destroyed or wrongfully taken, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, a replacement Note upon surrender to the Trustee of such mutilated Note, or upon delivery to the Trustee of evidence of such loss, destruction or wrongful taking reasonably satisfactory to the Trustee and the Company. In the case of a lost, destroyed or wrongfully taken Note, the Company and the Trustee may require the Holder thereof to provide such security or indemnity that is reasonably satisfactory to the Company and the Trustee to protect the Company and the Trustee from any loss that any of them may suffer if such Note is replaced.

Every replacement Note issued pursuant to this **Section 2.13** will be an additional obligation of the Company and will be entitled to all of the benefits of this Indenture equally and ratably with all other Notes issued under this Indenture.

Section 2.14. Registered Holders; Certain Rights with Respect to Global Notes.

Only the Holder of a Note will have rights under this Indenture as the owner of such Note. Without limiting the generality of the foregoing, Depositary Participants will have no rights as such under this Indenture with respect to any Global Note held on their behalf by the Depositary or its nominee, or by the Trustee as its custodian, and the Company, the Trustee and the Note Agents, and their respective agents, may treat the Depositary as the absolute owner of such Global Note for all purposes whatsoever; *provided*, *however*, that (A) the Holder of any Global Note may grant proxies and otherwise authorize any Person, including Depositary Participants and Persons that hold interests in Notes through Depositary Participants, to take any action that such Holder is entitled to take with respect to such Global Note under this Indenture or the Notes; and (B) the Company and the Trustee, and their respective agents, may give effect to any written certification, proxy or other authorization furnished by the Depositary.

Section 2.15. Cancellation.

The Company may at any time deliver Notes to the Trustee for cancellation. The Registrar, the Paying Agent and the Conversion Agent will forward to the Trustee each Note duly surrendered to them for transfer, exchange, payment or conversion. The Trustee will promptly cancel all Notes so surrendered to it in accordance with its customary procedures. Without limiting the generality of **Section 2.03(B)**, the Company may not originally issue new Notes to replace Notes that it has paid or that have been cancelled upon transfer, exchange, payment or conversion.

Section 2.16. Notes Held by the Company or its Affiliates.

In determining whether the holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company, by the Company's Subsidiaries, the Investor and its Affiliates or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company, its Subsidiaries, the Investor or its Affiliates shall be disregarded and deemed not to be outstanding; *except* that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes which the Trustee actually knows are so owned shall be so disregarded. Subject to the foregoing, only Notes outstanding at the time shall be considered in any such determination.

Section 2.17. Temporary Notes.

Until definitive Notes are ready for delivery, the Company may issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, temporary Notes. Temporary Notes will be substantially in the form of definitive Notes but may have variations that the Company considers appropriate for temporary Notes. The Company will promptly prepare, issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, definitive Notes in exchange for temporary Notes. Until so exchanged, each temporary Note will in all respects be entitled to the same benefits under this Indenture as definitive Notes.

Section 2.18. Outstanding Notes.

(A) *Generally*. The Notes that are outstanding at any time will be deemed to be those Notes that, at such time, have been duly executed and authenticated, excluding those Notes (or portions thereof) that have theretofore been (i) cancelled by the Trustee or delivered to the Trustee for cancellation in accordance with **Section 2.15**; (ii) assigned a principal amount of zero by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of any a Global Note representing such Note; (iii) paid in full (including upon conversion) in accordance with this Indenture; or (iv) deemed to cease to be outstanding to the extent provided in, and subject to, **clause (B)**, **(C)** or **(D)** of this **Section 2.18**. Subject to Section 2.16, the Notes do not cease to be outstanding because the Company or an Affiliate of the Company holds such Notes.

(B) *Replaced Notes*. If a Note is replaced pursuant to **Section 2.13**, then such Note will cease to be outstanding at the time of its replacement, unless the Trustee and the Company receive proof reasonably satisfactory to them that such Note is held by a "protected purchaser" under applicable law.

(C) *Maturing Notes and Notes Called for Redemption or Subject to Repurchase*. If, on a Redemption Date, a Fundamental Change Repurchase Date or the Maturity Date, the Paying Agent holds money sufficient to pay the aggregate Redemption Price, Fundamental Change Repurchase Price or principal amount, respectively, together, in each case, with the aggregate interest, in each case due on such date, then (unless there occurs a Default in the payment of any such amount) (i) the Notes (or portions thereof) to be redeemed or repurchased, or that mature, on such date will be deemed, as of such date, to cease to be outstanding, except to the extent provided in **Section 4.02(D)**, **4.03(F)** or **5.02(D)**; and (ii) the rights of the Holders of such Notes (or such portions thereof), as such, will terminate with respect to such Notes (or such portions thereof), other than the right to receive the Redemption Price, Fundamental Change Repurchase Price or principal amount, as applicable, of, and accrued and unpaid interest on, such Notes (or such portions thereof), in each case as provided in this Indenture.

(D) *Notes to Be Converted*. At the Close of Business on the Conversion Date for any Note (or any portion thereof) to be converted, such Note (or such portion) will (unless there occurs a Default in the delivery of the Conversion Consideration or interest due, pursuant to **Section 5.03(B)** or **Section 5.02(D)**, upon such conversion) be deemed to cease to be outstanding, except to the extent provided in **Section 5.02(D)** or **Section 5.08**.

(E) *Notes to Be Exchanged*. At the Close of Business on the Optional Exchange Date for the Tranche A Notes to be converted, such Tranche A Notes will (unless there occurs a Default in the delivery of the Optional Exchange Consideration or interest due, pursuant to **Section 5.03(B)** or **Section 5.02(D)**, upon such exchange) be deemed to cease to be outstanding, except to the extent provided in **Section 5.02(D)**.

(F) *Cessation of Accrual of Interest*. Except as provided in **Section 4.02(D)**, **4.03(F)** or **5.02(D)**, interest will cease to accrue on each Note from, and including, the date that such Note is deemed, pursuant to this **Section 2.18**, to cease to be outstanding, unless there occurs a default in the payment or delivery of any cash or other property due on such Note.

Section 2.19. Repurchases by the Company.

Without limiting the generality of **Section 2.15**, the Company may, from time to time, repurchase Notes in open market purchases or in negotiated transactions without delivering prior notice to Holders. The Company may, to the extent permitted by applicable law, and directly or indirectly (regardless of whether such Notes are surrendered to the Company), repurchase Notes in the open market or otherwise, whether by the Company or the Company's Subsidiaries or through a private or public tender or exchange offer or through counterparties pursuant to private agreements, including cash-settled swaps or other derivatives, in each case, without prior notice to, or consent of, the Holders. The Company will promptly surrender to the Trustee for cancellation any Notes that the Company may repurchase. Any Notes that the Company may repurchase will be considered "outstanding" under this Indenture (except as provided in **Section 2.16**) unless and until such time the Company causes them to be surrendered to the Trustee for cancellation, and, upon receipt of a written order from the Company, the Trustee will cancel all Notes so surrendered.

Section 2.20. CUSIP and ISIN Numbers.

Subject to **Section 2.12**, the Company may use one or more CUSIP or ISIN numbers to identify any of the Notes, and, if so, the Company and the Trustee will use such CUSIP or ISIN number(s) in notices to Holders; *provided*, *however*, that (i) the Trustee makes no representation as to the correctness or accuracy of any such CUSIP or ISIN number; and (ii) the effectiveness of any such notice will not be affected by any defect in, or omission of, any such CUSIP or ISIN number. The Company will promptly notify the Trustee, in writing, of any change in the CUSIP or ISIN number(s) identifying any Notes.

Article 3. COVENANTS

Section 3.01. Payment on Notes.

(A) *Generally*. The Company will pay or cause to be paid in cash (or as applicable by increasing the principal amount of the Notes or issuing PIK Notes, or issuing Ordinary Shares) all the principal of, the Fundamental Change Repurchase Price and Redemption Price for, interest on, and other amounts due with respect to, the Notes on the dates and in the manner set forth in this Indenture.

(B) *Deposit of Funds*. Before 10:00 A.M., New York City time, on each Redemption Date, Fundamental Change Repurchase Date or Interest Payment Date, and on the Maturity Date or any other date on which any cash amount is due on the Notes, the Company will deposit, or will cause there to be deposited, with the Paying Agent cash, in funds immediately available on such date, sufficient to pay the cash amount due on the applicable Notes on such date. All the funds provided to the Paying Agent must be in U.S. dollars. The Paying Agent will return to the Company, as soon as practicable, any money not required for such purpose. PIK Interest shall be considered paid on the date due if on such date, the Trustee has received delivery of a Company Order on or prior to the date the payment is due of (x) any PIK Notes to be authenticated and delivered or written direction as provided in **Section 2.05(D);** or (y) any increased principal amount of the applicable Global Notes, in amount equal to all PIK Interest then due.

Section 3.02. Exchange Act Reports.

(A) *Generally*. The Company will send to the Trustee and the Collateral Trustee copies of all reports that the Company is required to file with the SEC pursuant to Section 13(a) or 15(d) of the Exchange Act within fifteen (15) calendar days after the date that the Company is required to file the same (after giving effect to all applicable grace periods under the Exchange Act); *provided*, *however*, that the Company need not send to the Trustee and the Collateral Trustee any material or information for which the Company has received, or is seeking in good faith and has not been denied, confidential treatment by the SEC or which the Company has redacted in accordance with the applicable rules and regulations of the SEC, or any correspondence with the SEC (such material or information, "**Confidential Information**"). Any report that the Company files with the SEC through the EDGAR system (or any successor thereto) will be deemed to be sent to the Trustee and the Collateral Trustee at the time such report is so filed via the EDGAR system (or such successor) and notice thereof has been provided to the Trustee and the Collateral Trustee. Upon the request of any Holder, the Trustee and the Collateral Trustee will provide to such Holder a copy of any report that the Company has sent the Trustee and the Collateral Trustee pursuant to this **Section 3.02(A)**, other than a report that is deemed to be sent to the Trustee and the Collateral Trustee pursuant to the preceding sentence.

(B) *Confidential Information*. To the extent any Holder requests in writing from the Company any document or material which contains Confidential Information and such document or material is, in the Company's reasonable judgment, of the type that such Holder is entitled to receive under the terms of this Indenture, the Company shall make such document or material available to such Holder; *provided* that such Holder shall have executed and delivered to the Company a confidentiality agreement in form and substance satisfactory to the Company, acting reasonably. The Company shall not be obligated to deliver any Confidential Information to any Holder which has not executed and delivered to the Company a confidentiality agreement in form and substance satisfactory to the Company, acting reasonably.

(C) *Trustee's Disclaimer*. The Trustee and the Collateral Trustee need not determine whether the Company has filed any material via the EDGAR system (or such successor). The sending or filing of reports pursuant to **Section 3.02(A)** will not be deemed to constitute constructive notice to the Trustee and/or Collateral Trustee of any information contained, or determinable from information contained, therein, including the Company's compliance with any of its covenants under this Indenture. Any such reports delivered or filed by the Company with the Trustee and Collateral Trustee shall be considered for informational purposes only and the Trustee's and Collateral Trustee's receipt of such reports shall not constitute notice or actual knowledge of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on an Officer's Certificate).

Section 3.03. Rule 144A Information.

If the Company is not subject to Section 13 or 15(d) of the Exchange Act at any time when any Notes or Ordinary Shares issuable upon conversion of the Notes are outstanding and constitute "restricted securities" (as defined in Rule 144), then the Company (or its successor) will promptly provide, to the Trustee and, upon written request, to any Holder, beneficial owner or prospective purchaser of such Notes or shares, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act to facilitate the resale of such Notes or shares pursuant to Rule 144A.

Section 3.04. Rule 144 Information.

The Company shall timely file any report that is required in order for the Company to satisfy the requirements set forth in Rule 144(c)(1) (after giving effect to all grace periods permitted thereunder).

Section 3.05. Additional Amounts.

(A) *Requirement to Pay Additional Amounts*. All payments and deliveries made by, or on behalf of, the Company or any successor to the Company under or with respect to the Notes (including payment of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any premium or interest (including any Special Interest) on, the delivery of any Optional Exchange Consideration due upon the Optional Exchange of, or the delivery of any Conversion Consideration due upon conversion of, any Note (together with payments of cash for any fractional share)) will be made without withholding or deduction for, or on account of, any present or future Taxes, unless such withholding or deduction is required by law or regulation or by governmental policy having the force of law. The Company or any successor to the Company and any applicable withholding agent is authorized to (a) liquidate a portion of any non-cash payment to be made under the Notes to generate sufficient funds to pay applicable withholding Taxes or (b) take such other actions as are reasonably appropriate to make the Company or any successor to the Company or any applicable withholding agent whole for any previously-paid "cashless" withholding Tax in respect of the Notes. If any Taxes imposed or levied by or on behalf of Singapore, or any other jurisdiction (or any political subdivision or taxing authority thereof or therein) in which the Company or any successor to the Company is, for tax purposes, organized or resident or doing business or through which payment or delivery is made or deemed to be made (each such jurisdiction, subdivision or authority, as applicable, a "**Relevant Taxing Jurisdiction**") are required to be withheld or deducted from any payments or deliveries made under or with respect to the Notes, then, subject to **Section 4.03(C)(ii)**, the Company or any successor to the Company, as applicable, will (i) make such withholding or deduction, (ii) remit the full amount deducted or withheld to the relevant authority in accordance with applicable law, and (iii) pay or deliver to the Holder of each Note such additional amounts (the "**Additional Amounts**") as may be necessary to ensure that the net amount received by the beneficial owner of such Note after such withholding or deduction (and after withholding or deducting any Taxes on the Additional Amounts) will equal the amounts that would have been received by such beneficial owner had no such withholding or deduction been required; *provided*, *however*, that such obligation to pay Additional Amounts will not apply to:

(i) any Tax that would not have been imposed but for:

(1) the existence of any present or former connection between the Holder or beneficial owner of such Note (or between a fiduciary, settlor, beneficiary, member or shareholder of, or possessor of power over, the relevant holder or beneficial owner, if the relevant holder or beneficial owner (or such fiduciary, settlor, beneficiary, member or shareholder) is an estate, nominee, trust, partnership, limited liability company or corporation) and the Relevant Taxing Jurisdiction (other than merely holding or being a beneficial owner of such Note or the receipt of payments or enforcement of rights thereunder), including such Holder or beneficial owner being or having been a national, domiciliary or resident, or treated as a resident, of, or being or having been physically present or engaged in a trade or business, or having had a permanent establishment, in, such Relevant Taxing Jurisdiction;

(2) in cases where presentation of such Note is required to receive such payment or delivery, the presentation of such Note after a period of thirty (30) days after the later of (x) the date on which such payment or delivery became due and payable or deliverable, as applicable, pursuant to the terms of this Indenture and (y) the date such payment or delivery was made or duly provided for, except, in each case, to the extent that such Holder or beneficial owner would have been entitled to Additional Amounts if it presented such Note for payment or delivery, as applicable, at the end of such thirty (30) day period; or

(3) the failure of such Holder or beneficial owner to comply with a timely written request from the Company or the Successor Corporation, addressed to such Holder or beneficial owner, to (x) provide certification, information, documentation or other evidence concerning such Holder's or beneficial owner's nationality, residence, identity or connection with such Relevant Taxing Jurisdiction; or (y) make any declaration or satisfy any other reporting requirement relating to such matters, in each case if and to the extent that such Holder or beneficial owner is legally entitled and due and timely compliance with such request is required by statute, regulation or government policy of such Relevant Taxing Jurisdiction in order to reduce or eliminate such withholding or deduction;

(ii) any estate, inheritance, gift, use, sale, transfer, personal property or similar Tax or excise tax imposed on transfer of the Notes;

(iii) any Tax that is payable other than by withholding or deduction from payments or deliveries under or with respect to the Notes;

(iv) any withholding or deduction required by (x) sections 1471 through 1474 of the Internal Revenue Code, as of the date of this Indenture (or any amended or successor version that is substantively comparable and not materially more burdensome to comply with) and any current or future U.S. Treasury regulations or rulings promulgated thereunder ("**FATCA**"); (y) any inter-governmental agreement between the United States and any other non-U.S. jurisdiction to implement FATCA or any law enacted by such other jurisdiction to give effect to such agreement; or (z) any agreement with the U.S. Internal Revenue Service pursuant to Section 1471(b)(1) of the Internal Revenue Code;

(v) any taxes imposed on or with respect to any payment by the Company to such Holder if such Holder is a fiduciary, partnership or person other than the sole beneficial owner of such payment, to the extent that such payment would be required, under the laws of such Relevant Taxing Jurisdiction, to be included for tax purposes in the income of a beneficiary or settlor with respect to such fiduciary, a partner or member of such partnership, or a beneficial owner, who would not have been entitled to such Additional Amounts had such beneficiary, settlor, partner, member or beneficial owner been the Holder thereof; or

(vi) any combination of items referred to in the preceding **clauses (i)** through **(v)**, inclusive, above.

(B) *Indemnification for Transfer Taxes*. The Company or any successor to the Company will, jointly and severally, pay and indemnify each Holder and beneficial owner of Notes for any present or future stamp, issue, registration, value added, transfer, court or documentary Taxes, or any other excise, property or similar Taxes (including penalties, interest and any other reasonable expenses related thereto) ("**Transfer Taxes**") levied by any Relevant Taxing Jurisdiction (and in the case of enforcement, any jurisdiction) on or in connection with the execution, delivery, registration, issuance or enforcement of any of the Notes, this Indenture or any other document or instrument referred to herein or the receipt of any payments or deliveries with respect to the Notes (including the receipt of shares (together with payment of cash for any fractional Share) or other Conversion Consideration).

(C) *Special Provision Regarding Interest*. For the avoidance of doubt, if any Note is called for a Tax Redemption and the Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, then the Company's obligation to pay Additional Amounts will apply to the interest payment due on such Note on such Interest Payment Date unless such Note is subject to a Tax Redemption Opt-Out Election Notice.

(D) *Tax Receipts*. If the Company or any successor to the Company is required to make any deduction or withholding from any payments or deliveries with respect to the Notes, then the (i) Company or such successor to the Company will deliver to the Trustee official tax receipts (or, if, after expending reasonable efforts, the Company is unable to obtain such receipts, an Officer's Certificate reasonably satisfactory to each Holder evidencing the payment of any applicable Taxes so deducted or withheld) evidencing the remittance to the relevant tax authorities of the amounts so withheld or deducted; and (ii) the Trustee or the Company or such successor to the Company will provide a copy of such receipts or evidence, as applicable, to any Holder or beneficial owner of any Notes upon request.

(E) *Interpretation of Indenture and Notes*. All references in this Indenture or the Notes to any payment on, or delivery with respect to, the Notes (including payment of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any premium or interest (including Special Interest) on, the delivery of any Optional Exchange Consideration due upon the Optional Exchange of, or the delivery of any Conversion Consideration due upon conversion of, any Note (together with payments of cash for any fractional share)) will, to the extent that Additional Amounts are payable in respect thereof, be deemed to include the payment of such Additional Amounts.

(F) *Survival of Obligations*. The obligations set forth in this **Section 3.05** will survive any termination, defeasance or discharge of this Indenture and any transfer of Notes by a Holder (or, in the case of a Global Note, a holder of a beneficial interest therein).

Section 3.06. Compliance and Default Certificates.

(A) *Annual Compliance Certificate*. Within one hundred twenty (120) days after the earlier of (x) the end of the fiscal year of 2024 and each fiscal year of the Company thereafter, and (y) January 5 of the following year, the Company will deliver an Officer's Certificate to the Trustee and the Collateral Trustee stating (i) that the signatory thereto has supervised a review of the activities of the Company Indenture Parties during such fiscal year with a view towards determining whether any Default or Event of Default has occurred; and (ii) whether, to such signatory's knowledge, a Default or Event of Default has occurred or is continuing (and, if so, describing all such Defaults or Events of Default and what action any Company Indenture Party is taking or proposes to take with respect thereto).

(B) *Default Certificate*. If a Default or Event of Default occurs, then the Company will, within thirty (30) days after its occurrence, deliver an Officer's Certificate to the Trustee and the Collateral Trustee describing the same and what action the Company or any Company Indenture Party is taking or proposes to take with respect thereto; *provided, however*, that such notice will not be required if such Default or Event of Default has been cured or waived before the date the Company is required to deliver such notice.

Section 3.07. Stay, Extension and Usury Laws.

To the extent that it may lawfully do so, each of the Company Indenture Party (A) agrees that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law (wherever or whenever enacted or in force) that may affect the covenants or the performance of this Indenture; and (B) expressly waives all benefits or advantages of any such law and agrees that it will not, by resort to any such law, hinder, delay or impede the execution of any power granted to the Trustee by this Indenture, but will suffer and permit the execution of every such power as though no such law has been enacted.

Section 3.08. Corporate Existence.

Subject to **Article 6**, each Company Indenture Party will cause to preserve and keep in full force and effect:

(A) its corporate existence in accordance with the organizational or constitutional documents of such Company Indenture Party; and

(B) the material rights (charter and statutory), licenses and franchises of each Company Indenture Party and their respective Subsidiaries;

provided, *however*, that each Company Indenture Party need not preserve or keep in full force and effect any such license or franchise if the Board of Directors determines that (x) the preservation thereof is no longer desirable in the conduct of the business of the Company Indenture Parties, taken as a whole; and (y) the loss thereof is not, individually or in the aggregate, materially adverse to the Holders or the Collateral Trustee.

Section 3.09. Acquisition of Notes by the Company and its Affiliates.

Without limiting the generality of **Section 2.18**, Notes that the Company or any of its Subsidiaries have purchased or otherwise acquired will be deemed to remain outstanding (except to the extent provided in **Section 2.16**) until such time as such Notes are delivered to the Trustee for cancellation. The Company will use commercially reasonable efforts to prevent any of its controlled Affiliates (other than the Investor) from acquiring any Note (or any beneficial interest therein).

Section 3.10. Further Instruments and Acts.

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

Section 3.11. Future Subsidiary Guarantors

The Company shall cause (A) prior to the Forward Purchase Closing, each Restricted Subsidiary that guarantees or becomes an obligor under the First Lien Notes or that guarantees any other Indebtedness of the Company or any of the Guarantors; or (B) on and from the Forward Purchase Closing, each Restricted Subsidiary that guarantees or becomes an obligor under the First Lien Notes to (i) execute and deliver to the Trustee a supplemental indenture substantially in the form of Exhibit C hereto pursuant to which such Restricted Subsidiary will guarantee the Company's Obligations under the Notes and this Indenture, (ii) execute and deliver joinders to or new Notes Security Documents and (iii) take all actions required thereunder to perfect the Liens created thereunder with respect to its assets that constitute Collateral; *provided* that this **Section 3.11** shall not be applicable to SunPower Systems International Limited.

Section 3.12. Limitation on Indebtedness

The Company will not, and will cause the Restricted Subsidiaries not to, directly or indirectly, create, incur, issue, assume, guarantee, suffer to exist or otherwise become directly or indirectly liable, contingently or otherwise with respect to, any Secured Indebtedness, except for the following, without duplication:

(A) Secured Indebtedness in respect of the Obligations;

(B) Secured Indebtedness existing as of the Issue Date (other than the Indebtedness described in **clauses (A), (C)** and **(D)**);

(C) (i) Secured Indebtedness incurred pursuant to the Amended 2029 First Lien Notes Indenture; (ii) Secured Indebtedness incurred pursuant to the New 2029 First Lien Notes Indenture, in each case as in effect on the Issue Date; and (iii) Secured Indebtedness comprised of Additional Notes in aggregate principal amount of not more than US$2,500,000, which shall solely constitute Indebtedness incurred to refinance (as defined below) the 2025 Notes (including any premium, interest accrued and unpaid and/or any other amount payable thereon);

(D) Secured Indebtedness incurred pursuant to repayment obligations under the Total Solarization Agreement and any Secured Indebtedness of the Company or any Restricted Subsidiary issued in exchange for, or the net proceeds of which are used to refinance or refund, replace, exchange, renew, repay, redeem, defease, discharge or extend, in full or in part, such repayment obligations (including premiums, accrued interest, fees and expenses), in an amount not to exceed the amount so refinanced or refunded;

(E) Secured Indebtedness of the Company or any Restricted Subsidiary issued in exchange for, or the net proceeds of which are used to refinance or refund, replace, exchange, renew, repay, redeem, defease, discharge or extend (collectively, "refinance," "refinances," "refinancing" and "refinanced" shall have a correlative meaning) ("**Permitted Refinancing Secured Indebtedness"),** then outstanding Secured Indebtedness (or Indebtedness repaid substantially concurrently with, but in any case before, the incurrence of such Permitted Refinancing Secured Indebtedness) incurred under **Sections 3.12(A), 3.12(B), 3.12(C), 3.12(F), 3.12(G), 3.12(H), 3.12(I) and 3.12(J)** and any refinancing thereof in an amount not to exceed the amount so refinanced or refunded (plus reasonable premiums, accrued interest, fees and expenses); *provided* that (i) Secured Indebtedness the proceeds of which are used to refinance or refund the Notes or Secured Indebtedness that is *pari passu* with, or subordinated in right of payment to, the Notes shall only be permitted under this **Section 3.12(E)** if (y) in case the Notes are refinanced in part or the Secured Indebtedness to be refinanced is *pari passu* with the Notes, such new Secured Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which such new Secured Indebtedness is outstanding, is expressly made *pari passu* with, or subordinate in right of payment to, the remaining Notes, if any, as applicable, or (z) in case the Secured Indebtedness to be refinanced is subordinated in right of payment to the Notes, such new Secured Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which such new Secured Indebtedness is issued or remains outstanding, is expressly made subordinate in right of payment to the Notes at least to the extent and in the same manner that the Secured Indebtedness to be refinanced is subordinated to the Notes, (ii) such new Secured Indebtedness, determined as of the date of incurrence of such new Secured Indebtedness, does not mature prior to the Stated Maturity of the Secured Indebtedness to be refinanced, and the Average Life of such new Secured Indebtedness is at least equal to the remaining Average Life of the Secured Indebtedness to be refinanced, (iii) such new Secured Indebtedness will not have additional obligors or greater (including higher ranking priority) guarantees; and *provided*, *further*, that the Liens securing such Secured Indebtedness (x) do not extend to or cover any property or assets of the Company or any Restricted Subsidiary other than the property or assets securing the Secured Indebtedness being refinanced, and (y) do not rank higher in priority than the Liens on such property or assets securing the Secured Indebtedness being refinanced, whether by priority of such Lien or the priority of payment on enforcement of such Lien;

(F) Secured Indebtedness of the Company or any Company Indenture Party not to exceed US$50,000,000; *provided* that such Secured Indebtedness shall not constitute refinancing Indebtedness;

(G) Secured Indebtedness incurred (i) in connection with the acquisition, lease, construction, repair, replacement or improvement of property (real or personal) or equipment (whether through the direct purchase of assets or the Capital Stock of any Person owning such assets) or (ii) in respect of Sale/Leaseback Transactions of equipment and property of the Company or any Restricted Subsidiary, in an aggregate amount in the case of (i) and (ii), at any time outstanding (together with refinancing thereof) not to exceed an amount equal to 25.0% of PP&E; *provided*, that the Liens securing such Indebtedness shall not be permitted to exist on any portion of the Collateral and such Lien secures only the assets that are the subject of the Indebtedness referred to in this **Section 3.12(G)**;

(H) Secured Indebtedness incurred by the Company or any Restricted Subsidiary with a maturity of one year or less for working capital in an aggregate principal amount at any one time outstanding (together with any refinancings thereof, including any Permitted Refinancing Indebtedness under **Section 3.12(E)** (which must for such purposes have a maturity of one year or less and be for working capital)) of all Secured Indebtedness incurred under this **Section 3.12(H)**, together with the aggregate principal amount at such time outstanding of any Indebtedness incurred (i) pursuant to the SCB Agreement and (ii) pursuant to any Receivable Financing (other than Non-recourse Receivable Financing) under **Section 3.12(I)**, not to exceed 15.0% of Total Revenue (or the Dollar Equivalent thereof);

(I) Secured Indebtedness arising in connection with Hedging Agreements entered into in the ordinary course of business (and not for speculative purposes) (a) to hedge or mitigate risks to which the Company or any of its Subsidiaries has actual or potential exposure (other than those in respect of equity interest of the Company or any of its Subsidiaries), including to hedge or mitigate foreign currency and commodity price risks and (b) to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability of the Company or any of its Subsidiaries; *provided* that the Liens secured such Secured Indebtedness are encumbering customary initial deposits or margin deposits or are otherwise within the general parameters customary in the industry and incurred in the ordinary course of business;

(J) Secured Indebtedness of the Company or any Restricted Subsidiary in respect of Receivable Financing (other than Non-recourse Receivable Financing) in an aggregate principal amount any time outstanding (together with any refinancing thereof, including any Permitted Refinancing Indebtedness under **Section 3.12(E))** not to exceed $15,000,000; *provided* that the Liens securing such Secured Indebtedness are on accounts receivables and other assets of the type specified in the definition of "Receivable Financing;"

(K) Secured Indebtedness incurred to finance Capital Expenditures duly approved by the Board of Directors; *provided*, that the Liens securing such Indebtedness shall not be permitted to exist on any portion of the Collateral and such Lien secures only the assets that are the subject of the Indebtedness referred to in this **Section 3.12(K)**;

(L) Secured Indebtedness with respect to letters of credit, bank guarantee, or similar instruments posted to support (i) pension obligations that arise in the ordinary course of business; and (ii) contracts with trade creditors, contracts (other than in respect of debt for borrowed money), leases, bids, statutory obligations, customs, surety, stay, appeal and performance bonds, performance and completion guarantees and other obligations of a like nature (including those to secure health, safety and environmental obligations), in each case, incurred in the ordinary course of business or consistent with industry practice;

(M) Secured Indebtedness owed to (i) any Person providing worker's compensation to the Company or any of its Subsidiaries incurred in connection with such Person providing such benefits pursuant to customary reimbursement or indemnification obligations to such Person and (ii) appeal or similar bonds, or bonds with respect to worker's compensation claims; *provided* that the Liens securing such Indebtedness shall be incurred in the ordinary course of business and exclusive of obligations for the payment of borrowed money;

(N) any Junior Lien Indebtedness; and

(O) on and from the Forward Purchase Closing, any other Secured Indebtedness that the Company or its Restricted Subsidiary is permitted to incur pursuant to any of the Priority Lien Debt Documents.

Section 3.13. Limitation on Transactions with Affiliates

The Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly (whether by merger, consolidation, amendment, recapitalization or otherwise) make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction or series of transactions, contract, agreement, understanding, loan (including intercompany loans), advance or guarantee with, or for the benefit of, any Affiliate of the Company (other than the Company and its Subsidiaries) involving aggregate consideration in excess of $5,000,000 (each of the foregoing, an "**Affiliate Transaction**"), unless (i) such Affiliate Transaction is on terms that are not materially less favorable to the Company or the relevant Subsidiary than those that could have been obtained in a comparable transaction by the Company or such Subsidiary with an unrelated Person on an arm's length basis, and (ii) the Company delivers to the Trustee (x) a resolution adopted by the Board of Directors, including a majority of the disinterested directors with respect to such transaction, approving such Affiliate Transaction, or (y) an opinion issued to the Board of Directors by an accounting, appraisal or investment banking firm of nationally recognized standing as to the fairness to the Company or such Subsidiary of such Affiliate Transaction from a financial point of view or that the terms of such Affiliate Transaction are no less favorable to the Company or the relevant Subsidiary, taken as a whole, than those that could have been obtained in a comparable arm's-length transaction by the Company or such Subsidiary with a Person that is not an Affiliate of the Company, except for the following transactions:

(A) transactions with a joint venture in which one or more of the Company and any of its Restricted Subsidiaries is a participant (whether in the form of a partnership, limited liability company or other entity) for the purchase or sale of goods, equipment and services, in each case, entered into in the ordinary course of business and on an arm's length basis;

(B) any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, equity purchase agreements, stock options or share options and stock or share ownership plans or similar employee benefit plans approved by the Board of Directors in good faith;

(C) (i) any employment agreements entered into by the Company or any of its Subsidiaries in the ordinary course of business; (ii) any subscription agreement or similar agreement pertaining to the repurchase of Capital Stock pursuant to put/call rights or similar rights with employees, officers or directors; and (iii) any employee compensation, benefit plan or arrangement, any health, disability or similar insurance plan which covers employees, and any reasonable employment contract and transactions pursuant thereto;

(D) any Restricted Payment or any Permitted Investment permitted under the First Lien Notes Indentures;

(E) transactions with customers, clients, suppliers, or purchasers or sellers of goods or services, in each case, in the ordinary course of business and otherwise in compliance with the terms of this Indenture that are fair to the Company and its Subsidiaries;

(F) any contribution to the capital of the Company;

(G) the existence of, or the performance by the Company or any Subsidiary of its obligations under the terms of, any agreement as in effect as of the Issue Date or any amendment thereto (so long as any such agreement together with all amendments thereto, taken as a whole, is not more disadvantageous to the holders of the Notes in any material respect than the original agreement as in effect on the Issue Date, as determined in good faith by the Company) or any transaction contemplated thereby;

(H) the transactions in connection with the incurrence of the Indebtedness pursuant to the First Lien Notes Indentures;

(I) the transactions in connection with the issuance of the Investor Warrant;

(J) the transactions in connection with the Forward Purchase Investment; and

(K) payment of reasonable and customary fees and reimbursement of expenses paid to, and indemnity provided on behalf of, officers, directors, employees or consultants of the Company or any of its Subsidiaries.

Section 3.14. Accounts; Control Agreements.

(A) Subject to **clauses (B) and (C)** below, the Company Indenture Parties shall cause their respective accounts maintained, or opened at any time after the Issue Date, at any bank or financial institution (other than any Excluded Accounts) to be subject to an account control agreement or its equivalent or shall take such other actions necessary to create a Lien over any such account in favor of the Collateral Trustee for the benefit of the Notes Secured Parties pursuant to applicable law, including providing notice to the bank or financial institution with which any such account is held of the Liens granted in favor of the Collateral Trustee for the benefit of the Notes Secured Parties over such account pursuant to applicable law (collectively, the "**Bank Account Perfection Actions**"), and shall cause all Collections to be deposited in an account that is subject to an account control agreement or other Bank Account Perfection Actions; *provided*, *however*, that, so long as no Event of Default has occurred and is continuing, any Company Indenture Party may open new accounts at any bank or financial institution; *provided* that, within forty-five (45) days after opening each such account, the relevant Company Indenture Party shall have delivered to the Collateral Trustee an account control agreement with respect to such account (or taken such other Bank Account Perfection Actions) (other than any Excluded Account) (but, with respect to any such accounts opened after the Issue Date, shall not deposit or transfer funds into such account prior to taking such Bank Account Perfection Actions).

(B) (i) At any time prior to the discharge in full of Priority Lien Secured Obligations in accordance with the terms of the Priority Lien Debt Documents and the Intercreditor Agreement, with respect to any account for which an account control agreement with the applicable First Lien Notes Collateral Trustee is in effect or is subject to other Bank Account Perfection Actions by the applicable First Lien Notes Collateral Trustee (any such account, a "**First Lien Notes Collateral Trustee Controlled Account**"), the Company Indenture Parties shall not be required to cause such account to be subject to an account control agreement or other Bank Account Perfection Actions in favor of the Notes Secured Parties pursuant to **Section 3.14(A)** and (ii) with respect to any such First Lien Notes Collateral Trustee Controlled Account, upon the discharge in full of Priority Lien Secured Obligations in accordance with the terms of the Priority Lien Debt Documents and the Intercreditor Agreement or such account otherwise ceasing to be a First Lien Notes Collateral Trustee Controlled Account, to the extent the Obligations have not been discharged in full in accordance with the terms of this Indenture and the Intercreditor Agreement, the Company Indenture Parties shall promptly use commercially reasonably efforts to cause such account to be subject to an account control agreement or other Bank Account Perfection Actions as required by **Section 3.14(A)**.

(C) Neither the deposit account control agreement or its equivalent nor any Bank Account Perfection Actions shall restrict the Company Indenture Parties' ability to freely receive, withdraw or otherwise transfer any credit balance from time to time on such any account prior to the occurrence of an Event of Default; *provided that* following the occurrence of an Event of Default any Company Indenture Party that receives or otherwise has dominion over or control of any Collections, such Company Indenture Party shall hold such Collections in trust for the Collateral Trustee and shall not commingle such Collections with any other funds of any Company Indenture Party or other Person (unless otherwise instructed by the Collateral Trustee).

Section 3.15. Intellectual Property.

(A) Notwithstanding anything to the contrary contained herein, Maxeon Solar Pte. Ltd. shall hold ownership of or an exclusive license in all Intellectual Property, which are material to the conduct of the business or operation of the Company or its Subsidiaries taken as a whole and shall not be permitted to dispose of any such Intellectual Property except to the extent permitted under the Priority Lien Debt Documents.

(B) The Company Indenture Parties shall cause any Intellectual Property that is assigned to the Company or any of its Subsidiaries in accordance with the SDA to be registered in the name of Maxeon Solar Pte. Ltd. in relevant jurisdictions as soon as practicable.

(C) The Company Indenture Parties shall take or cause to be taken all commercial reasonable actions to preserve, renew, and keep in full force and effect the legal existence of all Intellectual Property, which are material to the conduct of the business or operation of the Company and its Subsidiaries taken as a whole.

Section 3.16. Environmental Compliance.

The Company and its Restricted Subsidiaries shall comply in all material respects with all Environmental Law and obtain and maintain any permits and take all reasonable steps in anticipation of known or expected future changes to or obligations under the same, except where failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.17. Post-Closing Obligations.

(A) The Company Indenture Parties shall use commercially best efforts to satisfy their respective obligations described on **Schedule 3.17**, in each case, within the time periods set forth therein with respect to the relevant obligations.

(B) Any Notes Security Documents entered into on or after the Issue Date shall be substantially in the form of the corresponding Priority Lien Security Document securing the Priority Lien Secured Obligations then in effect, or to the extent there is no such corresponding Priority Lien Security Document then in effect, the corresponding Priority Lien Security Document securing the Priority Lien Secured Obligations in place on the Issue Date, in each case, with such changes as are reasonably necessary to reflect the terms of the Intercreditor Agreement.

Section 3.18. Additional Collateral.

Not later than sixty (60) days (or such longer date as may be reasonably agreed by the Collateral Trustee upon receiving written instruction, advice or concurrence of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture, subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction, as it deems appropriate) after the acquisition or creation by any Restricted Collateral Subsidiary of any asset (including Intellectual Property but only to the extent that a second priority perfected Lien would have been required under the terms of the Notes Security Documents granted by Maxeon Solar Pte. Ltd. had such Intellectual Property been registered under the name of Maxeon Solar Pte. Ltd.), except for any asset that constitutes Excluded Assets, that is material to the business or operations of the Company and its Subsidiaries taken as a whole, which asset would not automatically be subject to the Collateral Trustee's second priority perfected Lien pursuant to pre-existing Notes Security Documents due to restrictions under applicable laws or regulations, the applicable Restricted Collateral Subsidiary shall, to the extent practicable under applicable law cause such asset to be subject to a second priority perfected Lien (subject to the Priority Liens, any lien permitted under the Priority Lien Debt Documents, and any limitations required under the applicable law and/or, if applicable, the exclusions set forth in the relevant Notes Security Document(s)) in favor of the Collateral Trustee for the benefit of the Notes Secured Parties and take such actions as shall be necessary or reasonably requested by the Collateral Trustee to grant and perfect or record such second priority Lien, in each case to the extent practicable under the applicable law; *provided* that this **Section 3.18** shall not apply to the extent such assets are of the type over which Liens are permitted under **Section 3.12(G)** and **Section 3.12(K)**; *provided further* that the applicable Restricted Collateral Subsidiary shall be required to cause such asset to be subject to a second priority perfected Lien (subject to the Priority Lien, any lien permitted under the Priority Lien Debt Documents, any limitations required under the applicable law, the exclusions set forth in the relevant Notes Security Document(s), if applicable, the terms of the Indenture and/or the terms of the Intercreditor Agreement) in favor of the Collateral Trustee for the benefit of the Notes Secured Parties and/or take such actions as shall be necessary or reasonably requested by the Collateral Trustee to grant and perfect or record such second priority Lien, in each case to the extent practicable under the applicable law, pursuant to this **Section 3.18**, only if any such asset becomes part of the collateral securing the Priority Lien Secured Obligations.

Article 4. REPURCHASE, REDEMPTION AND OPTIONAL EXCHANGE

Section 4.01. No Sinking Fund.

No sinking fund is required to be provided for the Notes.

Section 4.02. Right of Holders to Require the Company to Repurchase Notes Upon a Fundamental Change.

(A) *Right of Holders to Require the Company to Repurchase Notes Upon a Fundamental Change*. Subject to the other terms of this **Section 4.02**, if a Fundamental Change occurs, then each Holder will have the right (the "**Fundamental Change Repurchase Right**") to require the Company to repurchase such Holder's Notes (or any portion thereof in an Authorized Denomination) on the Fundamental Change Repurchase Date for such Fundamental Change for a cash purchase price equal to the Fundamental Change Repurchase Price.

(B) *Repurchase Prohibited in Certain Circumstances*. If the principal amount of the Notes has been accelerated and such acceleration has not been rescinded on or before the Fundamental Change Repurchase Date for a Repurchase Upon Fundamental Change (including as a result of the payment of the related Fundamental Change Repurchase Price, and any related interest pursuant to the proviso to **Section 4.02(D)**, on such Fundamental Change Repurchase Date), then (i) the Company may not repurchase any Notes pursuant to this **Section 4.02**; and (ii) the Company will cause any Notes theretofore surrendered for such Repurchase Upon Fundamental Change to be returned to the Holders thereof (or, if applicable with respect to Global Notes, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interest in such Notes in accordance with the Depositary Procedures).

(C) *Fundamental Change Repurchase Date*. The Fundamental Change Repurchase Date for any Fundamental Change will be a Business Day of the Company's choosing that is no more than thirty-five (35) and not less than twenty (20) Business Days after the date the Company sends the related Fundamental Change Notice pursuant to **Section 4.02(E)**.

(D) *Fundamental Change Repurchase Price*. The Fundamental Change Repurchase Price for any Note to be repurchased upon a Repurchase Upon Fundamental Change following a Fundamental Change is an amount in cash equal to one hundred percent (100%) of the principal amount of such Note plus accrued and unpaid interest on such Note to, but excluding, the Fundamental Change Repurchase Date for such Fundamental Change; *provided*, *however*, that if such Fundamental Change Repurchase Date is after a Regular Record Date and on or before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Repurchase Upon Fundamental Change, to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Fundamental Change Repurchase Date is before such Interest Payment Date); and (ii) the Fundamental Change Repurchase Price will not include accrued and unpaid interest on such Note to, but excluding, such Fundamental Change Repurchase Date. For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of **Section 2.05(C)** and such Fundamental Change Repurchase Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest on Notes to, but excluding, such Interest Payment Date will be paid, in accordance with **Section 2.05(C)**, on the next Business Day to Holders as of the Close of Business on the immediately preceding Regular Record Date; and (y) the Fundamental Change Repurchase Price will include interest on Notes to be repurchased from, and including, such Interest Payment Date.

(E) *Fundamental Change Notice*. On or before the twentieth (20th) calendar day after the effective date of a Fundamental Change, the Company will send to each Holder, the Trustee and the Paying Agent a notice of such Fundamental Change (a "**Fundamental Change Notice**"). Substantially contemporaneously, the Company will issue a press release through such national newswire service as the Company then uses (or publish the same through such other widely disseminated public medium as the Company then uses, including its website) containing the information set forth in the Fundamental Change Notice.

Such Fundamental Change Notice must state:

(i) briefly, the events causing such Fundamental Change;

(ii) the effective date of such Fundamental Change;

(iii) the procedures that a Holder must follow to require the Company to repurchase its Notes pursuant to this **Section 4.02**, including the deadline for exercising the Fundamental Change Repurchase Right and the procedures for submitting and withdrawing a Fundamental Change Repurchase Notice;

(iv) the Fundamental Change Repurchase Date for such Fundamental Change;

(v) the Fundamental Change Repurchase Price per $1,000 principal amount of Notes for such Fundamental Change (and, if such Fundamental Change Repurchase Date is after a Regular Record Date and on or before the next Interest Payment Date, the amount, manner and timing of the interest payment payable pursuant to the proviso to **Section 4.02(D)**);

(vi) the name and address of the Paying Agent and the Conversion Agent;

(vii) the Conversion Rate in effect on the date of such Fundamental Change Notice and a description and quantification of any adjustments to the Conversion Rate that may result from such Fundamental Change (including pursuant to **Section 5.07**);

(viii) that Notes for which a Fundamental Change Repurchase Notice has been duly tendered and not duly withdrawn must be delivered to the Paying Agent for the Holder thereof to be entitled to receive the Fundamental Change Repurchase Price;

(ix) that Notes (or any portion thereof) that are subject to a Fundamental Change Repurchase Notice that has been duly tendered may be converted only if such Fundamental Change Repurchase Notice is withdrawn in accordance with this Indenture; and

(x) the CUSIP and ISIN numbers, if any, of the Notes.

Neither the failure to deliver a Fundamental Change Notice nor any defect in a Fundamental Change Notice will limit the Fundamental Change Repurchase Right of any Holder or otherwise affect the validity of any proceedings relating to any Repurchase Upon Fundamental Change.

(F) *Procedures to Exercise the Fundamental Change Repurchase Right*.

(i) *Delivery of Fundamental Change Repurchase Notice and Notes to Be Repurchased*. To exercise its Fundamental Change Repurchase Right for a Note following a Fundamental Change, the Holder thereof must deliver to the Paying Agent:

(1) before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date (or such later time as may be required by law), a duly completed, written Fundamental Change Repurchase Notice with respect to such Note; and

(2) such Note, duly endorsed for transfer (if such Note is a Physical Note) or by book-entry transfer (if such Note is a Global Note).

The Paying Agent will promptly deliver to the Company a copy of each Fundamental Change Repurchase Notice that it receives.

(ii) *Contents of Fundamental Change Repurchase Notices*. Each Fundamental Change Repurchase Notice with respect to a Note must state:

(1) if such Note is a Physical Note, the certificate number of such Note;

(2) the principal amount of such Note to be repurchased, which must be an Authorized Denomination; and

(3) that such Holder is exercising its Fundamental Change Repurchase Right with respect to such principal amount of such Note;

provided, *however*, that if such Note is a Global Note, then such Fundamental Change Repurchase Notice must comply with the Depositary Procedures (and any such Fundamental Change Repurchase Notice delivered in compliance with the Depositary Procedures will be deemed to satisfy the requirements of this **Section 4.02(F)**).

(iii) *Withdrawal of Fundamental Change Repurchase Notice*. A Holder that has delivered a Fundamental Change Repurchase Notice with respect to a Note may withdraw such Fundamental Change Repurchase Notice by delivering a written notice of withdrawal to the Paying Agent at any time before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date. Such withdrawal notice must state:

(1) if such Note is a Physical Note, the certificate number of such Note;

(2) the principal amount of such Note to be withdrawn, which must be an Authorized Denomination; and

(3) the principal amount of such Note, if any, that remains subject to such Fundamental Change Repurchase Notice, which must be an Authorized Denomination;

provided, *however*, that if such Note is a Global Note, then such withdrawal notice must comply with the Depositary Procedures (and any such withdrawal notice delivered in compliance with the Depositary Procedures will be deemed to satisfy the requirements of this **Section 4.02(F)**).

Upon receipt of any such withdrawal notice with respect to a Note (or any portion thereof), the Paying Agent will (x) promptly deliver a copy of such withdrawal notice to the Company; and (y) if such Note is surrendered to the Paying Agent, cause such Note (or such portion thereof in accordance with **Section 2.11**, treating such Note as having been then surrendered for partial repurchase in the amount set forth in such withdrawal notice as remaining subject to repurchase) to be returned to the Holder thereof (or, if applicable with respect to any Global Note, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interest in such Note in accordance with the Depositary Procedures).

(G) *Payment of the Fundamental Change Repurchase Price*. Without limiting the Company's obligation to deposit the Fundamental Change Repurchase Price within the time proscribed by **Section 3.01(B)**, the Company will cause the Fundamental Change Repurchase Price for a Note (or portion thereof) to be repurchased pursuant to a Repurchase Upon Fundamental Change to be paid to the Holder thereof on or before the later of (i) the applicable Fundamental Change Repurchase Date; and (ii) the date (x) such Note is delivered to the Paying Agent (in the case of a Physical Note) or (y) the Depositary Procedures relating to the repurchase, and the delivery to the Paying Agent, of such Holder's beneficial interest in such Note to be repurchased are complied with (in the case of a Global Note). For the avoidance of doubt, interest payable pursuant to the proviso to **Section 4.02(D)** on any Note to be repurchased pursuant to a Repurchase Upon Fundamental Change must be paid pursuant to such proviso regardless of whether such Note is delivered or such Depositary Procedures are complied with pursuant to the first sentence of this **Section 4.02(G)**.

(H) *Repurchase by Third Party*. Notwithstanding anything to the contrary in this **Section 4.02**, the Company will be deemed to satisfy its obligations under this **Section 4.02** if (i) one or more third parties conduct any Repurchase Upon Fundamental Change and related offer to repurchase Notes otherwise required by this **Section 4.02** in a manner that would have satisfied the requirements of this **Section 4.02** if conducted directly by the Company; and (ii) an owner of a beneficial interest in any Note repurchased by such third party or parties will not (after giving effect to the payment of any Additional Amounts pursuant to **Section 3.05**) receive a lesser amount as a result of withholding or similar taxes than such owner would have received had the Company repurchased such Note.

(I) *Compliance with Applicable Securities Laws*. To the extent applicable, the Company will comply with all federal and state securities laws in connection with a Repurchase Upon Fundamental Change (including complying with Rules 13e-4 and 14e-1 under the Exchange Act and filing any required Schedule TO, to the extent applicable) so as to permit effecting such Repurchase Upon Fundamental Change in the manner set forth in this Indenture; *provided*, *however*, that, to the extent that any securities laws or regulations enacted after the Issue Date conflict with the **Section 4.02**, the Company will comply with such securities laws and regulations and will not be deemed to have breached its obligations under this **Section 4.02** by virtue of such conflict.

(J) *Repurchase in Part*. Subject to the terms of this **Section 4.02**, Notes may be repurchased pursuant to a Repurchase Upon Fundamental Change in part, but only in Authorized Denominations. Provisions of this **Section 4.02** applying to the repurchase of a Note in whole will equally apply to the repurchase of a permitted portion of a Note.

Section 4.03. Right Of The Company To Redeem The Notes.

(A) *No Right to Redeem Before January 15, 2026*. The Company may not redeem the Notes at any time before January 15, 2026, except pursuant to a Tax Redemption.

(B) *Right to Redeem the Notes on or after January 15, 2026*. Subject to the terms of this **Section 4.03**, the Company has the right, at its election, to redeem (a "**Provisional Redemption**") all, or any portion in an Authorized Denomination, of the Notes, at any time, and from time to time, on a Redemption Date that falls on or after January 15, 2026 and on or before the sixtieth (60th) Scheduled Trading Day immediately before the Maturity Date, for a cash purchase price equal to the Redemption Price, but only if the Last Reported Sale Price per Ordinary Share exceeds one hundred and fifty percent (150%) of the Conversion Price on each of at least twenty (20) Trading Days (whether or not consecutive) during the thirty (30) consecutive Trading Days ending on, and including, the Trading Day immediately before the Redemption Notice Date for such Redemption.

For the avoidance of doubt, the calling of any Notes for Provisional Redemption will constitute a Make-Whole Event with respect to such Notes pursuant to **clause (B)** of the definition thereof.

(C) *Right to Redeem the Notes After a Change in Tax Law*.

(i) *Generally.* Subject to the terms of this **Section 4.03**, and without limiting the Company's right to redeem any Notes pursuant to **Section 4.03(B)**, the Company has the right, at its election, to redeem (a "**Tax Redemption**") all, but not less than all, of the Notes, at any time (subject to **Section 4.03(H)**), on a Redemption Date before the Maturity Date, for a cash purchase price equal to the Redemption Price, but only if (i) the Company has (or, on the next Interest Payment Date, would) become obligated to pay any Additional Amounts to Holders as a result of any Change in Tax Law; (ii) the Company cannot avoid such obligation by taking reasonable measures available to the Company; and (iii) the Company delivers to the Trustee (1) an Opinion of Counsel of outside legal counsel of recognized standing in the Relevant Taxing Jurisdiction attesting to **clause (i)** above; and (2) an Officer's Certificate attesting to **clauses (i)** and **(ii)** above. For the avoidance of doubt, the calling of any Notes for a Tax Redemption will constitute a Make-Whole Event pursuant to **clause (B)** of the definition thereof.

(ii) *Tax Redemption Opt-Out Election*. If the Company calls the Notes for a Tax Redemption, then, notwithstanding anything to the contrary in this **Section 4.03** or in **Section 3.05**, each Holder will have the right to elect (a "**Tax Redemption Opt-Out Election**") not to have such Holder's Notes (or any portion thereof in an Authorized Denomination) redeemed pursuant to such Tax Redemption, in which case, from and after the Redemption Date for such Tax Redemption (or, if the Company fails to pay the Redemption Price due on such Redemption Date in full, from and after such time as the Company pays such Redemption Price in full), the Company will no longer have any obligation to pay any Additional Amounts with respect to such Notes solely as a result of such Change in Tax Law, and all future payments (other than any payment or delivery of any Conversion Consideration (including payments of cash in lieu of any fractional shares)) with respect to such Notes will be subject to the deduction or withholding of such Relevant Taxing Jurisdiction's taxes required by law to be deducted or withheld as a result of such Change in Tax Law (it being understood and agreed, for the avoidance of doubt, that if such Holder converts such Notes at any time, then the Company will be obligated to pay Additional Amounts, if any, with respect to such conversion).

(1) *Tax Redemption Opt-Out Election Notice*. To make a Tax Redemption Opt-Out Election with respect to any Note (or any portion thereof in an Authorized Denomination), the Holder of such Note must deliver a notice (a "**Tax Redemption Opt-Out Election Notice**") to the Paying Agent before the Close of Business on the second (2nd) Business Day immediately before the related Redemption Date, which notice must state: (x) if such Note is a Physical Note, the certificate number of such Note; (y) the principal amount of such Note as to which the Tax Redemption Opt-Out Election will apply, which must be an Authorized Denomination; and (z) that such Holder is making a Tax Redemption Opt-Out Election with respect to such Note (or such portion thereof); *provided*, *however*, that if such Note is a Global Note, then such notice must comply with the Depositary Procedures (and any such notice delivered in compliance with the Depositary Procedures will be deemed to satisfy the requirements of this **Section 4.03(C)(ii)(1)**).

(2) *Withdrawal of Tax Redemption Opt-Out Election Notice*. A Holder that has delivered a Tax Redemption Opt-Out Election Notice with respect to any Note (or any portion thereof in an Authorized Denomination) may withdraw such Tax Redemption Opt-Out Election Notice by delivering a withdrawal notice to the Paying Agent at any time before the Close of Business on the second (2nd) Business Day immediately before the related Redemption Date, which withdrawal notice must state: (x) if such Note is a Physical Note, the certificate number of such Note; (y) the principal amount of such Note as to which the Tax Redemption Opt-Out Election is being withdrawn, which must be an Authorized Denomination; and (z) that such Holder is withdrawing the Tax Redemption Opt-Out Election with respect to such Note (or such portion thereof); *provided*, *however*, that if such Note is a Global Note, then such withdrawal notice must comply with the Depositary Procedures (and any such withdrawal notice delivered in compliance with the Depositary Procedures will be deemed to satisfy the requirements of this **Section 4.03(C)(ii)(2)**).

(iii) *Right to Convert Not Affected*. For the avoidance of doubt, a Tax Redemption will not affect any Holder's right to convert any Notes on or after the Conversion Commencement Date and the Company's obligation to pay any Additional Amounts with respect to such conversion. For the avoidance of doubt, if a Tax Redemption Opt-Out Election Notice is not delivered (or is delivered but thereafter withdrawn) with respect to any Note as of the Close of Business on the second (2nd) Business Day immediately before the related Redemption Date, then such Note will be redeemed pursuant to the Tax Redemption without any further action.

(D) *Redemption Prohibited in Certain Circumstances*. If the principal amount of the Notes has been accelerated and such acceleration has not been rescinded on or before the Redemption Date (including as a result of the payment of the related Redemption Price, and any related interest pursuant to the proviso to **Section 4.03(F)**, on such Redemption Date), then (i) the Company may not call for Provisional Redemption or Tax Redemption or otherwise redeem any Notes pursuant to this **Section 4.03**; and (ii) the Company will cause any Notes theretofore surrendered for such Redemption to be returned to the Holders thereof (or, if applicable with respect to Global Notes, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interests in such Notes in accordance with the Depositary Procedures).

(E) *Redemption Date*. The Redemption Date for a Tax Redemption will be a Business Day of the Company's choosing that is no more than eighty-five (85) and not less than sixty-five (65) Scheduled Trading Days after the related Redemption Notice Date for such Tax Redemption. The Redemption Date for a Provisional Redemption will be a Business Day of the Company's choosing that is no more than sixty (60) Scheduled Trading Days and not less than twenty (20) Scheduled Trading Days after the related Redemption Notice Date for such Provisional Redemption.

(F) *Redemption Price*. The Redemption Price for any Note called for Provisional Redemption or Tax Redemption is an amount in cash equal to one hundred percent (100%) of the principal amount of such Note plus accrued and unpaid interest on such Note to, but excluding, the Redemption Date for such Redemption; *provided*, *however*, that if such Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Redemption, to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Redemption Date is before such Interest Payment Date); and (ii) the Redemption Price will not include accrued and unpaid interest on such Note to, but excluding, such Redemption Date. For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of **Section 2.05(C)** and such Redemption Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest on Notes to, but excluding, such Interest Payment Date will be paid, in accordance with **Section 2.05(C)**, on the next Business Day to Holders as of the Close of Business on the immediately preceding Regular Record Date; and (y) the Redemption Price will include interest on Notes to be redeemed from, and including, such Interest Payment Date. For the avoidance of doubt, Additional Amounts will be added to the Redemption Price if, and to the extent, provided for in **Section 3.05**.

(G) *Redemption Notice*. To call any Notes for Provisional Redemption or Tax Redemption, the Company must (i) send to each Holder of such Notes, the Trustee and the Paying Agent a written notice of such Provisional Redemption or Tax Redemption (a "**Redemption Notice**"); and (ii) substantially contemporaneously therewith, either (x) issue a press release through such national newswire service as the Company then uses; (y) publish the same through such other widely disseminated public medium as the Company then uses, including its website; or (z) file or furnish a Form 8-K or Form 6-K (or any successor form) with the SEC, in each case of **clauses (x)**, **(y)** and **(z)**, containing the information set forth in the Redemption Notice.

Such Redemption Notice must state:

(i) that such Notes have been called for Redemption, briefly describing the Company's Redemption right under this Indenture;

(ii) the Redemption Date for such Redemption;

(iii) the Redemption Price per $1,000 principal amount of Notes for such Redemption (and, if the Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, the amount, manner and timing of the interest payment payable pursuant to the proviso to **Section 4.03(F)**);

(iv) the name and address of the Paying Agent and the Conversion Agent;

(v) that Notes called for Redemption may be converted at any time before the Close of Business on the Business Day immediately before the Redemption Date (or, if the Company fails to pay the Redemption Price due on such Redemption Date in full, at any time until such time as the Company pays such Redemption Price in full);

(vi) the Conversion Rate in effect on the Redemption Notice Date for such Redemption and a description and quantification of any adjustments to the Conversion Rate that may result from such Redemption (including pursuant to **Section 5.07**);

(vii) the Settlement Method that will apply to all conversions of Notes with a Conversion Date that occurs on or after such Redemption Notice Date and on or before the second (2nd) Business Day before such Redemption Date; and

(viii) the CUSIP and ISIN numbers, if any, of the Notes.

On or before the Redemption Notice Date, the Company will send a copy of such Redemption Notice to the Trustee and the Paying Agent.

(H) *Special Requirement for Notice of Tax Redemption*. A Redemption Notice relating to a Tax Redemption must be sent pursuant to **Section 4.03(G)** no earlier than one hundred and eighty (180) calendar days before the earliest date on which the Company would have been required to make the related payment or withholding (assuming a payment in respect of the Notes were then due), and the obligation to pay Additional Amounts must be in effect as of the date the Company sends such Redemption Notice and must be expected to remain in effect at the time of the next payment or delivery in respect of the Notes.

(I) *Selection and Conversion of Notes to Be Redeemed in Part*. If less than all Notes then outstanding are called for Redemption, then:

(i) the Notes to be redeemed will be selected by the Company as follows: (1) in the case of Global Notes, in accordance with the Depositary Procedures; and (2) in the case of Physical Notes, pro rata, by lot or by such other method the Company considers fair and appropriate; and

(ii) if only a portion of a Note is subject to Redemption and such Note is converted in part, then the converted portion of such Note will be deemed to be from the portion of such Note that was subject to Redemption.

(J) *Payment of the Redemption Price*. Without limiting the Company's obligation to deposit the Redemption Price by the time proscribed by **Section 3.01(B)**, the Company will cause the Redemption Price for a Note (or portion thereof) subject to Redemption to be paid to the Holder thereof on or before the applicable Redemption Date. For the avoidance of doubt, interest payable pursuant to the proviso to **Section 4.03(F)** on any Note (or portion thereof) subject to Redemption must be paid pursuant to such proviso.

(K) *Right to Convert Not Affected*. For the avoidance of doubt, a Provisional Redemption will not affect any Holder's right to convert any Notes on or after the Conversion Commencement Date and prior to the Close of Business on the second (2^{nd}) Business Day immediately before the applicable Redemption Date, except to the extent the Company fails to pay the Redemption Price for such Note in accordance with this Indenture.

Section 4.04. Right of the Company to Exchange Notes.

(A) *Right to Exchange Notes upon the Occurrence of the Optional Exchange Triggering Event*. Subject to the terms of this **Section 4.04** and **Section 4.05**, upon and following the occurrence of the Optional Exchange Triggering Event, the Company has the right, at its election at any time until the fifth scheduled Trading Day immediately preceding the Maturity Date, to exchange (the "**Optional Exchange**") all outstanding Tranche A Notes, on the Optional Exchange Date, for the Optional Exchange Consideration. For the avoidance of doubt, the Optional Exchange will not apply to the Tranche B Notes, and the Optional Exchange of the Tranche A Notes will not constitute a Make-Whole Event with respect to the Notes.

(B) *Optional Exchange Prohibited in Certain Circumstances*. If the principal amount of the Notes has been accelerated and such acceleration has not been rescinded on or before the Optional Exchange Date (including as a result of the delivery of the Optional Exchange Consideration, on such Optional Exchange Date), then (i) the Company may not require any Tranche A Notes to be exchanged for the Optional Exchange Consideration pursuant to this **Section 4.04**; and (ii) the Company will cause any Tranche A Notes theretofore surrendered for the Optional Exchange to be returned to the Holders thereof (or, if applicable with respect to Global Notes, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interests in such Notes in accordance with the Depositary Procedures).

(C) *Optional Exchange Date*. The Optional Exchange Date will be a Business Day of the Company's choosing that is no less than five (5) Scheduled Trading Days and no more than eight (8) Scheduled Trading Days after the Optional Exchange Notice Date for the Optional Exchange.

(D) *Optional Exchange Consideration*. The consideration for the Tranche A Notes called for Optional Exchange shall consists of the type and amount of consideration identical to the Conversion Consideration due in respect of the Tranche A Notes, if the Tranche A Notes were to be converted on a Conversion Date that falls on the Optional Exchange Notice Date, and Physical Settlement applies to such conversion, as determined pursuant to **Section 5.03(B),** subject to the other terms of **Article 5** as applicable (the "**Optional Exchange Consideration**"). For the avoidance doubt, the Company shall not be obligated to delivery any Interest Make-Whole Amount in connection with the Optional Exchange.

(E) *Optional Exchange Notice*. To call the Tranche A Notes for Optional Exchange, the Company must (i) send to each Holder of the Tranche A Notes, the Trustee, the Paying Agent and the Conversion Agent a written notice of the Optional Exchange (the "**Optional Exchange Notice**"); and (ii) substantially contemporaneously therewith, either (x) issue a press release through such national newswire service as the Company then uses; (y) publish the same through such other widely disseminated public medium as the Company then uses, including its website; or (z) file or furnish a Form 8-K or Form 6-K (or any successor form) with the SEC, in each case of **clauses (x)**, **(y)** and **(z)**, containing the information set forth in the Optional Exchange Notice.

Other than provided in **Section 4.04(B)**, the Optional Exchange Notice, once delivered, shall be irrevocable.

The Optional Exchange Notice must state:

(i) the aggregate principal amount of the Tranche A Notes (including the relevant PIK Notes issued on or prior to the Optional Exchange Date) which have been called for Optional Exchange, which shall include all of the Tranche A Notes then outstanding, briefly describing the Company's right to require the Optional Exchange under this Indenture;

(ii) the Optional Exchange Date for the Optional Exchange;

(iii) the Optional Exchange Consideration per $1,000 principal amount of Tranche A Notes for the Optional Exchange;

(iv) the name and address of the Paying Agent and the Conversion Agent;

(v) that the Tranche A Notes may be converted at any time before the Close of Business on the second (2nd) Business Day immediately before the Optional Exchange Date (or, if the Company fails to pay the Optional Exchange Consideration due on such Optional Exchange Date in full, at any time until such time as the Company pays such Optional Exchange Consideration in full);

(vi) the number of outstanding Ordinary Shares of the Company as of the date of the Optional Exchange Notice;

(vii) the Settlement Method that will apply to all conversions of Notes with a Conversion Date that occurs on or after the Optional Exchange Notice Date and on or before the second (2nd) Business Day before the Optional Exchange Date; and

(viii) the CUSIP and ISIN numbers, if any, of the Tranche A Notes being called for Optional Exchange.

On or before the Optional Exchange Notice Date, the Company will send a copy of such Optional Exchange Notice to the Trustee, the Paying Agent and the Conversion Agent.

(F) *[Reserved]*.

(G) *Delivery of the Optional Exchange Consideration*. Subject to **Section 4.05(C)**, the Company will cause the Optional Exchange Consideration for a Note (or portion thereof) subject to Optional Exchange to be paid or delivered, as applicable, to the Holder thereof on the Optional Exchange Date.

(H) *Effect of Optional Exchange*. At the Close of Business on the Optional Exchange Date, the Tranche A Notes will (unless there occurs a Default in the delivery of the Optional Exchange Consideration) be deemed to cease to be outstanding and, for the avoidance of doubt, no Person will be deemed to be a Holder of the Tranche A Notes as of the Close of Business on the Optional Exchange Date.

(I) *Holder of Record of Option Exchange Shares*. The Person in whose name any Ordinary Share is issuable upon the exchange of the Tranche A Notes will be deemed to become the holder of record of such share as of the Close of Business on the Optional Exchange Date.

(J) *Deemed Payment of Principal and Interest; Settlement of Accrued Interest Notwithstanding Optional Exchange*. The Company's delivery of the Optional Exchange Consideration due in respect of such conversion will be deemed to fully satisfy and discharge the Company's obligation to pay the principal of the Tranche A Notes. As a result, any accrued and unpaid interest on the Tranche A Notes will be cancelled, extinguished and forfeited.

(K) *Status of Ordinary Shares Issued in Optional Exchange; Listing*. Each Ordinary Share delivered upon the exchange of the Tranche A Notes in the Optional Exchange will be a newly issued share, will be duly and validly issued, fully paid, non-assessable, free from preemptive rights and free of any lien or adverse claim (except to the extent of any lien or adverse claim created by the action or inaction of the Holder of the Tranche A Notes or the Person to whom such Ordinary Share will be delivered), will rank *pari passu* with the existing Ordinary Shares, will satisfy the Equity Payment Condition and will be listed on a Stock Exchange.

Section 4.05. Limitations on Conversion and Optional Exchange.

(A) *Limitations on Conversion and Optional Exchange*. Notwithstanding anything to the contrary contained herein, the Company is entitled to not effect any conversion (including in connection with the Optional Exchange) of any Note (or portion thereof), and the holders of the Notes shall not have the right to convert or surrender any Note (or portion thereof) for conversion (including in connection with the Optional Exchange), to the extent that immediately following such conversion, such holder of the Notes, together with the Attribution Parties, beneficially owns or would beneficially own the Ordinary Shares in excess of the Exchange Cap.

(B) *Exchange Cap Limitation*.

(i) *Conversion other than the Optional Exchange*.

(1) On or prior to the second (2nd) Business Day preceding to submitting a conversion notice for any Note (or complying with the Depositary Procedures for converting such beneficial interest) pursuant to **Article 5**, the relevant holder of the Notes shall deliver to the Company, the Trustee and the Conversion Agent a written notice setting forth the principal amount of Notes proposed to be converted, the Pro Forma Owned Shares, the Exchange Cap and the Excess Share, if any, (the "**Holder's Ownership Information Notice**") in connection with such conversion.

(2) If such holder of the Notes fails or refuses to provide the Company, the Trustee and the Conversion Agent the Holder's Ownership Information Notice in connection with such conversion by the time specified in the preceding paragraph, such holder of the Notes shall be deemed to represent and warrant to the Company, the Trustee and the Conversion Agent that no Exchange Cap Limitation shall apply to such conversion, and the Company shall be entitled to disregard any Exchange Cap Limitation in connection with such conversion.

(3) In connection with any conversion as to which the Company has received the relevant Holder's Ownership Information Notice in accordance with the **Section 4.05(B)(i)(1)**, the Company shall use reasonable efforts to deliver, or caused to be delivered, to such holder of the Notes such number of the Ordinary Share so that, immediately following such delivery, such holder of the Notes, together with the applicable Attribution Parties, does not beneficially own in excess of the Exchange Cap (as set forth in the Holder's Ownership Information Notice).

(ii) *Optional Exchange*.

(1) With respect to the Optional Exchange pursuant to **Section 4.04**, within three (3) Scheduled Trading Days after the Optional Exchange Notice Date, each holder of the Notes shall deliver to the Company, the Trustee and the Conversion Agent the Holder's Ownership Information Notice in connection with the Optional Exchange.

(2) If any holder of the Notes fails or refuses to provide the Company, the Trustee and the Conversion Agent the Holder's Ownership Information Notice in connection with the Optional Exchange by the time specified in the preceding paragraph, such holder of the Notes shall be deemed to represent and warrant to the Company, the Trustee and the Conversion Agent that no Exchange Cap Limitation shall apply to the Optional Exchange, and the Company shall be entitled to disregard any Exchange Cap Limitation with respect to such holder of the Notes in connection with the Optional Exchange.

(3) In connection with the Optional Exchange and in the event that the Company has received the Holder's Ownership Information Notice from any holder of the Notes in accordance with the **Section 4.05(B)(ii)(1)**, the Company shall use reasonable efforts to deliver, or caused to be delivered, to such holder of the Notes such number of the Ordinary Share so that, immediately following such delivery, such holder of the Notes, together with the applicable Attribution Parties, does not beneficially own in excess of the Exchange Cap (as set forth in the Holder's Ownership Information Notice).

(C) *The Delivery of Excess Shares*. The Company's obligation to deliver the Excess Shares in connection with any conversion (including in connection with the Optional Exchange) shall be suspended and not extinguished, and the Company shall deliver such Excess Shares within five (5) Business Days following delivery of written notice from the relevant holder of the Notes to the Company that the receipt of such Excess Share will not be restricted under **Section 4.05(A)**.

(D) *The Holder's Rights*. Following the delivery of the Conversion Consideration or the Optional Exchange Consideration in accordance with **Section 4.05(B)(i)(3)** or **Section 4.05(B)(ii)(3)**, as the case may be, notwithstanding anything to the contrary in this Indenture, the converted (or exchanged) Notes shall be deemed to cease to be outstanding, and the right or claims of the holders of the Notes under this Indenture following such delivery shall be limited solely to the right to receive the Excess Shares pursuant to **Section 4.05(C)**.

(E) Notwithstanding anything to the contrary in this Indenture, this **Section 4.05** shall not restrict the number of Ordinary Shares which any holder of the Notes or the applicable Attribution Parties may receive or beneficially own in order to determine the amount of securities or other consideration that such holder of the Notes or the Attribution Parties may receive in the event of an Ordinary Share Change Event as contemplated in **Section 5.09**.

(F) *Relevant Definitions*. For purposes of **this Section 4.05**, the following terms shall have the following meaning:

"**Excess Shares**" means, with respect to a holder of the Notes, in connection with any conversion (including in connection with the Optional Exchange), the number of Ordinary Shares equal to (i) the Pro Forma Owned Shares *less* (ii) the Exchange Cap, to the extent it is greater than zero.

"**Exchange Cap**" means, with respect to a holder of the Notes, in connection with any conversion (including in connection with the Optional Exchange), the number of Ordinary Shares equal to the product of the Maximum Percentage and the Pro Forma Outstanding Share Numbers.

"**Exchange Cap Limitation**" means the limitation on the Company to issue any Ordinary Shares to any holder of the Notes as a result of this **Section 4.05**.

A "**holder of the Notes**" means (i) an owner of a beneficial interest in a Global Note, if the Notes is evidenced by one or more Global Notes, or (ii) the Holder of a Physical Note, if the Notes is evidenced by one or more Physical Notes, as the case may be.

"**Maximum Percentage**" means 9.9%.

"**Pro Forma Outstanding Share Numbers**" means, with respect to any conversion (including in connection with the Optional Exchange), the sum of the most recent Reported Outstanding Share Numbers and the number of Ordinary Shares to be issued in connection with such conversion, which, for the avoidance of doubt, shall be the number of Ordinary Shares to be issued in the Optional Exchange if such conversion is in connection with the Optional Exchange, without giving effect to **Section 4.05**.

"**Pro Forma Owned Shares**" means with respect to any holder of the Notes, in connection with any conversion (including in connection with the Optional Exchange), the aggregate number of Ordinary Shares held and/or beneficially owned by a holder together with the applicable Attribution Parties, shall include the number of Ordinary Shares held and/or beneficially owned by such holder together with the applicable Attribution Parties plus the number of Ordinary Shares issuable upon the conversion (including in connection with the Optional Exchange) of any Note (or portion thereof) with respect to which the determination is being made, without giving effect to this **Section 4.05**, but, for the avoidance of doubt, shall exclude the number of Ordinary Shares which would be issuable upon (i) exercise of the remaining outstanding Notes held and/or beneficially owned by the holder or the applicable Attribution Parties and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company held and/or beneficially owned by such holder or any applicable Attribution Party (including, without limitation, any convertible notes, convertible stock or warrants) that are subject to a limitation on conversion or exercise analogous to the limitation contained in this **Section 4.05**.

"**Reported Outstanding Share Number**" means the number of outstanding Ordinary Shares as reflected in (1) the Company's most recent Form 20-F, Current Report on Form 6-K or other public filing with the SEC, as the case may be, or (2) a more recent public announcement by the Company.

Article 5. CONVERSION

Section 5.01. Right to Convert.

(A) *Generally*. Notwithstanding anything to the contrary in this Indenture or the Notes, the Notes will not be convertible on the Issue Date. From and after the Conversion Commencement Date until the fifth scheduled Trading Day immediately preceding the Maturity Date, subject to the provisions of **Section 4.05** and this **Article 5**, each Holder may, at its option, convert such Holder's Notes into Conversion Consideration.

(B) *Conversions in Part*. Subject to the terms of this Indenture, Notes may be converted in part, but only in Authorized Denominations. Provisions of this **Article 5** applying to the conversion of a Note in whole will equally apply to conversions of a permitted portion of a Note.

(C) When Notes May Be Converted.

(i) [Reserved]

(ii) *Limitations and Closed Periods*. Notwithstanding anything to the contrary in this Indenture or the Notes:

(1) Notes may be surrendered for conversion only after the Open of Business and before the Close of Business on a day that is a Business Day;

(2) in no event may any Note be converted after the Close of Business on the fifth (5th) Scheduled Trading Day immediately before the Maturity Date;

(3) if the Company calls any Note for Redemption pursuant to **Section 4.03**, then the Holder of such Note may not convert such Note after the Close of Business on the second (2nd) Business Day immediately before the applicable Redemption Date, except to the extent the Company fails to pay the Redemption Price for such Note in accordance with this Indenture;

(4) if a Fundamental Change Repurchase Notice is validly delivered pursuant to **Section 4.02(F)** with respect to any Note, then such Note may not be converted, except to the extent (a) such Note is not subject to such notice; (b) such notice is withdrawn in accordance with **Section 4.02(F)**; or (c) the Company fails to pay the Fundamental Change Repurchase Price for such Note in accordance with this Indenture; and

(5) if the Company calls any Note for Optional Exchange pursuant to **Section 4.04**, then the Holder of such Note may not convert such Note after the Close of Business on the second (2nd) Business Day immediately before the Optional Exchange Date, except to the extent the Company fails to pay the Optional Exchange Consideration due on such Optional Exchange Date in accordance with the Indenture.

Section 5.02. Conversion Procedures.

(A) *Generally*.

(i) *Global Notes*. To convert a beneficial interest in a Global Note that is convertible pursuant to **Section 5.01**, the owner of such beneficial interest must (1) comply with the Depositary Procedures for converting such beneficial interest (at which time such conversion will become irrevocable); and (2) pay any amounts due pursuant to **Section 5.02(D)** or **Section 5.02(E)**.

(ii) *Physical Notes*. To convert all or a portion of a Physical Note that is convertible pursuant to **Section 5.01**, the Holder of such Note must (1) complete, manually sign and deliver to the Conversion Agent the conversion notice attached to such Physical Note or a facsimile/email of such conversion notice; (2) deliver such Physical Note to the Conversion Agent (at which time such conversion will become irrevocable); (3) furnish any endorsements and transfer documents that the Company or the Conversion Agent may require; and (4) pay any amounts due pursuant to **Section 5.02(D)** or **Section 5.02(E)**.

(B) *Effect of Converting a Note.* At the Close of Business on the Conversion Date for a Note (or any portion thereof) to be converted, such Note (or such portion) will (unless there occurs a Default in the delivery of the Conversion Consideration or interest due, pursuant to **Section 5.03(B)** or **5.02(D)**, upon such conversion) be deemed to cease to be outstanding (and, for the avoidance of doubt, no Person will be deemed to be a Holder of such Note (or such portion thereof) as of the Close of Business on such Conversion Date), except to the extent provided in **Section 5.02(D)**.

(C) *Holder of Record of Conversion Shares*. The Person in whose name any Ordinary Share is issuable upon conversion of any Note will be deemed to become the holder of record of such share as of the Close of Business on (i) the Conversion Date for such conversion, in the case of Physical Settlement; or (ii) the last VWAP Trading Day of the Observation Period for such conversion, in the case of Combination Settlement.

(D) *Interest Payable upon Conversion in Certain Circumstances*. If the Conversion Date of a Note is after a Regular Record Date and before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such conversion (and, for the avoidance of doubt, notwithstanding anything set forth in the proviso to this sentence), to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date); and (ii) the Holder surrendering such Note for conversion must deliver to the Conversion Agent, at the time of such surrender, an amount of cash equal to the amount of such interest referred to in clause (i) above; *provided*, *however*, that the Holder surrendering such Note for conversion need not deliver such cash (v) if the Company has specified a Redemption Date for a Provisional Redemption or Tax Redemption that is after such Regular Record Date and on or before the second (2nd) Business Day immediately after such Interest Payment Date; (w) if such Conversion Date occurs after the Regular Record Date immediately before the Maturity Date; (x) if the Company has specified a Fundamental Change Repurchase Date that is after such Regular Record Date and on or before the Business Day immediately after such Interest Payment Date; or (y) if the Company has specified an Optional Exchange Date for an Optional Exchange Date that is after such Regular Record Date and on or before the Business Day immediately after such Interest Payment Date; or (z) to the extent of any overdue interest or interest that has accrued on any overdue interest. For the avoidance of doubt, as a result of, and without limiting the generality of, the foregoing, if a Note is converted with a Conversion Date that is after the Regular Record Date immediately before the Maturity Date, then the Company will pay, as provided above, the interest that would have accrued on such Note to, but excluding, the Maturity Date. For the avoidance of doubt, if the Conversion Date of a Note to be converted is on an Interest Payment Date, then the Holder of such Note at the Close of Business on the Regular Record Date immediately before such Interest Payment Date will be entitled to receive, on such Interest Payment Date, the unpaid interest that has accrued on such Note to, but excluding, such Interest Payment Date, and such Note, when surrendered for conversion, need not be accompanied by any cash amount pursuant to the first sentence of this **Section 5.02(D)**.

(E) *Taxes and Duties*. If a Holder converts a Note, the Company will pay any documentary, stamp or similar issue or transfer tax or duty due on the issue or delivery (including, for the avoidance of doubt, pursuant to **Section 5.08**) of any Ordinary Shares upon such conversion; *provided*, *however*, that if any tax or duty is due because such Holder requested such shares to be registered in a name other than such Holder's name, then such Holder will pay such tax or duty.

(F) *Conversion Agent to Notify Company of Conversions*. If any Note is submitted for conversion to the Conversion Agent or the Conversion Agent receives any notice of conversion with respect to a Note, then the Conversion Agent will promptly notify the Company and the Trustee of such occurrence, together with any other information reasonably requested by the Company, and will cooperate with the Company to determine the Conversion Date for such Note.

Section 5.03. Settlement Upon Conversion.

(A) *Settlement Method*. Upon the conversion of any Note, the Company will settle such conversion by paying or delivering, as applicable and as provided in this **Article 5**, either (x) Ordinary Shares, together, if applicable, with cash in lieu of fractional shares as provided in **Section 5.03(B)(i)(1)** (a "**Physical Settlement**"); (y) solely cash as provided in **Section 5.03(B)(i)(2)** (a "**Cash Settlement**"); or (z) a combination of cash and Ordinary Shares, together, if applicable, with cash in lieu of fractional shares as provided in **Section 5.03(B)(i)(3)** (a "**Combination Settlement**").

(i) *The Company's Right to Elect Settlement Method*. The Company will have the right to elect the Settlement Method applicable to any conversion of a Note; *provided*, *however*, that:

(1) if any Notes are called for Redemption, then the Company will specify, in the related Redemption Notice (and, in the case of a Redemption of less than all outstanding Notes, in a notice simultaneously sent to all Holders of Notes not called for Redemption) sent pursuant to Section 4.03(G), the Settlement Method that will apply to all conversions of Notes with a Conversion Date that occurs on or after the related Redemption Notice Date and before the related Redemption Date;

(2) the Company will use the same Settlement Method for all conversions of Notes with the same Conversion Date (and, for the avoidance of doubt, the Company will not be obligated to use the same Settlement Method with respect to conversions of Notes with different Conversion Dates, except as provided in clause (1) above);

(3) if the Company does not timely elect a Settlement Method with respect to the conversion of a Note, then the Company will be deemed to have elected the Default Settlement Method (and, for the avoidance of doubt, the failure to timely make such election will not constitute a Default or Event of Default);

(4) if the Company timely elects Combination Settlement with respect to the conversion of a Note but does not timely notify the Holder of such Note of the applicable Specified Dollar Amount, then the Specified Dollar Amount for such conversion will be deemed to be $1,000 per $1,000 principal amount of Notes (and, for the avoidance of doubt, the failure to timely send such notification will not constitute a Default or Event of Default); and;

(5) the Settlement Method will be subject to **Section 5.09(A)(2).**

(ii) *The Company's Right to Irrevocably Fix the Settlement Method*. The Company will have the right, exercisable at its election by sending notice of such exercise to the Holders (with a copy to the Trustee and the Conversion Agent), to irrevocably fix the Settlement Method that will apply to all conversions of Notes with a Conversion Date that occurs on or after the date such notice is sent to Holders, *provided* that (x) such Settlement Method must be a Settlement Method that the Company is then permitted to elect (for the avoidance of doubt, including pursuant to, and subject to, the other provisions of this **Section 5.03(A)**); (y) no such irrevocable election will affect any Settlement Method theretofore elected (or deemed to be elected) with respect to any Note pursuant to the other provisions of this **Section 5.03(A)**; and (z) upon any such irrevocable election, the Default Settlement Method will automatically be deemed to be set to the Settlement Method so fixed. Such notice, if sent, must set forth the applicable Settlement Method and expressly state that the election is irrevocable and applicable to all conversions of Notes with a Conversion Date that occurs on or after the date such notice is sent to Holders. For the avoidance of doubt, such an irrevocable election, if made, will be effective without the need to amend this Indenture or the Notes, including pursuant to **Section 8.01(G)** (it being understood, however, that the Company may nonetheless choose to execute such an amendment at its option).

(iii) *Requirement to Publicly Disclose the Fixed or Default Settlement Method.* If the Company changes the Default Settlement Method pursuant to **clause (x)** of the proviso to the definition of such term or irrevocably fixes the Settlement Method pursuant to **Section 5.03(A)(i)**, then the Company will either post the Default Settlement Method or fixed Settlement Method, as applicable, on its website or disclose the same in a Current Report on Form 8-K or Form 6-K (or any successor form) that is filed with the SEC.

(B) *Conversion Consideration*.

(i) *Generally*. Subject to **Section 5.03(B)(ii)** and **Section 5.03(B)(iii)**, the type and amount of consideration (the "**Conversion Consideration**") due in respect of each $1,000 principal amount of a Note to be converted will be as follows:

(1) if Physical Settlement applies to such conversion, consideration consisting of: (x) a number of Ordinary Shares equal to the Conversion Rate in effect on the Conversion Date for such conversion and (y) solely in connection with any conversion of Tranche B Notes prior to the Forward Purchase Closing, a number of Ordinary Shares equal to the Early Conversion Adjustment in effect on the Conversion Date for such Conversion;

(2) if Cash Settlement applies to such conversion, consideration consisting of: (x) cash in an amount equal to the sum of the Daily Conversion Values for each VWAP Trading Day in the Observation Period for such conversion and (y) solely in connection with any conversion of Tranche B Notes prior to the Forward Purchase Closing, cash in an amount equal to the Early Conversion Adjustment in effect on the Conversion Date for such Conversion multiplied by the simple average of the Daily VWAP for the 10 consecutive Trading Days ending on, and including, the Trading Day immediately preceding such Conversion Date; or

(3) if Combination Settlement applies to such conversion, consideration consisting of (x) (a) a number of Ordinary Shares equal to the sum of the Daily Share Amounts for each VWAP Trading Day in the Observation Period for such conversion, and (b) an amount of cash equal to the sum of the Daily Cash Amounts for each VWAP Trading Day in such Observation Period and (y) solely in connection with any conversion of Tranche B Notes prior the Forward Purchase Closing, at the election of the Company, either (i) a number of Ordinary Shares equal to the Early Conversion Adjustment in effect on the Conversion Date for such Conversion or (ii) cash in an amount equal to the Early Conversion Adjustment in effect on the Conversion Date for such Conversion multiplied by the simple average of the Daily VWAP for the 10 consecutive Trading Days ending on, and including, the Trading Day immediately preceding such Conversion Date.

(ii) *Cash in Lieu of Fractional Shares*. If Physical Settlement or Combination Settlement applies to the conversion of any Note and the number of Ordinary Shares deliverable pursuant to **Section 5.03(B)(i)** upon such conversion is not a whole number, then such number will be rounded down to the nearest whole number and the Company will deliver, in addition to the other consideration due upon such conversion, cash in lieu of the related fractional share in an amount equal to the product of (1) such fraction and (2) (x) the Daily VWAP on the Conversion Date for such conversion (or, if such Conversion Date is not a VWAP Trading Day, the immediately preceding VWAP Trading Day), in the case of Physical Settlement; or (y) the Daily VWAP on the last VWAP Trading Day of the Observation Period for such conversion, in the case of Combination Settlement.

(iii) *Conversion of Multiple Notes by a Single Holder*. If a Holder converts more than one (1) Note on a single Conversion Date, then the Conversion Consideration due in respect of such conversion will (in the case of any Global Note, to the extent permitted by, and practicable under, the Depositary Procedures) be computed based on the total principal amount of Notes converted on such Conversion Date by such Holder.

(iv) *Notice of Calculation of Conversion Consideration*. If Cash Settlement or Combination Settlement applies to the conversion of any Note, then the Company will determine the Conversion Consideration due thereupon promptly following the last VWAP Trading Day of the applicable Observation Period and will promptly thereafter send notice to the Trustee and the Conversion Agent of the same and the calculation thereof in reasonable detail. Neither the Trustee nor the Conversion Agent will have any duty to make any such determination.

(C) *Delivery of the Conversion Consideration*. Except as set forth in **Sections 5.05(D)** and **5.09**, the Company will pay or deliver, as applicable, the Conversion Consideration due upon the conversion of any Note to the Holder as follows: (i) if Cash Settlement or Combination Settlement applies to such conversion, on or before the second (2nd) Business Day immediately after the last VWAP Trading Day of the Observation Period for such conversion; and (ii) if Physical Settlement applies to such conversion, on or before the second (2nd) Business Day immediately after the Conversion Date for such conversion.

(D) *Deemed Payment of Principal and Interest; Settlement of Accrued Interest Notwithstanding Conversion*. If a Holder converts a Note, then the Company will not adjust the Conversion Rate to account for any accrued and unpaid interest on such Note, and, except as provided in **Section 5.02(D)**, the Company's delivery of the Conversion Consideration due in respect of such conversion will be deemed to fully satisfy and discharge the Company's obligation to pay the principal of such Note. As a result, except as provided in **Section 5.02(D)**, any accrued and unpaid interest on a converted Note will be cancelled, extinguished and forfeited.

Section 5.04. Reserve and Status of Ordinary Shares Issued upon Conversion.

(A) *Share Reserve*. At all times from and after the Issue Date when any Notes are outstanding, the Company will reserve, out of its share issue mandate, a number of Ordinary Shares sufficient to permit the conversion of all then-outstanding Notes, assuming (x) Physical Settlement will apply to such conversion; and (y) the Conversion Rate is adjusted pursuant to **Section 5.05** or **Section 5.06**, or increased by the maximum amount pursuant to which the Conversion Rate may be increased pursuant to **Section 5.07**.

(B) *Status of Conversion Shares; Listing*. Each Conversion Share, if any, delivered upon conversion of any Note will be a newly issued share (except that any Conversion Share delivered by a designated financial institution pursuant to **Section 5.08** need not be a newly issued share), will be duly and validly issued, fully paid, non-assessable, free from preemptive rights and free of any lien or adverse claim (except to the extent of any lien or adverse claim created by the action or inaction of the Holder of such Note or the Person to whom such Conversion Share will be delivered), will rank pari passu with the existing Ordinary Shares, will satisfy the Equity Payment Condition and will be listed on a Stock Exchange.

Section 5.05. Adjustments to the Conversion Rate.

(A) *Events Requiring an Adjustment to the Conversion Rate*. The Conversion Rate will be adjusted from time to time as follows:

(i) *Share Dividends, Splits and Combinations*. If the Company issues solely the Ordinary Shares as a dividend or distribution on all or substantially all of the Ordinary Shares, or if the Company effects a split or a combination of the Ordinary Shares (in each case excluding an issuance solely pursuant to an Ordinary Share Change Event, as to which **Section 5.09** will apply), then the Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where:

CR_0	=	the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution, or immediately before the Open of Business on the effective date of such split or combination, as applicable;
CR_1	=	the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date or effective date, as applicable;
OS_0	=	the number of Ordinary Shares outstanding immediately before the Open of Business on such Ex-Dividend Date or effective date, as applicable, without giving effect to such dividend, distribution, split or combination; and
OS_1	=	the number of Ordinary Shares outstanding immediately after giving effect to such dividend, distribution, split or combination.

If any dividend, distribution, split or combination of the type described in this **Section 5.05(A)(i)** is declared or announced, but not so paid or made, then the Conversion Rate will be readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution or to effect such split or combination, to the Conversion Rate that would then be in effect had such dividend, distribution, split or combination not been declared or announced.

(ii) *Rights, Options and Warrants*. If the Company distributes, to all or substantially all holders of the Ordinary Shares, rights, options or warrants (other than rights issued or otherwise distributed pursuant to a shareholder rights plan, as to which **Sections 5.05(A)(iii)(1)** and **5.05(F)** will apply) entitling such holders, for a period of not more than sixty (60) calendar days after the record date of such distribution, to subscribe for or purchase Ordinary Shares at a price per share that is less than the average of the Last Reported Sale Prices per Ordinary Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced, then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{OS + X}{OS + Y}$$

where:

CR_0	=	the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;
CR_1	=	the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;
OS	=	the number of Ordinary Shares outstanding immediately before the Open of Business on such Ex-Dividend Date;
X	=	the total number of Ordinary Shares issuable pursuant to such rights, options or warrants; and
Y	=	a number of Ordinary Shares obtained by dividing (x) the aggregate price payable to exercise such rights, options or warrants by (y) the average of the Last Reported Sale Prices per Ordinary Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced.

To the extent such rights, options or warrants referred to in this **Section 5.05(A)(ii)** are not so distributed, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the increase to the Conversion Rate for such distribution been made on the basis of only the rights, options or warrants, if any, actually distributed. In addition, to the extent that Ordinary Shares are not delivered after the expiration of such rights, options or warrants (including as a result of such rights, options or warrants not being exercised), the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the increase to the Conversion Rate for such distribution been made on the basis of delivery of only the number of Ordinary Shares actually delivered upon exercise of such rights, option or warrants.

For purposes of this **Section 5.05(A)(ii)**, in determining whether any rights, options or warrants entitle holders of Ordinary Shares to subscribe for or purchase Ordinary Shares at a price per share that is less than the average of the Last Reported Sale Prices per Ordinary Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date the distribution of such rights, options or warrants is announced, and in determining the aggregate price payable to exercise such rights, options or warrants, there will be taken into account any consideration the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if not cash, to be determined by the Company in good faith.

(iii) Spin-Offs and Other Distributed Property.

(1) *Distributions Other than Spin-Offs*. If the Company distributes shares of its Capital Stock, evidences of its indebtedness or other assets or property of the Company, or rights, options or warrants to acquire Capital Stock of the Company or other securities, to all or substantially all holders of the Ordinary Shares, excluding:

(a) dividends, distributions, rights, options or warrants (including Ordinary Share splits) for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(i)** or **5.05(A)(ii)**;

(b) dividends or distributions paid exclusively in cash for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(iv)**;

(c) rights issued or otherwise distributed pursuant to a shareholder rights plan, except to the extent provided in **Section 5.05(F)**;

(d) Spin-Offs for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(iii)(2)**;

(e) a distribution solely pursuant to a tender offer or exchange offer for Ordinary Shares, as to which **Section 5.05(A)(v)** will apply; and

(f) a distribution solely pursuant to an Ordinary Share Change Event, as to which **Section 5.09** will apply,

then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - FMV}$$

where:

CR_0	=	*the* Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;
CR_1	=	*the* Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;
SP	=	*the* average of the Last Reported Sale Prices per Ordinary Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before such Ex-Dividend Date; and
FMV	=	the fair market value (as determined by the Company in good faith), as of such Ex-Dividend Date, of the shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants distributed per Ordinary Share pursuant to such distribution;

provided, *however*, that if *FMV* is equal to or greater than *SP*, then, in lieu of the foregoing adjustment to the Conversion Rate, each Holder will receive, for each $1,000 principal amount of Notes held by such Holder on the record date for such distribution, at the same time and on the same terms as holders of Ordinary Shares, the amount and kind of shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants that such Holder would have received if such Holder had owned, on such record date, a number of Ordinary Shares equal to the Conversion Rate in effect on such record date.

To the extent such distribution is not so paid or made, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the distribution, if any, actually made or paid.

(2) *Spin-Offs*. If the Company distributes or dividends shares of Capital Stock of any class or series, or similar equity interests, of or relating to a Subsidiary or other business unit of the Company to all or substantially all holders of the Ordinary Shares (other than solely pursuant to (x) an Ordinary Share Change Event, as to which **Section 5.09** will apply; or (y) a tender offer or exchange offer for Ordinary Shares, as to which **Section 5.05(A)(v)** will apply), and such Capital Stock or equity interests are listed or quoted (or will be listed or quoted upon the consummation of the transaction) on a U.S. national securities exchange (a "**Spin- Off**"), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV + SP}{SP}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Close of Business on the last Trading Day of the Spin-Off Valuation Period for such Spin-Off;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on the last Trading Day of the Spin-Off Valuation Period;

FMV = the product of (x) the average of the Last Reported Sale Prices per share or unit of the Capital Stock or equity interests distributed in such Spin-Off over the ten (10) consecutive Trading Day period (the "**Spin-Off Valuation Period**") beginning on, and including, the Ex- Dividend Date for such Spin-Off (such average to be determined as if references to Ordinary Shares in the definitions of Last Reported Sale Price, Trading Day and Market Disruption Event were instead references to such Capital Stock or equity interests); and (y) the number of shares or units of such Capital Stock or equity interests distributed per Ordinary Share in such Spin-Off; and

SP = the average of the Last Reported Sale Prices per Ordinary Share for each Trading Day in the Spin-Off Valuation Period.

Notwithstanding anything to the contrary in this **Section 5.05(A)(iii)(2)**, (i) if any VWAP Trading Day of the Observation Period for a Note whose conversion will be settled pursuant to Cash Settlement or Combination Settlement occurs during the Spin-Off Valuation Period for such Spin-Off, then, solely for purposes of determining the Conversion Rate for such VWAP Trading Day for such conversion, such Spin-Off Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Ex-Dividend Date for such Spin- Off to, and including, such VWAP Trading Day; and (ii) if the Conversion Date for a Note whose conversion will be settled pursuant to Physical Settlement occurs during the Spin-Off Valuation Period for such Spin-Off, then, solely for purposes of determining the Conversion Consideration for such conversion, such Spin-Off Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Ex-Dividend Date for such Spin-Off to, and including, such Conversion Date.

To the extent any dividend or distribution of the type set forth in this **Section 5.05(A)(iii)(2)** is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(iv) *Cash Dividends or Distributions*. If any cash dividend or distribution is made to all or substantially all holders of Ordinary Shares, then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - D}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

SP = the Last Reported Sale Price per Ordinary Share on the Trading Day immediately before such Ex-Dividend Date; and

D = the cash amount distributed per Ordinary Share in such dividend or distribution;

provided, *however*, that if *D* is equal to or greater than *SP*, then, in lieu of the foregoing adjustment to the Conversion Rate, each Holder will receive, for each $1,000 principal amount of Notes held by such Holder on the record date for such dividend or distribution, at the same time and on the same terms as holders of Ordinary Shares, the amount of cash that such Holder would have received if such Holder had owned, on such record date, a number of Ordinary Shares equal to the Conversion Rate in effect on such record date.

To the extent such dividend or distribution is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(v) *Tender Offers or Exchange Offers*. If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer that is subject to the then- applicable tender offer rules under the Exchange Act (other than solely pursuant to an odd- lot tender offer pursuant to Rule 13e-4(h)(5) under the Exchange Act or any successor rule thereto), for Ordinary Shares, and the value (determined as of the Expiration Time by the Board of Directors) of the cash and other consideration paid per Ordinary Share in such tender or exchange offer exceeds the Last Reported Sale Price per Ordinary Share on the Trading Day immediately after the last date (the "**Expiration Date**") on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{AC + (SP \times OS_1)}{SP \times OS_0}$$

where:

CR_0	=	the Conversion Rate in effect immediately before the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period for such tender or exchange offer;
CR_1	=	the Conversion Rate in effect immediately after the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period;
AC	=	the aggregate value (determined as of the time (the "**Expiration Time**") such tender or exchange offer expires by the Board of Directors) of all cash and other consideration paid for Ordinary Shares purchased or exchanged in such tender or exchange offer;
OS_0	=	the number of Ordinary Shares outstanding immediately before the Expiration Time (including all Ordinary Shares accepted for purchase or exchange in such tender or exchange offer);
OS_1	=	the number of Ordinary Shares outstanding immediately after the Expiration Time (excluding all Ordinary Shares accepted for purchase or exchange in such tender or exchange offer); and
SP	=	the average of the Last Reported Sale Prices per Ordinary Share over the ten (10) consecutive Trading Day period (the "**Tender/Exchange Offer Valuation Period**") beginning on, and including, the Trading Day immediately after the Expiration Date;

provided, *however*, that the Conversion Rate will in no event be adjusted down pursuant to this **Section 5.05(A)(v)**, except to the extent provided in the immediately following paragraph. Notwithstanding anything to the contrary in this **Section 5.05(A)(v)**, (i) if any VWAP Trading Day of the Observation Period for a Note whose conversion will be settled pursuant to Cash Settlement or Combination Settlement occurs during the Tender/Exchange Offer Valuation Period for such tender or exchange offer, then, solely for purposes of determining the Conversion Rate for such VWAP Trading Day for such conversion, such Tender/Exchange Offer Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Trading Day immediately after the Expiration Date for such tender or exchange offer to, and including, such VWAP Trading Day; and (ii) if the Conversion Date for a Note whose conversion will be settled pursuant to Physical Settlement occurs during the Tender/Exchange Offer Valuation Period for such tender or exchange offer, then, solely for purposes of determining the Conversion Consideration for such conversion, such Tender/Exchange Offer Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Trading Day immediately after the Expiration Date to, and including, such Conversion Date.

To the extent such tender or exchange offer is announced but not consummated (including as a result of the Company being precluded from consummating such tender or exchange offer under applicable law), or any purchases or exchanges of Ordinary Shares in such tender or exchange offer are rescinded, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the purchases or exchanges of Ordinary Shares, if any, actually made, and not rescinded, in such tender or exchange offer.

(B) *No Adjustments in Certain Cases*.

(i) *Where Holders Participate in the Transaction or Event Without Conversion*. Notwithstanding anything to the contrary in **Section 5.05(A)**, the Company will not be obligated to adjust the Conversion Rate on account of a transaction or other event otherwise requiring an adjustment pursuant to **Section 5.05(A)** (other than a split or combination of the type set forth in **Section 5.05(A)(i)** or a tender or exchange offer of the type set forth in **Section 5.05(A)(v)**) if each Holder participates, at the same time and on the same terms as holders of Ordinary Shares, and solely by virtue of being a Holder of Notes, in such transaction or event without having to convert such Holder's Notes and as if such Holder held a number of Ordinary Shares equal to the product of (i) the Conversion Rate in effect on the related record date; and (ii) the aggregate principal amount (expressed in thousands) of Notes held by such Holder on such date.

(ii) *Certain Events*. The Company will not be required to adjust the Conversion Rate except as provided in **Section 5.05** or **Section 5.07**. Without limiting the foregoing, the Company will not be obligated to adjust the Conversion Rate on account of:

(1) [Reserved];

(2) the issuance of any Ordinary Shares pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in Ordinary Shares under any such plan;

(3) the issuance of any Ordinary Shares or options or rights to purchase Ordinary Shares pursuant to any present or future employee, director or consultant benefit or incentive plan (including pursuant to an evergreen provision) or program of, or assumed by, the Company or any of its Subsidiaries or in connection with any shares withheld for tax withholding purposes;

(4) the issuance of any Ordinary Shares pursuant to any option, warrant, right or convertible or exchangeable security of the Company outstanding or announced as of the Issue Date;

(5) for a tender offer or exchange offer by any party other than a tender offer or exchange offer by the Company or one or more of its Subsidiaries as described in Section 5.05(A)(v);

(6) an odd-lot tender offer pursuant to Rule 13e-4(h)(5) under the Exchange Act or any successor rule thereto;

(7) upon the repurchase of any of the Ordinary Shares pursuant to an open-market repurchase program or other buy-back transaction (including through any structured or derivative transactions, such as accelerated share repurchase transactions, prepaid forward transactions or similar forward derivatives) that is not a tender offer or exchange offer of the nature described in **Section 5.05(A)(v)**;

(8) solely a change in the par value of the Ordinary Shares;

(9) accrued and unpaid interest on the Notes; or

(10) an Optional Exchange pursuant to the terms of this Indenture.

(iii) Notwithstanding anything to the contrary in this Indenture or the Notes (but without limiting the operation of **Section 5.05(H)**), the Conversion Rate will not be adjusted pursuant to **Section 5.05(A)** on an account of any event described in any of **clauses (i)** through **(v)**, inclusive **Section 5.05(A)** where the Ex- Dividend Date, effective date or Expiration Date, as applicable, of such event occurs before the Issue Date.

(C) If an adjustment to the Conversion Rate otherwise required by this **Article 5** would result in a change of less than one percent (1%) to the Conversion Rate, then, notwithstanding anything to the contrary in this **Article 5**, the Company may, at its election, defer such adjustment, except that all such deferred adjustments must be given effect immediately upon the earliest of the following: (i) when all such deferred adjustments not already given effect would result in a change of at least one percent (1%) to the Conversion Rate; (ii) the Conversion Date of, or any VWAP Trading Day of an Observation Period for, any Note; (iii) the date a Fundamental Change or Make- Whole Event occurs; (iv) the date the Company calls any Notes for Redemption; and (v) the thirty fifth (35th) VWAP Trading Day before the Maturity Date.

(D) *Adjustments Not Yet Effective*. Notwithstanding anything to the contrary in this Indenture or the Notes, if:

(i) a Note is to be converted pursuant to Physical Settlement or Combination Settlement;

(ii) the record date, effective date or Expiration Time for any event that requires an adjustment to the Conversion Rate pursuant to **Section 5.05(A)** has occurred on or before the Conversion Date for such conversion (in the case of Physical Settlement) or on or before any VWAP Trading Day in the Observation Period for such conversion (in the case of Combination Settlement), but an adjustment to the Conversion Rate for such event has not yet become effective as of such Conversion Date or VWAP Trading Day, as applicable;

(iii) the Conversion Consideration due upon such conversion includes any whole Ordinary Shares (in the case of Physical Settlement) or due in respect of such VWAP Trading Day includes any whole or fractional Ordinary Shares (in the case of Combination Settlement); and

(iv) such shares are not entitled to participate in such event (because they were not held on the related record date or otherwise),

then, solely for purposes of such conversion, the Company will, without duplication, give effect to such adjustment on such Conversion Date (in the case of Physical Settlement) or such VWAP Trading Day (in the case of Combination Settlement). In such case, if the date on which the Company is otherwise required to deliver the consideration due upon such conversion is before the first date on which the amount of such adjustment can be determined, then the Company will delay the settlement of such conversion until the second (2nd) Business Day after such first date.

(E) *Conversion Rate Adjustments where Converting Holders Participate in the Relevant Transaction or Event*. Notwithstanding anything to the contrary in this Indenture or the Notes, if:

(i) a Conversion Rate adjustment for any dividend or distribution becomes effective on any Ex-Dividend Date pursuant to **Section 5.05(A)**;

(ii) a Note is to be converted pursuant to Physical Settlement or Combination Settlement;

(iii) the Conversion Date for such conversion (in the case of Physical Settlement) or any VWAP Trading Day in the Observation Period for such conversion (in the case of Combination Settlement) occurs on or after such Ex-Dividend Date and on or before the related record date;

(iv) the Conversion Consideration due upon such conversion includes any whole Ordinary Shares (in the case of Physical Settlement) or due in respect of such VWAP Trading Day includes any whole or fractional Ordinary Shares (in the case of Combination Settlement), in each case based on a Conversion Rate that is adjusted for such dividend or distribution; and

(v) such shares would be entitled to participate in such dividend or distribution (including pursuant to **Section 5.02(C)**),

then (x) in the case of Physical Settlement, such Conversion Rate adjustment will not be given effect for such conversion and the Ordinary Shares issuable upon such conversion based on such unadjusted Conversion Rate will not be entitled to participate in such dividend or distribution, but there will be added, to the Conversion Consideration otherwise due upon such conversion, the same kind and amount of consideration that would have been delivered in such dividend or distribution with respect to such Ordinary Shares had such shares been entitled to participate in such dividend or distribution; and (y) in the case of Combination Settlement, the Conversion Rate adjustment relating to such Ex-Dividend Date will be made for such conversion in respect of such VWAP Trading Day, but the Ordinary Shares issuable with respect to such VWAP Trading Day based on such adjusted Conversion Rate will not be entitled to participate in such dividend or distribution.

(F) *Shareholder Rights Plans*. If any Ordinary Shares are to be issued or delivered upon conversion of any Note and, at the time of such conversion, the Company has in effect any shareholder rights plan, then the Holder of such Note will be entitled to receive, in addition to, and concurrently with the delivery of, the Conversion Consideration otherwise payable under this Indenture upon such conversion, the rights set forth in such shareholder rights plan, unless such rights have separated from the Ordinary Shares at such time, in which case, and only in such case, the Conversion Rate will be adjusted pursuant to **Section 5.05(A)(iii)(1)** on account of such separation as if, at the time of such separation, the Company had made a distribution of the type referred to in such Section to all holders of the Ordinary Shares, subject to readjustment in accordance with such Section if such rights expire, terminate or are redeemed.

(G) *Limitation on Effecting Transactions Resulting in Certain Adjustments*. The Company will not engage in or be a party to any transaction or event that would require the Conversion Rate to be adjusted pursuant to **Section 5.05(A)** or **Section 5.07** to an amount that would result in the Conversion Price per Ordinary Share being less than the par value per Ordinary Share.

(H) *Equitable Adjustments to Prices*. Whenever any provision of this Indenture requires the Company to calculate the average of the Last Reported Sale Prices, or any function thereof, over a period of multiple days (including to calculate an adjustment to the Conversion Rate), or to calculate the Daily Conversion Values or Daily VWAPs over an Observation Period, the Company will make appropriate adjustments, if any, to such calculations to account for any adjustment to the Conversion Rate pursuant to **Section 5.05(A)**, would have resulted in an adjustment to the Conversion Rate) that becomes effective, or any event that requires such an adjustment to the Conversion Rate where the Ex- Dividend Date, effective date or Expiration Date, as applicable, of such event occurs, at any time during such period, or Observation Period, as applicable.

(I) *Calculation of Number of Outstanding Ordinary Shares*. For purposes of **Section 5.05(A)**, the number of Ordinary Shares outstanding at any time will (i) include shares issuable in respect of scrip certificates issued in lieu of fractions of Ordinary Shares; and (ii) exclude Ordinary Shares held in the Company's treasury (unless the Company pays any dividend or makes any distribution on Ordinary Shares held in its treasury).

(J) *Calculations*. All calculations with respect to the Conversion Rate and adjustments thereto will be made, by the Company, to the nearest 1/10,000th of an Ordinary Share (with 5/100,000ths rounded upward).

(K) *Notice of Conversion Rate Adjustments*. Upon the effectiveness of any adjustment to the Conversion Rate pursuant to **Section 5.05(A)**, the Company will promptly send notice to the Holders, the Trustee and the Conversion Agent containing (i) a brief description of the transaction or other event on account of which such adjustment was made; (ii) the Conversion Rate in effect immediately after such adjustment; and (iii) the effective time of such adjustment.

Section 5.06. Voluntary Adjustments.

(A) *Generally*. To the extent permitted by law and applicable listing standards of The Nasdaq Global Stock Market (or any other securities exchange on which the Ordinary Shares (or other applicable security) is then listed), the Company, from time to time, may (but is not required to) increase the Conversion Rate by any amount if (i) the Board of Directors determines that such increase is either (x) in the best interest of the Company; or (y) advisable to avoid or diminish any income tax imposed on holders of Ordinary Shares or rights to purchase Ordinary Shares as a result of any dividend or distribution of shares (or rights to acquire shares) of Ordinary Shares or any similar event; (ii) such increase is in effect for a period of at least twenty (20) Business Days; and (iii) subject to applicable law, such increase is irrevocable during such period.

(B) *Notice of Voluntary Increases*. If the Board of Directors determines to increase the Conversion Rate pursuant to **Section 5.06(A)** or upon the occurrence of a Forward Purchase Adjustment Event, then, no later than the first Business Day of the related twenty (20) Business Day period referred to in **Section 5.06(A)**, the Company will send notice to each Holder, the Trustee and the Conversion Agent of such increase, the amount thereof and the period during which such increase will be in effect.

Section 5.07. Adjustments To The Conversion Rate In Connection With A Make- Whole Event.

(A) *Generally*. If a Make-Whole Event occurs on or after the Issue Date and the Conversion Date for the conversion of a Note occurs during the related Make-Whole Event Conversion Period, then, subject to this **Section 5.07**, the Conversion Rate applicable to such conversion will be increased by the applicable Interest Make-Whole Amount.

(B) *Notice of the Occurrence of a Make-Whole Event*. The Company will notify the Holders, the Trustee and the Conversion Agent of each Make-Whole Event (i) occurring pursuant to **clause (A)** of the definition thereof; and (ii) occurring pursuant to **clause (B)** of the definition thereof in accordance with **Section 4.03(G)**.

Section 5.08. Exchange In Lieu Of Conversion.

Notwithstanding anything to the contrary in this **Article 5**, and subject to the terms of this **Section 5.08**, if a Note is submitted for conversion, the Company may elect, in lieu of conversion, to transfer such Note to a financial institution designated by the Company and arrange to have such financial institution deliver to the Holder of such Note the Conversion Consideration that would have been due upon conversion. To make such election, the Company must send notice of such election to the Holder of such Note, the Trustee and the Conversion Agent before the Close of Business on the Business Day immediately following the Conversion Date for such Note. If the Company has made such election, then:

(A) no later than the Business Day immediately following such Conversion Date, the Company must deliver (or cause the Conversion Agent to deliver) such Note, together with delivery instructions for the Conversion Consideration due upon such conversion (including wire instructions, if applicable), to a financial institution designated by the Company that has agreed to deliver such Conversion Consideration in the manner and at the time the Company would have had to deliver the same pursuant to this **Article 5**;

(B) if such Note is a Global Note, then (i) such designated institution will send written confirmation to the Conversion Agent promptly after wiring the cash Conversion Consideration, if any, and delivering any other Conversion Consideration, due upon such conversion to the Holder of such Note; and (ii) the Conversion Agent will as soon as reasonably practicable thereafter contact such Holder's custodian with the Depositary to confirm receipt of the same; and

(C) such Note will not cease to be outstanding by reason of such exchange in lieu of conversion;

provided, *however*, that if such financial institution does not accept such Note or fails to timely deliver such Conversion Consideration, then the Company will be responsible for delivering such Conversion Consideration in the manner and at the time provided in this **Article 5** as if the Company had not elected to make an exchange in lieu of conversion.

Section 5.09. Effect Of Ordinary Share Change Event.

(A) *Generally*. If there occurs any:

(i) recapitalization, reclassification or change of the Ordinary Shares (other than (x) changes solely resulting from a subdivision or combination of the Ordinary Shares, (y) a change only in par value or from par value to no par value or no par value to par value and (z) splits and combinations that do not involve the issuance of any other series or class of securities);

(ii) consolidation, merger, combination or binding or statutory share exchange involving the Company;

(iii) sale, lease or other transfer of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person; or

(iv) other similar event,

and, as a result of which, the Ordinary Shares is converted into, or is exchanged for, or represents solely the right to receive, other securities, cash or other property, or any combination of the foregoing (such an event, a "**Ordinary Share Change Event**," and such other securities, cash or property, the "**Reference Property**," and the amount and kind of Reference Property that a holder of one (1) Ordinary Share would be entitled to receive on account of such Ordinary Share Change Event (without giving effect to any arrangement not to issue or deliver a fractional portion of any security or other property), a "**Reference Property Unit**"), then the Company and the resulting, surviving or transferee person (if not the Company) of such Ordinary Share Change Event (the "**Successor Person**"), and, if applicable as set forth below, the Underlying Issuer, will execute and deliver to the Trustee a supplemental indenture, without the consent of the Holders, providing, notwithstanding anything to the contrary in this Indenture or the Notes, as follows:

(1) from and after the effective time of such Ordinary Share Change Event, (I) the Conversion Consideration due upon conversion of any Note, and the conditions to any such conversion, will be determined in the same manner as if each reference to any number of Ordinary Shares in this **Article 5** (or in any related definitions) were instead a reference to the same number of Reference Property Units; (II) for purposes of **Section 4.03**, each reference to any number of Ordinary Shares in such Section (or in any related definitions) will instead be deemed to be a reference to the same number of Reference Property Units; and (III) for purposes of the definition of "Fundamental Change" and "Make-Whole Event," references to Ordinary Shares or to "Common Equity" will be deemed to refer to the common equity (including depositary receipts representing common equity), if any, forming part of such Reference Property;

(2) if such Reference Property Unit consists entirely of cash, then the Company will be deemed to elect Physical Settlement in respect of all conversions whose Conversion Date occurs on or after the effective date of such Ordinary Share Change Event and will pay the cash due upon such conversions no later than the second (2nd) Business Day after the relevant Conversion Date;

(3) for these purposes, (I) the Daily VWAP of any Reference Property Unit or portion thereof that consists of a class of common equity securities will be determined by reference to the definition of "Daily VWAP," substituting, if applicable, the Bloomberg page for such class of securities in such definition; and (II) the Daily VWAP of any Reference Property Unit or portion thereof that does not consist of a class of common equity securities, and the Last Reported Sale Price of any Reference Property Unit or portion thereof that does not consist of a class of securities, will be the fair value of such Reference Property Unit or portion thereof, as applicable, determined in good faith by the Company (or, in the case of cash denominated in U.S. dollars, the face amount thereof); and

(4) if such Reference Property includes any shares of Capital Stock, then the Conversion Rate will be subject to subsequent adjustments in a manner consistent with **Section 5.05(A)**.

If the Reference Property consists of more than a single type of consideration to be determined based in part upon any form of shareholder election, then the composition of the Reference Property Unit will be deemed to be the weighted average of the types and amounts of consideration actually received, per Ordinary Share, by the holders of the Ordinary Shares. The Company will notify Holders of such weighted average as soon as practicable after such determination is made.

At or before the effective time of such Ordinary Share Change Event, the Company and the Successor Person will execute and deliver to the Trustee a supplemental indenture pursuant to **Section 8.01(F)** as set forth above. If the Reference Property includes shares of stock or other securities or assets (other than cash) of a Person other than the Successor Person (such person, the "**Underlying Issuer**"), then such Underlying Issuer will also execute such supplemental indenture.

(B) *Notice of Ordinary Share Change Events*. The Company will provide notice of each Ordinary Share Change Event to Holders, the Trustee and the Conversion Agent no later than the effective date of such Ordinary Share Change Event.

(C) *Compliance Covenant*. The Company will not become a party to any Ordinary Share Change Event unless its terms are consistent with this **Section 5.09**.

Section 5.10. Responsibility of Trustee.

(A) The Trustee, the Collateral Trustee and the Conversion Agent shall not at any time be under any duty or responsibility to any Holder to determine the Conversion Rate (or any adjustment thereto) or whether any facts exist that may require any adjustment (including any increase) of the Conversion Rate, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed, or in the Indenture or in any supplemental indenture provided to be employed, in making the same. The Trustee and the Conversion Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any Ordinary Shares, or of any securities, property or cash that may at any time be issued or delivered upon the conversion of any Note; and the Trustee and the Conversion Agent make no representations with respect thereto. Neither the Trustee nor the Conversion Agent shall be responsible for any failure of the Company to issue, transfer or deliver any shares of Ordinary Shares or stock certificates or other securities or property or cash upon the surrender of any Note for the purpose of conversion or to comply with any of the duties, responsibilities or covenants of the Company contained in this **Article 5**. Without limiting the generality of the foregoing, neither the Trustee nor the Conversion Agent shall be under any responsibility to (a) determine whether a supplemental indenture needs to be entered into or (b) determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to **Section 5.09** relating either to the kind or amount of shares of stock or securities or property (including cash) receivable by Holders upon the conversion of their Notes after any event referred to in such **Section 5.09** or to any adjustment to be made with respect thereto, but, subject to the provisions of **Section 13.02** of the Indenture, may accept (without any independent investigation) as conclusive evidence of the correctness of any such provisions, and shall be protected in conclusively relying upon, the Officer's Certificate (which the Company shall be obligated to file with the Trustee and the Conversion Agent prior to the execution of any such supplemental indenture) with respect thereto.

(B) The Conversion Agent will open a non-interest bearing account in the name of the Company in relation to its Settlement Method.

(C) Conversion Agent's wire instructions are listed in **Schedule I** to receive wire from the Company for cash in lieu for fractional shares.

(D) **Schedule II** lists Company's wire instructions for interest reimbursement.

(E) If there is a conversion between the Regular Record Date and Interest Payment Date (for regular period), the Holders will return the interest back to Conversion Agent and the Conversion Agent will reimburse the Company.

Article 6. SUCCESSORS

Section 6.01. When The Company May Merge, Etc.

(A) *Generally*. The Company will not consolidate with or merge with or into, dissolve or liquidate voluntarily into, or (directly, or indirectly through one or more of its Subsidiaries) sell, lease or otherwise Dispose, in one transaction or a series of transactions, all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to another Person (a "**Company Business Combination Event**"), unless:

(i) the resulting, surviving or transferee Person either (x) is the Company or (y) if not the Company, is a corporation (the "**Successor Corporation**") duly organized and existing under the laws of the United States of America, any State thereof, the District of Columbia or Singapore that expressly assumes (by executing and delivering to the Trustee, at or before the effective time of such Company Business Combination Event, a supplemental indenture pursuant to **Section 8.01(E)**) all of the Company's obligations under this Indenture, the Notes Security Documents to which the Company is a party, and the Notes (including, for the avoidance of doubt, the obligation to pay Additional Amounts pursuant to **Section 3.05**);

(ii) immediately after giving effect to such Company Business Combination Event, no Default or Event of Default will have occurred and be continuing; and

(iii) before the effective time of any Company Business Combination Event, the Company will deliver to the Trustee an Officer's Certificate and Opinion of Counsel, each stating that (i) such Company Business Combination Event (and, if applicable, the related supplemental indenture) comply with **Section 6.01(A)**; and (ii) all conditions precedent to such Company Business Combination Event provided in this Indenture have been satisfied.

(B) *Guarantors*. The Company shall not permit any Guarantor to consolidate with or merge with or into, dissolve or liquidate voluntarily into, or (directly, or indirectly through one or more of its Subsidiaries) sell, lease or otherwise Dispose, in one transaction or a series of transactions, all or substantially all of the consolidated assets (other than to the Company or another Guarantor) (a "**Guarantor Business Combination Event**" together with a Company Business Combination Event, a "**Business Combination Event**") unless:

(i) the resulting, surviving or transferee Person (the "**Successor Guarantor**") either (x) is the Guarantor or (y) if not the Guarantor, is a corporation duly organized and existing under the laws of the jurisdiction of the Company or any of the Guarantors that expressly assumes (by executing and delivering to the Trustee, at or before the effective time of such Guarantor Business Combination Event, a supplemental indenture pursuant to **Section 8.01(B)**) all of such Guarantor's obligations under this Indenture, the Notes Security Documents to which it is a party, the Notes and its Guarantee (including, for the avoidance of doubt, the obligation to pay Additional Amounts pursuant to **Section 3.05**);

(ii) immediately after giving effect to such Guarantor Business Combination Event, no Default or Event of Default will have occurred and be continuing; and

(iii) before the effective time of any Guarantor Business Combination Event, the Company and the Guarantor, as applicable, will deliver to the Trustee an Officer's Certificate and Opinion of Counsel, each stating that (i) such Guarantor Business Combination Event (and, if applicable, the related supplemental indenture) comply with **Section 6.01(B)**; and (ii) all conditions precedent to such Guarantor Business Combination Event provided in this Indenture have been satisfied.

Section 6.02. Successor Corporation Substituted.

At the effective time of any Business Combination Event that complies with **Section 6.01**, the Successor Corporation (if not the Company) or the Successor Guarantor (if not the applicable Guarantor), as the case may be, will succeed to, and may exercise every right and power of, the Company or the Guarantor, as the case may be, under this Indenture, the Notes Security Documents, the Notes and/or Guarantee, as is applicable, with the same effect as if such Successor Corporation or Successor Guarantor, as the case may be, had been named as the Company or Guarantor, as the case may be, in this Indenture, the Notes Security Documents, the Notes and such Guarantee; *provided that* in the case of a lease, the predecessor Company will be discharged from its obligations under this Indenture and the Notes.

Article 7. DEFAULTS AND REMEDIES

Section 7.01. Events Of Default.

(A) *Definition of Events of Default*. "**Event of Default**" means the occurrence of any of the following:

(i) a default in the payment when due (whether at maturity, upon Redemption or Repurchase Upon Fundamental Change or otherwise) of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, any Note;

(ii) a default in the payment when due of interest on any Note, which default continues for thirty (30) days;

(iii) the Company's failure to deliver, when required by this Indenture, a Fundamental Change Notice, such failure is not cured within three (3) Business Days after its occurrence;

(iv) a default in the payment or delivery when due of the Optional Exchange Consideration for any Note subject to an Optional Exchange;

(v) a default in the Company's obligation to convert a Note in accordance with **Article 5** upon the exercise of the conversion right with respect thereto, if such default is not cured within two (2) Business Days after its occurrence;

(vi) a default in the Company's obligations under **Article 6**;

(vii) [Reserved];

(viii) a default in any of the Company's obligations or agreements under the Indenture Documents (other than a default set forth in **clause (i)**, **(ii)**, **(iii)**, **(iv), (v) or (vi)** of this **Section 7.01(A)**) where such default is not cured or waived within thirty (30) days after notice to the Company by the Trustee and the Collateral Trustee, or to the Company, the Trustee and the Collateral Trustee by Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding, which notice must specify such default, demand that it be remedied and state that such notice is a "Notice of Default", *provided* that any issuance of Ordinary Shares in connection with any conversion (including in connection with the Optional Exchange) that results in any holder of the Notes, together with the Attribution Parties, beneficially owns or would beneficially own the number of Ordinary Shares in excess of the Exchange Cap shall not constitute a Default or an Event of Default;

(ix) a default by a Company Indenture Party or any of its Significant Subsidiaries with respect to indebtedness for money borrowed (whether pursuant to one or more agreements or other instruments) of greater than twenty-five million dollars ($25,000,000) (or its foreign currency equivalent) in the aggregate of a Company Indenture Party or any of its Significant Subsidiaries, whether such indebtedness exists as of the Issue Date or is thereafter created, either: (x) resulting in such indebtedness becoming or being declared due and payable prior to its stated maturity, or (y) constituting a failure to pay the principal of any such indebtedness when due and payable (after the expiration of all applicable grace periods) at its stated maturity, upon required repurchase, upon declaration or otherwise, and, in the case of either **clause (x)** or **(y)**, such acceleration is not, after the expiration of any applicable grace period, rescinded or annulled or such indebtedness is not paid or discharged, as the case may be, within thirty (30) days after notice to the Company by the Trustee or to the Company and the Trustee by Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding in accordance with this Indenture;

(x) one or more final judgments being rendered against a Company Indenture Party or any of its Subsidiaries for the payment of at least twenty-five million dollars ($25,000,000) (or its foreign currency equivalent) in the aggregate (excluding any amounts covered by insurance), where such judgment is not discharged or stayed within sixty (60) days after (i) the date on which the right to appeal the same has expired, if no such appeal has commenced; or (ii) the date on which all rights to appeal have been extinguished;

(xi) a Company Indenture Party or any of its Significant Subsidiaries, pursuant to or within the meaning of any Bankruptcy Law, either:

(1) commences a voluntary case or proceeding;

(2) consents to the entry of an order for relief against it in an involuntary case or proceeding;

(3) consents to the appointment of a custodian of it or for any substantial part of its property (other than that arises from any solvent liquidation or restructuring of a Significant Subsidiary in the ordinary course of business that shall result in the net assets of such Significant Subsidiary being transferred to or otherwise vested in such Company Indenture Party or any of its other subsidiaries on a pro rata basis or on a basis more favorable to such Company Indenture Party);

(4) makes a general assignment for the benefit of its creditors;

(5) takes any comparable action under any foreign Bankruptcy Law; or

(6) generally is not paying its debts as they become due;

(xii) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that either:

(1) is for relief against a Company Indenture Party or any of its Significant Subsidiaries in an involuntary case or proceeding;

(2) appoints a custodian of a Company Indenture Party or any of its Significant Subsidiaries, or for any substantial part of the property of a Company Indenture Party or any of its Significant Subsidiaries;

(3) orders the winding up or liquidation of a Company Indenture Party or any of its Significant Subsidiaries; or

(4) grants any similar relief under any foreign Bankruptcy Law,

(5) and, in each case under this **Section 7.01(A)(xii)**, such order or decree remains unstayed and in effect for at least sixty (60) days;

(xiii) If the obligation of any Guarantor under its Guarantee or any other Indenture Document to which any Guarantor is a party is limited or terminated by operation of law or by such Guarantor (other than, in each case, in accordance with the terms of this Indenture or such other Indenture Documents), or if any Guarantor fails to perform any obligation under its Guarantee or under any such Indenture Document, or repudiates or revokes or purports to repudiate or revoke in writing any obligation under its Guarantee, or under any such Indenture Document, or any Guarantor ceases to exist for any reason (other than as permitted or not prohibited by this Indenture); or

(xiv) Except as permitted or not prohibited by this Indenture and other Indenture Documents, if this Indenture or any other Indenture Document that purports to create a Lien on Collateral, shall, for any reason, fail or cease to be in full force and effect for any reason, being declared fully or partially void in judicial, regulatory or administrative proceeding or becoming enforceable against the relevant Company Indenture Parties.

(B) *Cause Irrelevant*. Each of the events set forth in **Section 7.01(A)** will constitute an Event of Default regardless of the cause thereof or whether voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

Section 7.02. Acceleration.

(A) *Automatic Acceleration in Certain Circumstances*. If an Event of Default set forth in **Section7.01(A)(xi)** or **7.01(A)(xii)** occurs with respect to the Company (and not solely with respect to a Significant Subsidiary of the Company), then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding will immediately become due and payable without any further action or notice by any Person.

(B) *Optional Acceleration*. Subject to **Section 7.03**, if an Event of Default (other than an Event of Default set forth in **Section 7.01(A)(xi)** or **7.01(A)(xii)** with respect to the Company and not solely with respect to a Significant Subsidiary of the Company) occurs and is continuing, then the Trustee, by notice to the Company, or Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding, by notice to the Company, the Trustee and the Collateral Trustee, may declare the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding (subject to the Trustee and the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction) to become due and payable immediately.

(C) *Rescission of Acceleration*. Notwithstanding anything to the contrary in this Indenture or the Notes, the Majority Holders, by notice to the Company and the Trustee, may, on behalf of all Holders, rescind any acceleration of the Notes and its consequences if (i) such rescission would not conflict with any judgment or decree of a court of competent jurisdiction; (ii) all existing Events of Default (except the non-payment of principal of, or interest on, the Notes that has become due solely because of such acceleration) have been cured or waived; and (iii) all sums paid or advanced by the Trustee under this Indenture and the reasonable compensation, expenses, disbursements and advances of the Trustee and the Collateral Trustee and their agents and counsel have been paid. No such rescission will affect any subsequent Default or impair any right consequent thereto.

Section 7.03. Sole Remedy For A Failure To Report.

(A) *Generally*. Notwithstanding anything to the contrary in this Indenture or the Notes, the Company may elect that the sole remedy for any Event of Default (a "**Reporting Event of Default**") pursuant to **Section 7.01(A)(viii)** arising from the Company's failure to comply with **Section 3.02** will, for each of the first one hundred and eighty (180) calendar days on which a Reporting Event of Default has occurred and is continuing, consist exclusively of the accrual of Special Interest on the Notes. If the Company has made such an election, then (i) the Notes will be subject to acceleration pursuant to **Section 7.02** on account of the relevant Reporting Event of Default from, and including, the one hundred and eighty first (181st) calendar day on which a Reporting Event of Default has occurred and is continuing or if the Company fails to pay any accrued and unpaid Special Interest when due; and (ii) Special Interest will cease to accrue on any Notes from, and including, such one hundred and eighty first (181st) calendar day (it being understood that interest on any defaulted Special Interest will nonetheless accrue pursuant to **Section 2.05(B)**).

(B) *Amount and Payment of Special Interest*. Any Special Interest that accrues on a Note pursuant to **Section 7.03(A)** will be payable on the same dates and in the same manner as the Stated Interest on such Note and will accrue at a rate per annum equal to one quarter of one percent (0.25%) of the principal amount thereof for the first ninety (90) days on which Special Interest accrues and, thereafter, at a rate per annum equal to one half of one percent (0.50%) of the principal amount thereof; *provided*, *however*, that in no event will Special Interest accrue on any day on a Note at a combined rate per annum that exceeds one half of one percent (0.50%). For the avoidance of doubt, any Special Interest that accrues on a Note will be in addition to the Stated Interest that accrues on such Note.

(C) *Notice of Election*. To make the election set forth in **Section 7.03(A)**, the Company must send to the Holders, the Trustee and the Paying Agent, before the date on which each Reporting Event of Default first occurs, a notice that (i) briefly describes the report(s) that the Company failed to file with the SEC; (ii) states that the Company is electing that the sole remedy for such Reporting Event of Default consist of the accrual of Special Interest; and (iii) briefly describes the periods during which and rate at which Special Interest will accrue and the circumstances under which the Notes will be subject to acceleration on account of such Reporting Event of Default.

(D) *Notice to Trustee and Paying Agent; Trustee's Disclaimer*. If Special Interest accrues on any Note, then, no later than five (5) Business Days before each date on which such Special Interest is to be paid, the Company will deliver an Officer's Certificate to the Trustee and the Paying Agent stating (i) that the Company is obligated to pay Special Interest on such Note on such date of payment; and (ii) the amount of such Special Interest that is payable on such date of payment. The Trustee will have no duty to determine whether any Special Interest is payable or the amount thereof.

(E) *No Effect on Other Events of Default*. No election pursuant to this **Section 7.03** with respect to a Reporting Event of Default will affect the rights of any Holder with respect to any other Event of Default, including with respect to any other Reporting Event of Default.

Section 7.04. Other Remedies.

(A) *Trustee May Pursue All Remedies*. If an Event of Default occurs and is continuing, then the Trustee may pursue any available remedy to collect the payment of any amounts due with respect to the Notes or to enforce the performance of any provision of this Indenture or the Notes.

(B) *Procedural Matters*. The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in such proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy following an Event of Default will not impair the right or remedy or constitute a waiver of, or acquiescence in, such Event of Default. All remedies will be cumulative to the extent permitted by law.

Section 7.05. Waiver Of Past Defaults.

An Event of Default pursuant to **clause (i)**, **(ii)**, **(v)** or **(viii)** of **Section 7.01(A)** (that, in the case of **clause (viii)** only, results from a Default under any covenant that cannot be amended without the consent of each affected Holder), and a Default that could lead to such an Event of Default, can be waived only with the consent of each affected Holder. Each other Default or Event of Default may be waived, on behalf of all Holders, by the Majority Holders. If an Event of Default is so waived, then it will cease to exist. If a Default is so waived, then it will be deemed to be cured and any Event of Default arising therefrom will be deemed not to occur. However, no such waiver will extend to any subsequent or other Default or Event of Default or impair any right arising therefrom.

Section 7.06. Control By Majority.

Majority Holders may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it under this Indenture. However, the Trustee may refuse to follow any direction that conflicts with law, this Indenture or the Notes, or that, subject to **Section 10.01**, the Trustee determines may be unduly prejudicial to the rights of other Holders or may involve the Trustee in liability, unless the Trustee is offered security and indemnity satisfactory to the Trustee against any loss, liability or expense to the Trustee that may result from the Trustee's following such direction.

Section 7.07. Limitation On Suits.

No Holder may pursue any remedy with respect to this Indenture or the Notes (except to enforce (x) its rights to receive the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or interest on, any Notes; or (y) the Company's obligations to convert any Notes pursuant to **Article 5**), unless:

(A) such Holder has previously delivered to the Trustee notice that an Event of Default is continuing;

(B) Holders of at least twenty five percent (25%) in aggregate principal amount of the Notes then outstanding deliver a request to the Trustee to pursue such remedy;

(C) such Holder or Holders offer and, if requested, provide to the Trustee security and indemnity satisfactory to the Trustee against any loss, liability or expense to the Trustee that may result from the Trustee's following such request;

(D) the Trustee does not comply with such request within sixty (60) calendar days after its receipt of such request and such offer of security or indemnity; and

(E) during such sixty (60) calendar day period, the Majority Holders do not deliver to the Trustee a direction that is inconsistent with such request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder. The Trustee will have no duty to determine whether any Holder's use of this Indenture complies with the preceding sentence.

Section 7.08. Absolute Right Of Holders To Institute Suit For The Enforcement Of The Right To Receive Payment And Conversion Consideration.

Notwithstanding anything to the contrary in this Indenture or the Notes (but without limiting **Section 8.01**), the right of each Holder of a Note to bring suit for the enforcement of any payment or delivery, as applicable, of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any interest on, or the Conversion Consideration due pursuant to **Article 5** upon conversion of, such Note on or after the respective due dates therefor provided in this Indenture and the Notes, will not be impaired or affected without the consent of such Holder.

Section 7.09. Collection Suit By Trustee.

The Trustee will have the right, upon the occurrence and continuance of an Event of Default pursuant to **clause (i)**, **(ii)** or **(iv)** of **Section 7.01(A)**, to recover judgment in its own name and as trustee of an express trust against the Company for the total unpaid or undelivered principal of, or Redemption Price or Fundamental Change Repurchase Price for, or interest on, or Conversion Consideration due pursuant to **Article 5** upon conversion of, the Notes, as applicable, and, to the extent lawful, any Default Interest on any Defaulted Amounts, and such further amounts sufficient to cover the costs and expenses of collection, including compensation provided for in **Section 10.06**.

Section 7.10. Preferential Collection of Claims Against Company.

If and when the Trustee shall be or become a creditor of the Company (or any other obligor upon the Notes), the Trustee shall be subject to the provisions of the Trust Indenture Act regarding the collection of claims against the Company (or any such other obligor).

Section 7.11. Trustee May File Proofs Of Claim.

The Trustee has the right to (A) file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes) or its creditors or property and (B) collect, receive and distribute any money or other property payable or deliverable on any such claims. Each Holder authorizes any custodian in such proceeding to make such payments to the Trustee, and, if the Trustee consents to the making of such payments directly to the Holders, to pay to the Trustee any amount due to the Trustee for the reasonable compensation, expenses, disbursements and advances of the Trustee, and its agents and counsel, and any other amounts payable to the Trustee pursuant to **Section 10.06**. To the extent that the payment of any such compensation, expenses, disbursements, advances and other amounts out of the estate in such proceeding, is denied for any reason, payment of the same will be secured by a lien on, and will be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding (whether in liquidation or under any plan of reorganization or arrangement or otherwise). Nothing in this Indenture will be deemed to authorize the Trustee to authorize, consent to, accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 7.12. Payment of the Soulte.

If, following any Appropriation, a Soulte is owed by the Notes Secured Parties to the Company or any Guarantor, the Company or that Guarantor agrees that such Soulte shall only become due and payable by the relevant Notes Secured Parties on the earlier of:

(a) the date falling 12 months after the date of the Appropriation; and

(b) the Final Discharge Date.

For the avoidance of doubt, the obligations of each Notes Secured Party to pay its proportionate share of any Soulte are several (*conjointes et non solidaires*).

Any payment of the Soulte under paragraph (a) above to the Company or any Guarantor which occurs on or prior to the Final Discharge Date shall be made by the relevant Notes Secured Parties (or the Collateral Trustee on their behalf) to a bank account of the Company or relevant Guarantor and in each case held with the Collateral Trustee and pledged in a manner satisfactory to the Collateral Trustee acting on behalf of the Notes Secured Parties as security for any obligation of the Company or relevant Guarantor under any of the Indenture Documents to which it is party including any obligation under this Indenture to pay back any Soulte or any amounts to be turned over by it as the Company or Guarantor pursuant to **Section 7.12** on or prior to the Final Discharge Date. This pledge agreement shall include an irrevocable instruction from the Company or the relevant Guarantor to make from such pledged bank accounts any payment required to be fulfilled under this Indenture or any Indenture Document.

The provisions of this **Section 7.12** override any conflicting provisions in the French Security Documents.

Section 7.13. Sums Received by Debtors and Third-Party Security Providers.

Without prejudice to **Section 7.11**, if the Company or any Guarantor receives or recovers (i) any Soulte or (ii) any other sum which, under the terms of any of the Indenture Documents, should have been paid to the Collateral Trustee, the Company or that Guarantor will:

(a) hold an amount of that receipt or recovery equal to the relevant Obligations (or, if less, the amount received or recovered) on trust for (or otherwise on behalf and for the account of) the Collateral Trustee and promptly pay that amount to the Collateral Trustee (or as the Collateral Trustee may direct) for application in accordance with the terms of this Indenture; and

(b) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the relevant Obligations to the Collateral Trustee (or as the Collateral Trustee may direct) for application in accordance with the terms of this Indenture.

Section 7.14. Priorities.

Subject to the terms of the Intercreditor Agreement, the Collateral Trustee and Trustee (acting in any capacity) will pay or deliver in the following order any money or other property that it collects pursuant to this **Article 7**:

First: to the Collateral Trustee and Trustee (acting in any capacity) and its agents and attorneys for amounts due under **Section 10.06**, including payment of all fees (including any reasonably incurred and documented fees and expenses of legal counsel; *provided* that there shall not be more than one counsel in each relevant jurisdiction), compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: if an Appropriation has occurred, in payment to the Collateral Trustee on behalf of the Appropriated Instruments Holders which have paid all or part of any Soulte for distribution of each Appropriated Instruments Holder in an amount equal to the amount of Soulte paid and not yet reimbursed for application towards the discharge of (for the avoidance of doubt, on a *pari passu* basis) the corresponding relevant Obligations;

Third: to the Trustee for the benefit of the Holders for unpaid amounts or other property due on the Notes, including the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any interest on, or any Conversion Consideration due upon conversion of, the Notes, ratably, and without preference or priority of any kind, according to such amounts or other property due and payable on all of the Notes; and

Fourth: to the Company or such other Person as a court of competent jurisdiction directs, including upon or following an Appropriation, (i) in payment or distribution of any Soulte payable and not yet paid to it; or (ii) an amount equal to any Soulte previously paid to it (to the extent the Company paid such Soulte back to the Collateral Trustee in accordance with this Indenture) as a result of an Appropriation.

The Trustee (acting in any capacity) may fix a record date and payment date for any payment or delivery to the Holders pursuant to this **Section 7.14**, in which case the Trustee will instruct the Company to, and the Company will, deliver, at least fifteen (15) calendar days before such record date, to each Holder and the Trustee a notice stating such record date, such payment date and the amount of such payment or nature of such delivery, as applicable.

Section 7.15. Undertaking For Costs.

In any suit for the enforcement of any right or remedy under this Indenture or the Notes or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court, in its discretion, may (A) require the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and (B) assess reasonable costs (including reasonable attorneys' fees) against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; *provided*, *however*, that this **Section 7.15** does not apply to any suit by the Trustee, any suit by a Holder pursuant to **Section 7.08**, any suit by one or more Holders of more than ten percent (10%) in aggregate principal amount of the Notes then outstanding, or any suit by any Holder for the enforcement of the payment of the principal of or interest on any Note, on or after the respective due dates expressed in such Note.

Section 7.16. Collateral Trustee Expense Reimbursement

The Company Indenture Parties, jointly and severally, agree to reimburse or pay the Trustee or Collateral Trustee for its fees and expenses incurred under this Indenture or the Notes Security Documents (including all reasonably incurred and documented fees and disbursements of legal counsel; *provided* that there shall not be more than one counsel in each relevant jurisdiction) that may be paid or incurred by the Trustee or Collateral Trustee in enforcing, or obtaining advice of counsel in respect of, any rights with respect to, or collecting, any or all of the Obligations or Guaranteed Obligations and/or enforcing any rights with respect to, or collecting against, the Company Indenture Parties under this Indenture or the Notes Security Documents.

Article 8. AMENDMENTS, SUPPLEMENTS AND WAIVERS

Section 8.01. Without The Consent Of Holders.

Notwithstanding anything to the contrary in **Section 8.02**, the Company and the Trustee may amend or supplement the Indenture Documents without the consent of any Holder to:

(A) cure any ambiguity or correct any omission, defect or inconsistency in any Indenture Document;

(B) add guarantees or security with respect to the Company's obligations under this Indenture or the Notes, including for greater certainty, to allow any additional Guarantor to execute a supplemental indenture, a joinder to any Notes Security Document and/or a Guarantee with respect to the Notes;

(C) [Reserved];

(D) add to the Company's covenants or Events of Default for the benefit of the Holders or surrender any right or power conferred on the Company;

(E) provide for the assumption of the Company's or any Guarantor's obligations under this Indenture, the Notes and the Notes Security Document, as applicable, pursuant to, and in compliance with, **Article 6**;

(F) enter into supplemental indentures pursuant to, and in accordance with, **Section 5.09** in connection with an Ordinary Share Change Event;

(G) irrevocably elect or eliminate any Settlement Method or Specified Dollar Amount; *provided*, *however*, that no such election or elimination will affect any Settlement Method theretofore elected (or deemed to be elected) with respect to any Note pursuant to **Section 5.03(A)**;

(H) adjust the Conversion Rate or the Conversion Price (including the establishment of the Conversion Rate or the Conversion Price) in accordance with, and subject to the terms of, this Indenture;

(I) evidence or provide for the acceptance of the appointment, under this Indenture, of a successor Trustee or Collateral Trustee;

(J) effect such amendment, restatement, supplement, modification, waiver or consent in respect of the Priority Lien Debt Documents that shall apply automatically to this Indenture without the consent of any Holder in accordance with the Intercreditor Agreement;

(K) comply with the rules of any applicable Depositary in a manner that does not adversely affect the rights of the Holders;

(L) comply with any requirement of the SEC in connection with any qualification of this Indenture or any supplemental indenture under the Trust Indenture Act, as then in effect;

(M) make any other change to the Indenture Documents that does not, individually or in the aggregate with all other such changes, adversely affect the rights of the Holders, as such, in any material respect; or

(N) effect, confirm and evidence the release, termination or discharge or any guarantee of or Lien securing the Notes when such release, termination or discharge is permitted by the Indenture Documents.

Section 8.02. With The Consent Of Holders.

(A) *Generally*. Subject to **Sections 8.01**, **7.05** and **7.08,** the immediately following sentence and the terms of the Intercreditor Agreement, the Company and the Trustee may, with the consent of the Majority Holders, amend or supplement the Indenture Documents or waive compliance with any provision of the Indenture Documents. Notwithstanding anything to the contrary in the foregoing sentence, but subject to **Section 8.01** and the terms of the Intercreditor Agreement, without the consent of each affected Holder, no amendment or supplement to the Indenture Documents, or waiver of any provision of the Indenture Documents, may:

(i) reduce the principal, or extend the stated maturity, of any Note;

(ii) reduce the Redemption Price or Fundamental Change Repurchase Price for any Note, amend the definition of "Optional Exchange Consideration" or change the times at which, or the circumstances under which, the Notes may or will be redeemed, repurchased or exchanged by the Company;

(iii) reduce the rate, or extend the time for the payment, of interest on any Note;

(iv) make any change that adversely affects the conversion rights of any Note other than as permitted or required by this Indenture or the Notes;

(v) impair the rights of any Holder set forth in **Section 7.08** (as such section is in effect on the Issue Date);

(vi) change the ranking of the Notes;

(vii) make any Note payable in money, or at a place of payment, other than that stated in this Indenture or the Note;

(viii) make any change to **Section 3.05**, or in any related definitions, in any manner that is adverse to the rights of the Holders or beneficial owners of the Notes;

(ix) make any change to **Section 13.18(A)**, or in any related definitions, in any manner that is adverse to the rights of the Holders or beneficial owners of the Notes;

(x) reduce the amount of Notes whose Holders must consent to any amendment, supplement, waiver or other modification; or

(xi) make any change to any amendment, supplement, waiver or modification provision of this Indenture or the Notes that requires the consent of each affected Holder.

For the avoidance of doubt, pursuant to **clauses (i)**, **(ii)**, **(iii)** and **(iv)** of this **Section 8.02(A)**, no amendment or supplement to this Indenture or the Notes, or waiver of any provision of this Indenture or the Notes, may change the amount or type of consideration due on any Note (whether on an Interest Payment Date, Redemption Date, Fundamental Change Repurchase Date or the Maturity Date or upon an Optional Exchange or conversion, or otherwise), or the date(s) or time(s) such consideration is payable or deliverable, as applicable, without the consent of each affected Holder.

(B) *Holders Need Not Approve the Particular Form of any Amendment*. A consent of any Holder pursuant to this **Section 8.02** need approve only the substance, and not necessarily the particular form, of the proposed amendment, supplement or waiver.

(C) *Guarantors Bound*. The Guarantors shall be bound by any supplemental indenture or amendment to the Indenture Documents entered into by the Company and the Trustee pursuant to the terms of this Indenture and may but shall not be required to execute any such supplemental indenture or amendment, other than in the case of a joinder of a new Guarantor the execution by such Guarantor.

Section 8.03. With The Consent Of Supermajority Holders.

(A) Notwithstanding anything contained in **Section 8.01** or **Section 8.02**, without the consent of the Supermajority Holders, no amendment or supplement to the Indenture Documents, or waiver of any provision of the Indenture Documents, may:

(i) subordinate, or change the priority with respect to the Liens securing the Obligations and then only to the extent provided or permitted under the Intercreditor Agreement;

(ii) release all or substantially all of the Collateral except as otherwise may be provided or permitted under this Indenture, the Intercreditor Agreement or the other Indenture Documents; or

(iii) discharge any Company Indenture Party from its respective payment Obligations under the Indenture Documents, in each case, except as otherwise may be provided or permitted under this Indenture, the Intercreditor Agreement or the other Indenture Documents.

(B) Notwithstanding anything contrary under this Indenture, the Holders are deemed to have consented to, and shall be deemed to have directed the Trustee and/or the Collateral Trustee (as applicable), to execute and deliver any of the following amendments, waivers and other modifications to the Indenture Documents, in each case, as evidenced by an Officer's Certificate and Opinion of Counsel delivered to the Trustee and the Collateral Trustee pursuant to **Section 13.02** and **Section 13.03** hereof:

(i) to establish that the Liens on any Collateral securing any Indebtedness replacing the applicable series of First Lien Notes permitted to be incurred under the Priority Lien Debt Documents that represent Priority Lien Secured Obligations shall be senior to the Liens on such Collateral securing any Obligations under this Indenture, the Notes and the Subsidiary Guarantees, which obligations shall continue to be secured on a second-priority basis on the Collateral;

(ii) to give effect to any amendment, waiver or consent to any of the Priority Lien Debt Documents, to the extent applicable to the Collateral (including the release of any Liens on Collateral), that applies automatically to the comparable Notes Security Documents with respect to the security interest of the Holders in such Collateral pursuant to the terms of the Intercreditor Agreement; and

(iii) upon any cancellation, repayment, redemption or termination of the First Lien Notes and all other Priority Lien Secured Obligations without a replacement thereof, and to the extent the Obligations have not been discharged in full in accordance with the terms of this Indenture and the Intercreditor Agreement, to establish that the Liens on the Collateral securing any Obligations under this Indenture, the Notes and the Subsidiary Guarantees shall become first priority perfect Lien, except as set forth below under Section 11.05.

(C) *Holders Need Not Approve the Particular Form of any Amendment*. A consent of any Holder pursuant to this **Section 8.03** need approve only the substance, and not necessarily the particular form, of the proposed amendment, supplement or waiver.

Section 8.04. Notice Of Amendments, Supplements And Waivers.

As soon as reasonably practicable after any amendment, supplement or waiver pursuant to **Section 8.01, 8.02 or 8.03** becomes effective, the Company will send to the Holders and the Trustee notice that (A) describes the substance of such amendment, supplement or waiver in reasonable detail and (B) states the effective date thereof; *provided*, *however*, that the Company will not be required to provide such notice to the Holders if such amendment, supplement or waiver is included in a periodic report filed by the Company with the SEC within four (4) Business Days of its effectiveness. The failure to send, or the existence of any defect in, such notice will not impair or affect the validity of such amendment, supplement or waiver.

Section 8.05. Revocation, Effect And Solicitation Of Consents; Special Record Dates; Etc.

(A) *Revocation and Effect of Consents*. The consent of a Holder of a Note to an amendment, supplement or waiver will bind (and constitute the consent of) each subsequent Holder of any Note to the extent the same evidences any portion of the same indebtedness as the consenting Holder's Note, subject to the right of any Holder of a Note to revoke (if not prohibited pursuant to **Section 8.05(B)**) any such consent with respect to such Note by delivering notice of revocation to the Trustee before the time such amendment, supplement or waiver becomes effective.

(B) *Special Record Dates*. The Company may, but is not required to, fix a record date for the purpose of determining the Holders entitled to consent or take any other action in connection with any amendment, supplement or waiver pursuant to this **Article 8**. If a record date is fixed, then, notwithstanding anything to the contrary in **Section 8.05(A)**, only Persons who are Holders as of such record date (or their duly designated proxies) will be entitled to give such consent, to revoke any consent previously given or to take any such action, regardless of whether such Persons continue to be Holders after such record date; *provided*, *however*, that no such consent will be valid or effective for more than one hundred and twenty (120) calendar days after such record date.

(C) *Solicitation of Consents*. For the avoidance of doubt, each reference in this Indenture or the Notes to the consent of a Holder will be deemed to include any such consent obtained in connection with a repurchase of, or tender or exchange offer for, any Notes.

(D) *Effectiveness and Binding Effect*. Each amendment, supplement or waiver pursuant to this **Article 8** will become effective in accordance with its terms and, when it becomes effective with respect to any Note (or any portion thereof), will thereafter bind every Holder of such Note (or such portion).

Section 8.06. Notations And Exchanges.

If any amendment, supplement or waiver changes the terms of a Note, then the Trustee or the Company may, in its discretion, require the Holder of such Note to deliver such Note to the Trustee so that the Trustee may place an appropriate notation prepared by the Company on such Note and return such Note to such Holder. Alternatively, at its discretion, the Company may, in exchange for such Note, issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, a new Note that reflects the changed terms. The failure to make any appropriate notation or issue a new Note pursuant to this **Section 8.06** will not impair or affect the validity of such amendment, supplement or waiver.

Section 8.07. Trustee and Collateral Trustee To Execute Supplemental Indentures.

The Trustee and/or the Collateral Trustee, as the case may be, will execute and deliver any amendment or supplemental indenture authorized pursuant to this **Article 8**; *provided*, *however*, that the Trustee and/or the Collateral Trustee, as the case may be, need not (but may, in their respective sole and absolute discretion) execute or deliver any such amendment or supplemental indenture that adversely affects the rights, duties, liabilities or immunities of the Trustee and/or the Collateral Trustee, as the case may be. In executing any amendment or supplemental indenture, the Trustee and/or the Collateral Trustee, as the case may be will be entitled to receive, and (subject to **Sections 10.01** and **10.02**) will be fully protected in relying on, an Officer's Certificate and an Opinion of Counsel, provided in accordance with **Section 13.02**, each stating that (A) the execution and delivery of such amendment or supplemental indenture is authorized or permitted by this Indenture; and (B) in the case of the Opinion of Counsel, such amendment or supplemental indenture is valid, binding and enforceable against the Company in accordance with its terms. Every amendment or supplement to this Indenture or the Notes will be set forth in an amended or supplemental indenture.

Article 9. SATISFACTION AND DISCHARGE

Section 9.01. Termination Of Company's Obligations.

This Indenture will be discharged, and will cease to be of further effect as to all Notes issued under this Indenture, when:

(A) all Notes then outstanding (other than Notes replaced pursuant to **Section 2.13**) have (i) been delivered to the Trustee for cancellation; or (ii) become due and payable (whether on a Redemption Date, a Fundamental Change Repurchase Date, the Maturity Date, upon conversion or otherwise) for an amount of cash or Conversion Consideration, as applicable, that has been fixed;

(B) the Company or any Guarantor has caused there to be irrevocably deposited with the Trustee, or with the Paying Agent (or, with respect to Conversion Consideration, the Conversion Agent), in each case for the benefit of the Holders, or has otherwise caused there to be delivered to the Holders, cash (or, with respect to Notes to be converted, Conversion Consideration) sufficient to satisfy all amounts or other property (including, if applicable, all related Additional Amounts) due on all Notes then outstanding (other than Notes replaced pursuant to **Section 2.13**);

(C) the Company has performed all other Obligation by it under this Indenture; and

(D) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that the conditions precedent to the discharge of this Indenture have been satisfied;

provided, *however*, that **Article 10** and **Section 11.01** will survive such discharge and, until no Notes remain outstanding, **Section 2.15** and the obligations of the Trustee, the Paying Agent and the Conversion Agent with respect to money or other property deposited with them will survive such discharge.

At the Company's written request, the Trustee will acknowledge the satisfaction and discharge of this Indenture.

Section 9.02. Repayment To Company.

Subject to applicable unclaimed property law, the Trustee, the Paying Agent and the Conversion Agent will promptly notify the Company if there exists (and, at the Company's request, promptly deliver to the Company) any cash, Conversion Consideration or other property held by any of them for payment or delivery on the Notes that remain unclaimed two (2) years after the date on which such payment or delivery was due. After such delivery to the Company, the Trustee, the Paying Agent and the Conversion Agent will have no further liability to any Holder with respect to such cash, Conversion Consideration or other property, and Holders entitled to the payment or delivery of such cash, Conversion Consideration or other property must look to the Company for payment as a general creditor of the Company.

Section 9.03. Reinstatement.

If the Trustee, the Paying Agent or the Conversion Agent is unable to apply any cash or other property deposited with it pursuant to **Section 9.01** because of any legal proceeding or any order or judgment of any court or other governmental authority that enjoins, restrains or otherwise prohibits such application, then the discharge of this Indenture pursuant to **Section 9.01** will be rescinded; *provided*, *however*, that if the Company thereafter pays or delivers any cash or other property due on the Notes to the Holders thereof, then the Company will be subrogated to the rights of such Holders to receive such cash or other property from the cash or other property, if any, held by the Trustee, the Paying Agent or the Conversion Agent, as applicable.

Article 10. TRUSTEE

Section 10.01. Duties of the Trustee.

(A) If an Event of Default has occurred and is continuing, the Trustee will exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(B) Except during the continuance of an Event of Default:

(i) the duties of the Trustee will be determined solely by the express provisions of this Indenture, and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations will be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith or willful misconduct on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon Officer's Certificates or Opinions of Counsel that are provided to the Trustee and conform to the requirements of this Indenture. However, the Trustee will examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(C) The Trustee may not be relieved from liabilities for its negligent action or negligent failure to act or willful misconduct, except that:

(i) this paragraph will not limit the effect of **Section 10.01(B)**;

(ii) the Trustee will not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee will not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to **Section 7.06**.

(D) Each provision of this Indenture that in any way relates to the Trustee is subject to paragraphs **(A)**, **(B)** and **(C)** of this **Section 10.01**, regardless of whether such provision so expressly provides.

(E) No provision of this Indenture will require the Trustee to expend or risk its own funds or incur any liability.

(F) The Trustee will not be liable for interest on any money received by it, except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds, except to the extent required by law.

Section 10.02. Rights Of The Trustee.

(A) The Trustee may conclusively rely on any document that it believes to be genuine and signed or presented by the proper Person, and the Trustee need not investigate any fact or matter stated in such document.

(B) Before the Trustee acts or refrains from acting, it may require an Officer's Certificate, an Opinion of Counsel or both. The Trustee will not be liable for any action it takes or omits to take in good faith in reliance on such Officer's Certificate or Opinion of Counsel. The Trustee may consult with counsel; and the advice of such counsel, or any Opinion of Counsel, will constitute full and complete authorization of the Trustee to take or omit to take any action in good faith in reliance thereon without liability.

(C) The Trustee may act through its attorneys and agents and will not be responsible for the misconduct or negligence of any such agent appointed with due care.

(D) The Trustee will not be liable for any action it takes or omits to take in good faith and that it believes to be authorized or within the rights or powers vested in it by this Indenture.

(E) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company will be sufficient if signed by an Officer of the Company.

(F) The Trustee need not exercise any rights or powers vested in it by this Indenture at the request or direction of any Holder unless such Holder has offered the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense that it may incur in complying with such request or direction.

(G) The Trustee will not be responsible or liable for any punitive, special, indirect or consequential loss or damage (including lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(H) The rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be indemnified, are extended to, and will be enforceable by, the Trustee in each of its capacities under this Indenture (including in its capacity as Conversion Agent) and each agent, custodian and other Person employed to act under this Indenture, including the Conversion Agent.

(I) The permissive rights of the Trustee enumerated in this Indenture will not be construed as duties.

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

(K) Except with respect to receipt of payments of principal and interest on the Notes payable by the Company pursuant to **Section 3.01** and any Default or Event of Default information contained in the Officer's Certificate delivered to it pursuant to **Section 3.06(B)**, the Trustee will have no duty to monitor the Company's compliance with or the breach of any representation, warranty or covenant made in this Indenture.

(F) The Trustee shall at no time have any responsibility or liability for or in respect to the legality, validity or enforceability of any Collateral or any arrangement or agreement between the Company and any other Person with respect thereto, or the perfection or priority of any security interest created in any of the Collateral or maintenance of any perfection and priority, or for or with respect to the sufficiency of the Collateral following an Event of Default.

(G) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has received written notice at the Corporate Trust Office of any event which is in fact such a default, and such notice references the Notes and this Indenture.

Section 10.03. Individual Rights Of The Trustee.

(A) The Trustee, in its individual or any other capacity, may become the owner or pledgee of any Note and may otherwise deal with the Company or any of its Affiliates with the same rights that it would have if it were not Trustee; *provided*, *however*, that if the Trustee acquires a "conflicting interest" (within the meaning of Section 310(b) of the Trust Indenture Act), then it must eliminate such conflict within ninety (90) days or resign as Trustee. Each Note Agent will have the same rights and duties as the Trustee under this **Section 10.03**.

Section 10.04. Trustee's Disclaimer.

The Trustee will not be (A) responsible for, and makes no representation as to, the validity or adequacy of this Indenture or the Notes; (B) accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture; (C) responsible for the use or application of any money received by any Paying Agent other than the Trustee; and (D) responsible for any statement or recital in this Indenture, the Notes or any other document relating to the sale of the Notes or this Indenture, other than the Trustee's certificate of authentication.

Section 10.05. Notice Of Defaults.

If a Default or Event of Default occurs, then the Trustee will send Holders a notice of such Default or Event of Default within ninety (90) days after it occurs or, if it is not known to the Trustee at such time, promptly (and in any event within ten (10) Business Days) after it becomes known to a Responsible Officer; *provided*, *however*, that, except in the case of a Default or Event of Default in the payment of the principal of, or interest on, any Note, the Trustee shall be protected in withholding such notice if and for so long as it in good faith determines that withholding such notice is in the interests of the Holders. The Trustee will not to be charged with knowledge of any Default or Event of Default, or knowledge of any cure of any Default or Event of Default, unless written notice of such Default or Event of Default, or of such cure of any Default or Event of Default, has been given by the Company or any Holder to a Responsible Officer of the Trustee.

Section 10.06. Compensation And Indemnity.

(A) The Company will, from time to time, pay the Trustee reasonable compensation for its acceptance of this Indenture and services under this Indenture. The Trustee's compensation will not be limited by any law on compensation of a trustee of an express trust. In addition to the compensation for the Trustee's services, the Company will reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it under this Indenture, including the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

(B) The Company will indemnify the Trustee against any and all losses, liabilities or expenses incurred by it arising out of or in connection with the acceptance and administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company (including this **Section 10.06**) and defending itself against any claim (whether asserted by the Company, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties under this Indenture, except to the extent any such loss, liability or expense may be attributable to its gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. The Trustee will promptly notify the Company of any claim for which it may seek indemnity, but the Trustee's failure to so notify the Company will not relieve the Company of its obligations under this **Section 10.06(B)**. The Company will defend such claim, and the Trustee will cooperate in such defense. If the Trustee is advised by counsel that it may have defenses available to it that are in conflict with the defenses available to the Company, or that there is an actual or potential conflict of interest, then the Trustee may retain separate counsel, and the Company will pay the reasonable fees and expenses of such counsel (including the reasonable fees and expenses of counsel to the Trustee incurred in evaluating whether such a conflict exists). The Company need not pay for any settlement of any such claim made without its consent, which consent will not be unreasonably withheld.

(C) The obligations of the Company under this **Section 10.06** will survive the resignation or removal of the Trustee and the satisfaction or discharge of this Indenture.

(D) To secure the Company's payment obligations in this **Section 10.06**, the Trustee will have a lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal of, or interest on, particular Notes, which lien will survive the discharge of this Indenture.

(E) If the Trustee incurs expenses or renders services after an Event of Default pursuant to **Section 7.01(A)(xi)** or **7.01(A)(xii)** occurs, then such expenses and the compensation for such services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

Section 10.07. Replacement Of The Trustee.

(A) Notwithstanding anything to the contrary in this **Section 10.07**, a resignation or removal of the Trustee, and the appointment of a successor Trustee, will become effective only upon such successor Trustee's acceptance of appointment as provided in this **Section 10.07**.

(B) The Trustee may resign at any time and be discharged from the trust created by this Indenture by so notifying the Company. The Majority Holders may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee if:

(i) the Trustee fails to comply with the provisions of Section 310(b) of the Trust Indenture Act with respect to any series of Notes after written request therefor by the Company or by any Holder who has been a bona fide holder of a Note or Notes of such series for at least six (6) months;

(ii) the Trustee fails to comply with **Section 10.09**;

(iii) the Trustee is adjudged to be bankrupt or insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(iv) a custodian or public officer takes charge of the Trustee or its property; or

(v) the Trustee becomes incapable of acting.

(C) If the Trustee resigns or is removed, or if a vacancy exists in the office of Trustee for any reason, then (i) the Company will promptly appoint a successor Trustee; and (ii) at any time within one (1) year after the successor Trustee takes office, the Majority Holders may appoint a successor Trustee to replace such successor Trustee appointed by the Company.

(D) If a successor Trustee does not take office within sixty (60) days after the retiring Trustee resigns or is removed, then the retiring Trustee (at the expense of the Company), the Company or the Holders of at least ten percent (10%) in aggregate principal amount of the Notes then outstanding may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(E) If the Trustee, after written request by a Holder of at least six (6) months, fails to comply with **Section 10.09**, then such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(F) A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Company, upon which notice the resignation or removal of the retiring Trustee will become effective and the successor Trustee will have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee will send notice of its succession to Holders. The retiring Trustee will, upon payment of all amounts due to it under this Indenture, promptly transfer all property held by it as Trustee to the successor Trustee, which property will, for the avoidance of doubt, be subject to the lien provided for in **Section 10.06(D)**.

(G) For as long as any Priority Lien Secured Obligations remain outstanding, the successor Trustee shall concurrently with its appointment as the successor Trustee accede as a party to the Intercreditor Agreement.

Section 10.08. Successor Trustee By Merger, Etc.

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, then such corporation will become the successor Trustee without any further act.

Section 10.09. Eligibility; Disqualification.

There will at all times be a Trustee under this Indenture that is a corporation organized and doing business under the laws of the United States of America or of any state or territory thereof or the District of Columbia, that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal, state, territorial or District of Columbia authorities and that has a combined capital and surplus of at least $50.0 million as set forth in its most recent published annual report of condition. Neither the Company nor any Guarantor nor any person directly or indirectly controlling, controlled by, or under common control with the Company or any Guarantor shall serve as Trustee under this Indenture.

Section 10.10. Reports by the Trustee.

The Trustee shall transmit to Holders such reports concerning the Trustee and its actions under this Indenture as may be required pursuant to the Trust Indenture Act (including, without limitation, Sections 313(a), (b) and (c)) at the times and in the manner provided pursuant thereto. If required by Section 313(a) of the Trust Indenture Act, the Trustee shall, within sixty (60) days after each May 15 following the date of this Indenture, deliver to Holders a brief report, dated as of such May 15, which complies with the provisions of such Section 313(a) (but if no event described in Section 313(a) has occurred within the twelve (12) months preceding the reporting date, no report need be transmitted).

A copy of each such report shall, at the time of such transmission to Holders, be filed by the Trustee with each securities exchange upon which any Notes are listed, with the SEC and with the Company. The Company shall promptly notify the Trustee in writing when any Notes are listed on any securities exchange.

Article 11. COLLATERAL AND SECURITY

Section 11.01. Collateral.

(A) The Obligations will be secured by a Lien on the Collateral, subject to perfection in accordance with the terms of this Indenture and the Notes Security Documents, subject to the Priority Liens and the terms of the Intercreditor Agreement.

Section 11.02. Notes Security Documents.

(A) The Notes Security Documents to be entered into by the applicable Company Indenture Parties on or after the Issue Date, in each case, shall create the second priority Liens on the Collateral securing their respective Obligations, subject to the Priority Liens and the terms of the Intercreditor Agreement. In the event of a conflict between the terms of this Indenture and the Notes Security Documents in regards to the Collateral, this Indenture shall control. The Company will take, and will cause its Subsidiaries to take any and all actions reasonably required to cause the Notes Security Documents to create and maintain, as security for the Obligations hereunder, a valid and enforceable second priority Lien in and on all the Collateral, in favor of the Collateral Trustee for the benefit of the Holders, the Trustee and the Collateral Trustee, subject to the Priority Liens, the terms of the Notes Security Documents and the terms of the Intercreditor Agreement and perfected in accordance with the terms of this Indenture and the Notes Security Documents.

Section 11.03. Authorization of Actions to Be Taken.

(A) Each Holder of Notes, by its acceptance thereof, hereby designates and appoints the Collateral Trustee as its agent under this Indenture, the Notes Security Documents and the Intercreditor Agreement and each Holder by acceptance of the Notes consents and agrees to the terms of each Notes Security Document and the Intercreditor Agreement, as originally in effect and as amended, supplemented or replaced from time to time in accordance with its terms or the terms of this Indenture and the Intercreditor Agreement, authorizes and directs the Collateral Trustee to enter into the Notes Security Documents and the Intercreditor Agreement, and irrevocably authorizes and empowers the Collateral Trustee to perform its obligations and duties, exercise its rights and powers and take any action permitted or required thereunder that are expressly delegated to the Collateral Trustee by the terms of this Indenture, the Notes Security Documents and the Intercreditor Agreement. Subject to the terms of the Intercreditor Agreement, the Collateral Trustee shall hold (directly or through any agent) and is directed by each Holder to so hold, and shall be entitled to enforce (in accordance with the terms of the Notes Security Documents and the Intercreditor Agreement) on behalf of the Holders all Liens on the Collateral created by the Notes Security Documents for their benefit.

(B) Subject to the provisions of the applicable Notes Security Documents and the Intercreditor Agreement, the Trustee and each Holder, by acceptance of any Notes, agrees that (x) the Collateral Trustee may, in its sole discretion and without the consent of the Trustee or the Holders, take all actions it deems necessary or appropriate, subject to the terms of the Intercreditor Agreement, in order to (i) preserve the Collateral or rights under the Notes Security Documents, and (ii) collect and receive any and all amounts payable in respect of the Obligations of the Company and the Guarantors hereunder and under the Indenture Documents and (y) the Collateral Trustee shall, subject to the terms of the Intercreditor Agreement, have power to institute and to maintain such suits and proceedings as it may deem expedient to protect or enforce the Liens securing the Obligations and/or to prevent any impairment of the Collateral by any act that may be unlawful or in violation of the Indenture Documents, and such suits and proceedings as the Collateral Trustee may deem expedient to preserve or protect its interests and the interests of the Holders in the Collateral (including the power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the security interest thereunder or be prejudicial to the interests of the Collateral Trustee, the Holders or the Trustee). Notwithstanding the foregoing, the Collateral Trustee may, at the expense of the Company, request the written direction of the Holders with respect to any such actions and upon receipt of the written consent of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture (subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction), shall take such actions. Subject to the terms of the Intercreditor Agreement, until the Notes and the other Obligations are discharged in full or are otherwise no longer outstanding, all remedies and Enforcement Actions in respect of the Collateral and any foreclosure actions in respect of any Liens on all or any portion of the Collateral, and all actions, undertakings or consents by the Collateral Trustee in respect of all or any portion of the Collateral, in each case, shall be undertaken solely at the written instruction of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture, subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction.

(C) Unless expressly provided to the contrary in any Indenture Document, in relation to any Collateral governed by the laws of Switzerland (the "**Swiss Security Documents**") or Italian Security Documents, as the case may be:

(i) the Collateral Trustee:

A. holds:

(1) any Collateral created or evidenced or expressed to be created or evidenced under or pursuant to a Swiss Security Document by way of a security assignment (*Sicherungsabtretung*) or transfer for security purposes (*Sicherungsübereignung*) or any other non-accessory (*nicht akzessorische*) Collateral;

(2) the benefit of any Collateral Trustee Claims; and

(3) any proceeds and other benefits of such Collateral,

(4) as fiduciary (*treuhänderisch*) in its own name but for the account of all relevant Notes Secured Parties which have the benefit of such Collateral in accordance with this Indenture and the respective Swiss Security Document and so that they are not available to the personal creditors of the Collateral Trustee; and

B. In respect of any Italian Security Documents (as defined below) where the relevant Collateral cannot be granted to the Collateral Trustee by way of trust, the Collateral Trustee declares that, in respect of such Italian Security Documents, it shall (to the extent possible under applicable law) hold such Collateral as *mandatario con rappresentanza* and representative for the security pursuant to article 2414-bis of the Italian Civil Code of the relevant Notes Secured Parties on the terms contained in this Indenture;

(ii) each present and future Notes Secured Party hereby authorizes the Collateral Trustee:

(1) to (a) accept and execute as its direct representative (*direkter Stellvertreter*) any Swiss law pledge or any other Swiss law accessory (*akzessorische*) Collateral created or evidenced or expressed to be created or evidenced under or pursuant to a Swiss Security Document for the benefit of such Notes Secured Party and (b) hold, administer and, if necessary, enforce any such Collateral on behalf of each relevant Notes Secured Party which has the benefit of such Collateral;

(2) to agree as its direct representative (*direkter Stellvertreter*) to amendments and alterations to any Swiss Security Document which creates or evidences or expressed to create or evidence a pledge or any other Swiss law accessory (*akzessorische*) Collateral;

(3) to effect as its direct representative (*direkter Stellvertreter*) any release of a Collateral created or evidenced or expressed to be created or evidenced under a Swiss Security Document in accordance with this Indenture; and

(4) to exercise as its direct representative (*direkter Stellvertreter*) such other rights granted to the Collateral Trustee hereunder or under the relevant Swiss Security Document;

(iii) each present and future Notes Secured Party hereby authorizes the Collateral Trustee, when acting in its capacity as creditor of the Collateral Trustee Claim, to hold:

(1) any Swiss law pledge or any other Swiss law accessory (*akzessorische*) Collateral;

(2) any proceeds of such Collateral; and

(3) the benefit of this paragraph and of the Collateral Trustee Claims;

(iv) as creditor in its own right but for the benefit of the Notes Secured Parties in accordance with this Indenture.

(D) in relation to any Collateral governed by the laws of the Republic of Italy (the "**Italian Security Documents"**) each present and future Notes Secured Party hereby:

(i) appoints, with the express consent pursuant to articles 1394 and 1395 of the Italian Civil Code, the Collateral Trustee to act as its agent with representative powers (*mandatario con rappresentanza*) and special attorney-in-fact (*procuratore speciale*) and representative for the security pursuant to article 2414-bis of the Italian Civil Code so that, acting in the name and on behalf of each Notes Secured Party, but also in its own name and on its own interest, it takes all the actions that it considers proper or necessary as provided under this Indenture and executes, also in the name and on behalf of the Notes Secured Parties, the Italian Security Documents, and the Collateral Trustee hereby accepts such appointment;

(ii) grants the Collateral Trustee the power to negotiate and approve the terms and conditions of such Italian Security Documents and any amendment and/or restatement, confirmation and/or confirmation and extension thereof, execute any other agreement or instrument, give or receive any notice or declaration, identify and specify to third parties the names of the Notes Secured Parties at any given date, collect any and all amounts due to the Notes Secured Parties under each Italian Security Document and take any other action in relation to the creation, perfection, maintenance, confirmation and extension, enforcement and release of the security created thereunder and the performance of the Italian Security Documents, any amendments and/or waivers thereof which is made in accordance with this Indenture and any other such agreement, instrument, notices or declaration, in each case in the name and on behalf of the Notes Secured Parties;

(iii) confirms that the Collateral Trustee is entitled to release any Italian Security Documents upon payment in full of any amounts due thereunder before the expiry of the applicable claw-back or ineffectiveness period, subject to satisfaction of the conditions set out in the relevant Italian Security Documents;

(iv) confirms that in the event that any security created under any Italian Security Documents remains registered in the name of a Notes Secured Party after it has ceased to be a Notes Secured Party, then the Collateral Trustee shall remain empowered to execute a release of such security in its name and on its behalf;

(v) undertakes to grant any power of attorney as it might be needed or appropriate for the Collateral Trustee to act in accordance with and within the limits of this Indenture and any Italian Security Document;

(vi) undertakes to ratify and approve any such action taken in the name and on behalf of the Notes Secured Parties by the Collateral Trustee acting in its appointed capacity;

(vii) confirms that the Collateral Trustee has authority to accept on its behalf the terms of any reliance letter or engagement letter relating to any reports or letters provided in connection with the Italian Security Document or the transactions contemplated therein, to bind it in respect of those reports or letters and to sign that reliance letter or engagement letter on its behalf and, to the extent that reliance letter or engagement letter has already been entered into, ratifies those actions;

(viii) confirms that it accepts the terms and qualifications set out in that reliance letter or engagement letter; and

(ix) acknowledges and agrees that the Collateral Trustee may enter in its name and on its behalf as agent with representative powers (mandatario con rappresentanza) into contractual arrangements pursuant to or in connection with the Italian Security Documents to which the Collateral Trustee is also a party (in its capacity as agent, trustee, *mandatario con rappresentanza*, representative for the security pursuant to article 2414-bis of the Italian Civil Code or otherwise) and expressly authorizes the Collateral Trustee, pursuant to article 1395 of the Italian Civil Code. The Notes Secured Parties expressly waive any right they may have under article 1394 of the Italian Civil Code in respect of contractual arrangements entered into by the Collateral Trustee in their name and on their behalf pursuant to or in connection with the Italian Security Documents, in each case to the extent legally possible to such Notes Secured Party.

(E) Notwithstanding anything else to the contrary herein, whenever reference is made in this Indenture to any discretionary action by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by the Collateral Trustee or to any election, decision, opinion, acceptance, use of judgment, expression of satisfaction, reasonable satisfaction or other exercise of discretion, rights or remedies to be made (or not to be made) by the Collateral Trustee, it is understood that in all cases the Collateral Trustee shall be fully justified in failing or refusing to take any such action under this Indenture if it shall not have received such written instruction, advice or concurrence of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture, subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction, as it deems appropriate. This provision is intended solely for the benefit of the Collateral Trustee and its successors and permitted assigns and is not intended to and will not entitle the other parties hereto to any defense, claim or counterclaim, or confer any rights or benefits on any party hereto.

Section 11.04. Parallel Debt

(A) In this Section 11.04:

"**Collateral Trustee Claim**" has the meaning given to it in Section 11.04(C) below; and

"**Notes Secured Party Claim**" means any amount which a Company Indenture Party owes to a Notes Secured Party under and in connection with the Indenture Documents.

(B) As relevant, any Lien over any portion of the Collateral created pursuant to a Notes Security Document (other than for any Italian Security Document) is granted to the Collateral Trustee in its individual capacity as an independent creditor of the Collateral Trustee Claim created pursuant to this **Section 11.04(B)**.

(C) Subject to **Section 12.06** (*Guarantee Limitations*), each Company Indenture Party must pay the Collateral Trustee, as an independent and separate creditor, in its own right and not as a trustee, agent or representative of the other Notes Secured Parties, an amount equal to its Notes Secured Party Claim on its due date when that amount falls due for payment under the relevant Indenture Document (each a "**Collateral Trustee Claim**").

(D) Each Collateral Trustee Claim is created on the understanding that the Collateral Trustee must:

(i) share the proceeds of each Collateral Trustee Claim with itself and the other Notes Secured Parties; and

(ii) pay those proceeds to the Notes Secured Parties,

(iii) in accordance with Section 7.11 subject to limitations (if any) expressly provided for in any Notes Security Document.

(E) The Collateral Trustee may, subject to any indemnification and/or prefunding and/or security to its satisfaction and its rights in **Section 11.07** (*Collateral Trustee*), demand and receive payment and enforce performance of any Collateral Trustee Claim in its own name as an independent and separate right. This includes any payment demand, suit, execution, enforcement of security, recovery of guarantees and applications for and voting in respect of any kind of insolvency proceeding. Each Company Indenture Party shall have all objections and defenses against a Collateral Trustee Claim as such Company Indenture Party has against a Notes Secured Party Claim.

(F) Each Company Indenture Party irrevocably and unconditionally waives any right it may have to require a Notes Secured Party to join in any proceedings as co-claimant with the Collateral Trustee in respect of any Collateral Trustee Claim.

(G) The Collateral Trustee Claims do not limit or affect the existence of the Notes Secured Party Claims for which the Notes Secured Parties have an independent right to demand payment.

(H) Discharge by a Company Indenture Party of a Notes Secured Party Claim will discharge the corresponding Collateral Trustee Claim in the same amount.

(I) Discharge by Company Indenture Party of a Collateral Trustee Claim will discharge the corresponding Notes Secured Party Claim in the same amount.

(J) The aggregate amount of the Collateral Trustee Claims will never exceed the aggregate amount of Notes Secured Party Claims and vice versa.

(K) A defect affecting a Collateral Trustee Claim against a Company Indenture Party will not affect any Notes Secured Party Claim.

(L) A defect affecting a Notes Secured Party Claim against a Company Indenture Party will not affect any Collateral Trustee Claim.

(M) If the Collateral Trustee returns to any Company Indenture Party whether in any kind of insolvency proceedings or otherwise, any recovery in respect of which it has made a payment to a Notes Secured Party, that Notes Secured Party must repay an amount equal to that recovery to the Collateral Trustee; provided that the Collateral Trustee shall have no obligation to make any such return payment until it has received the repayment of the full amount due from the relevant Notes Secured Party.

(N) In no event will the "parallel debt" provisions (including, for the avoidance of doubt, the provisions of this **Section 11.04**) apply to the Italian Security Documents.

Section 11.05. Release of Collateral

(A) Subject to the terms of the Intercreditor Agreement and to **Section 11.05(D)**, the Liens securing the Obligations on the applicable Collateral shall be automatically terminated and released without further action by any party (other than satisfaction of any requirements in the Notes Security Documents, if any), in whole or in part, as the case may be: (i) upon any disposition of any portion of Collateral in accordance with a disposition permitted under the terms of any Priority Lien Debt Document; *provided* that Liens on such Collateral under any Priority Lien Debt Document are also released under any such Priority Lien Debt Document substantially concurrently; (ii) upon the full and final payment and performance of all Obligations of the Company Indenture Parties under the Indenture Documents or the satisfaction and discharge of this Indenture and the other Indenture Documents in accordance with **Article 9**; (iii) as described under **Section 8.03**; (iv) if the Collateral is owned by a Guarantor, upon release of such Guarantor from its Subsidiary Guarantee of the Obligations in accordance with the provisions hereof and the terms of the Intercreditor Agreement and/or the Priority Lien Debt Document; (v) to the extent the Liens on the Collateral securing the Priority Lien Secured Obligations are released by the First Lien Notes Collateral Trustees (other than a discharge or release by or as a result of payment under such guarantee after the occurrence of a payment default or acceleration thereunder (it being understood that a release subject to a contingent reinstatement is still a release)), upon release of such Liens and (vi) pursuant to the Intercreditor Agreement and the Notes Security Documents.

(B) Without the necessity of any consent of or notice to the Trustee or any Holder of the Notes, any Company Indenture Party may request and instruct the Collateral Trustee to, on behalf of each Holder of Notes, (i) execute and deliver to any Company Indenture Party, as the case may be, for the benefit of any Person, such release documents as may be reasonably requested, of all or any Liens held by the Collateral Trustee in any Collateral securing the Obligations, and (ii) deliver any such assets in the possession of the Collateral Trustee to any Company Indenture Party, as the case may be; and Collateral Trustee shall as soon as practicable take such actions provided that any such release complies with and is expressly permitted in accordance with the terms of this Indenture, the Notes Security Documents and the Intercreditor Agreement and is accompanied by an Officer's Certificate and an Opinion of Counsel.

(C) The release of any Collateral from the Liens securing the Obligations or the release of, in whole or in part, the Liens securing the Obligations created by any of the Notes Security Documents will not be deemed to impair the Liens securing the Obligations in contravention of the provisions hereof if and to the extent the Collateral or the Liens securing the Obligations are released pursuant to the terms of this Indenture, the applicable Notes Security Documents and the Intercreditor Agreement. Each of the Holders of the Notes acknowledges that a release of Collateral or Liens securing the Obligations strictly in accordance with the terms of this Indenture, the Notes Security Documents and the Intercreditor Agreement will not be deemed for any purpose to be an impairment of the Notes Security Documents or otherwise contrary to the terms of this Indenture.

(D) The Company shall furnish to the Collateral Trustee and the Trustee on or prior to any proposed releases of Collateral an Officer's Certificate certifying and an Opinion of Counsel stating that all requirements relating to such release have been complied with and that such release has been authorized by, permitted by and made in accordance with the provisions of this Indenture, the relevant Notes Security Documents and the Intercreditor Agreement. No release of the Collateral shall be effective against the Collateral Trustee, the Trustee or the Holders until the Company has delivered to the Collateral Trustee and the Trustee the Officer's Certificate and the Opinion of Counsel required under this **Section 11.05**.

Section 11.06. Application of Proceeds of Collateral.

(A) Upon any realization upon the Collateral from the exercise of any rights or remedies under any Notes Security Document or any other agreement with any Company Indenture Party which secures any of the Obligations, the proceeds thereof shall, subject to the terms of the Intercreditor Agreement, be applied in accordance with **Section 7.11** of this Indenture.

(B) Subject to the terms of the Intercreditor Agreement, each of the Collateral Trustee and the Trustee is authorized and empowered to receive any funds collected or distributed under the Notes Security Documents and to apply and distribute such funds according to the provisions of this Indenture.

Section 11.07. Collateral Trustee.

(A) Subject to the provisions of **Section 10.01**, neither the Trustee, nor the Collateral Trustee nor any of their respective officers, directors, employees, attorneys or agents shall be responsible or liable (i) for the legality, enforceability, effectiveness or sufficiency of the Notes Security Documents, for the creation, perfection, priority, sufficiency, maintenance, renewal or protection of any Lien, or for any defect or deficiency as to any such matters, or (ii) for any failure to demand, collect, foreclose or realize upon or otherwise enforce any of the Liens or Notes Security Documents or any delay in doing so; except, in the case of the Collateral Trustee, to the extent such action or omission constitutes gross negligence or willful misconduct (as determined by a final order of a court of competent jurisdiction that is not subject to appeal) on the part of the Collateral Trustee, (iii) for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral, (iv) for the legality, enforceability, effectiveness or sufficiency of the Intercreditor Agreement, or (v) for the legality, enforceability, effectiveness or sufficiency of any subordination agreement or other similar agreement entered into in connection with this Indenture.

(B) The rights, privileges, protections, immunities and benefits given to the Trustee under this Indenture, including, without limitation, its right to be indemnified and compensated and all other rights, privileges, protections, immunities and benefits set forth in this Indenture (including those set forth in **Article 10**), are extended to the Collateral Trustee, and its agents, receivers and attorneys, and shall be enforceable by, the Collateral Trustee, as if fully set forth in this **Section 11.07** with respect to the Collateral Trustee, except that the Collateral Trustee shall only be liable for (and shall be indemnified and held harmless to the extent such losses do not constitute) its gross negligence or willful misconduct (as determined by a final order of a court of competent jurisdiction that is not subject to appeal). In acting under any Notes Security Document, the Collateral Trustee shall enjoy the rights, privileges, protections, immunities and benefits that are extended to the Collateral Trustee hereunder. The Collateral Trustee may act through its attorneys and agents and will not be responsible for the misconduct or negligence of any such agent appointed with due care.

(C) Beyond the exercise of reasonable care in the custody of Collateral in its possession, the Collateral Trustee will have no duty as to any Collateral in its possession or control or in the possession or control of any agent or bailee or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto. For the avoidance of doubt, nothing herein shall require the Collateral Trustee to be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any Liens on the Collateral. If, at the direction of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture (subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction), the Trustee or Collateral Trustee agrees to (but shall be under no obligation to do so) file or record any Notes Security Documents or any related financing statement or other similar documents, such filing or recording by the Trustee or Collateral Trustee at the direction of the Holders shall be deemed done by Trustee or Collateral Trustee without representation or warranty by the Trustee or the Collateral Trustee (and the Trustee and the Collateral Trustee disclaim any representation or warranty as to the validity, effectiveness, priority, perfection or otherwise). The Collateral Trustee will be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords property held by it as a collateral agent or any similar arrangement, and the Collateral Trustee will not be liable or responsible for any loss or diminution in the value of any of the Collateral by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Collateral Trustee in good faith.

(D) The Collateral Trustee shall not have any duty to ascertain or inquire as to the performance or observance of any of the terms of this Indenture or any Indenture Document by the Company or any Company Indenture Party or any other Person that is a party thereto or bound thereby.

(E) The Collateral Trustee shall not be required to acquire title to an asset for any reason and shall not be required to carry out any fiduciary or trust obligation for the benefit of another. The Collateral Trustee is not a fiduciary and shall not be deemed to have assumed any fiduciary obligation. If the Collateral Trustee in its sole discretion believes that any obligation to take or omit to take any action may cause the Collateral Trustee to be considered an "owner or operator" under any Environmental Laws or otherwise cause the Collateral Trustee to incur, or be exposed to, any environmental liability or any liability under any other federal, state or local law, the Collateral Trustee reserves the right, instead of taking such action, either to resign as Collateral Trustee or to arrange for the transfer of the title or control of the asset to a court appointed receiver. The Collateral Trustee will not be liable to any Person for any environmental liability or any environmental claims or contribution actions under any federal, state or local law, rule or regulation by reason of the Collateral Trustee's actions and conduct as authorized, empowered and directed hereunder or relating to any kind of discharge or release or threatened discharge or release of any hazardous materials into the environment.

(F) The Collateral Trustee may resign or be replaced in accordance with the procedures set forth in **Section 10.07** hereof, except that references to the Trustee in such section shall be deemed to be references to the Collateral Trustee for this purpose. If the Collateral Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act will be the successor Collateral Trustee.

Section 11.08. Appointment of the Collateral Trustee for German Security Documents.

Without prejudice to, and in addition to, the other provisions of **Section 10** and this **Section 11**, and without limiting any other rights of the Collateral Trustee under this Indenture or any other Indenture Document, in relation to the German Security Documents the following shall apply:

(A) Each other Secured Party hereby appoints and authorizes the Collateral Trustee to:

(i) hold and administer:

(1) and, as the case may be, release and (subject to it having become enforceable) realize any security interest granted under any German Security Document (each, a "**German Security Interest**") that is constituted by way of a transfer of title or assignment by way of security (*Sicherungseigentum/Sicherungsabtretung*) or by way of any other non-accessory security right (*nicht akzessorische Sicherheit*);

(2) the benefit of this paragraph (i); and

(3) any proceeds of such German Security Interest,

as trustee in its own name but for the benefit of all relevant Secured Parties (other than the Collateral Trustee) (each, a "**German Secured Party**") that have the benefit of such German Security Interest in accordance with this Indenture or any other Indenture Document and the respective German Security Document;

(ii) administer and, as the case may be, release and (subject to it having become enforceable) realize any German Security Interest that is created in favor of the Collateral Trustee or the German Secured Parties (or any of them) by way of a pledge (*Verpfändung*) or any other German law accessory security right (*akzessorische Sicherheit*); and

(iii) if and when acting in its capacity as creditor of the Collateral Trustee Claim, hold and administer and, as the case may be, release and (subject to it having become enforceable) realize:

(1) any German Security Interest that is created in favor of the Collateral Trustee as creditor of the Collateral Trustee Claim by way of a pledge (*Verpfändung*) or any other German law accessory security right (*akzessorische Sicherheit*);

(2) any proceeds of such German Security Interest; and

(3) the benefit of this paragraph (iii) and of the Collateral Trustee Claim,

as creditor in its own right but for the benefit of the German Secured Parties in accordance with this Indenture.

(B) Each German Secured Party hereby ratifies and approves all acts done by the Collateral Trustee on such German Secured Party's behalf before execution of this Indenture, or the relevant German Secured Party's accession to this Indenture, as the case may be, including, for the avoidance of doubt, the declarations made by the Collateral Trustee as representative without power of attorney (*Vertreter ohne Vertretungsmacht*) in relation to the creation of any pledge (*Pfandrecht*) on behalf and for the benefit of any German Secured Party in respect of any German Security Document.

(C) The Collateral Trustee shall, and is hereby authorized by each of the German Secured Parties to, execute on behalf of itself and each other German Secured Party, without the need for any further referral to, or authority from, any other person, all necessary releases or confirmations of any security created under the German Security Documents. The Collateral Trustee and each of the German Secured Parties hereby agree that, in relation to the German Security Documents, no German Secured Party shall exercise any independent power to enforce any German Security Interest or take any other action in relation to the enforcement of the German Security Interests, or make or receive any declarations in relation thereto.

(D) Each German Secured Party hereby irrevocably instructs and authorizes the Collateral Trustee (with the right of sub-delegation) to act on its behalf and, if required under requirements of law or if otherwise appropriate, in its name and on its behalf in connection with the preparation, execution and delivery of the German Security Documents, the perfection and monitoring of the German Security Documents and the rescission, release or amendment of the German Security Documents, and to enter into any documents evidencing German Security Interests and to make and accept all declarations and take all actions it considers necessary or useful in connection with any German Security Interest on behalf of such German Secured Party. The Collateral Trustee is hereby authorized by each German Secured Party to make all statements necessary or appropriate in connection with the foregoing. The Collateral Trustee shall further be entitled to rescind, release, amend or execute, on behalf of each German Secured Party, any additional documents securing the German Security Interest.

(E) At the request of the Collateral Trustee, each German Secured Party shall provide the Collateral Trustee with a separate written power of attorney (*Spezialvollmacht*) for the purposes of executing any relevant agreements and documents on its behalf.

Section 11.09. Appointment of the Collateral Trustee for French Security Documents.

Without prejudice to, and in addition to, the other provisions of **Section 10** and this **Section 11**, each other Notes Secured Party:

(A) appoints the Collateral Trustee to act as security agent (*agent des sûretés*) pursuant to articles 2488-6 et seq. of the French Civil Code acting in such a capacity in respect of the French Security Documents (including any lower ranking French Security Documents to be entered into after the date hereof in order to create security in favor of the Notes Secured Parties); and

(B) irrevocably authorizes (and as the case may be directs) the Collateral Trustee acting as security agent (*agent des sûretés*) within the meaning of article 2488-6 of the French Civil Code without limitation and notwithstanding any other rights conferred upon the Collateral under this Indenture:

(i) to negotiate, accept and execute in its name and for the benefit of each other Notes Secured Party the French Security Documents;

(ii) to take, register, administer and enforce any security interest created or expressed to be created pursuant to a French Security Document and proceed to all relevant filings and notifications in order to ensure the enforceability of the security interests created pursuant to the French Security Documents;

(iii) to perform the duties and to exercise the rights, powers and discretions that are specifically delegated to it under or in connection with the French Security Documents and in particular to:

(1) enforce the French Security Documents, and, in connection with any enforcement or any step to be taken in connection with any enforcement, to appoint any expert, to collect any sums, to give good discharge for any amount payable and to make any payment (including any Soulte);

(2) take any action in the interest of the Notes Secured Parties in any proceedings including filing a claim for any debt (*déclarer*) owed to a Notes Secured Party;

(3) exercise any of the rights, powers, authorities and discretions which the Notes Secured Parties would have had, if they had been parties as beneficiaries under the French Security Documents including (1) giving any instruction to any third party in connection with any security interest created under a French Security Documents, (2) receiving any payment in respect of any security interest created under a French Security Documents, (3) completing any applicable registration requirements in connection with the French Security Documents and (4) receiving any information which a secured creditor is entitled to receive with respect to any Notes Security Property subject to security interest created under a French Security Documents; and

(4) and more generally to take any action and exercise any right, power, prerogative and discretion upon the Indenture Documents set out in this Indenture or under or in connection with the Notes Security Documents and to protect the rights of the Notes Secured Parties under or in connection with any security interest created thereunder, in each case together with any other right, power, prerogative and discretion which is incidental thereto;

(5) to release the security interest granted under the French Security Documents in accordance with the provisions of **Section 11.04**; and

(6) to take any action and exercise any right, power, authorities and discretion in accordance with the Indenture Documents,

in each case, in accordance with the Intercreditor Agreement.

(C) Unless expressly provided to the contrary in any French Security Documents, in accordance with the provisions of article 2488-6 of the French Civil Code, the Collateral Trustee shall hold:

(i) any security interest created under a French Security Document;

(ii) the proceeds of any security interest created under a French Security Document; and

(iii) any other rights or assets acquired by the Collateral Trustee in connection with the French Security Documents,

(iv) in its own name (en son nom propre) for the benefit of (*au profit de*) the Notes Secured Parties (together with any of their successors in title and transferees) on the terms contained in this Indenture. The Collateral Trustee shall hold those rights and assets set out in paragraphs (i) to (iii) above in its capacity as *agent des sûretés* and those rights and assets shall constitute, in accordance with article 2488-6 of the French Civil Code, an estate (patrimoine affecté) separate from all the Collateral Trustee's own assets.

(D) In connection with any French Security Documents or any security interest created under a French Security Documents only, it is intended that the Collateral Trustee shall act as agent des sûretés under French law in its relations with any third party, despite the choice of laws of the State of New York as the governing law of this Indenture.

(E) The Collateral Trustee accepts its appointment as "*agent des sûretés*" pursuant to this **Section 11.09** and declares that it holds in its own name the security interest created or expressed to be created pursuant to the French Security Documents in its capacity as Collateral Trustee (*agent des sûretés*) pursuant to articles 2488-6 et seq. of the French Civil Code for the benefit of the Notes Secured Parties on the terms contained in this Indenture and accordingly any action taken by the Collateral Trustee in connection with or for the purposes of the French Security Documents and the security interest created thereunder in accordance with this Indenture and the French Security Documents shall be deemed to be taken by the Collateral Trustee acting as "*agent des sûretés*" in its own name and for the benefit of the Notes Secured Parties.

(F) The Collateral Trustee is under no obligation to file (*déclarer*) a claim for any debt owed by the Company or any Guarantor to a Notes Secured Party in any insolvency proceedings unless:

(i) each relevant Notes Secured Party instructs the Collateral Trustee to file (*déclarer*) such a claim;

(ii) the Collateral Trustee has received all information it deems necessary to file that claim (*déclaration*);

(iii) the Collateral Trustee expressly agrees with each relevant Notes Secured Party to file that claim on that Notes Secured Party's behalf; and

(iv) the filing of such claim is in accordance with the terms of the Intercreditor Agreement.

(G) If, the Collateral Trustee enforces a French Security Document by way of Appropriation, the Collateral Trustee shall become, in accordance with the relevant French Security Document and French law, the owner of the Charged Property subject to the appropriation for the benefit of (*au profit de*) the Notes Secured Parties.

(H) If a Soulte is payable as a result of the enforcement of any security interest created under any French Security Document, the Collateral Trustee shall:

(i) determine, for each Notes Secured Party whose Obligations are discharged by that enforcement, the portion of the Soulte which is attributable to the Notes Secured Party, such amount being in proportion with the amount of that Notes Secured Party's Secured Liabilities (as such term is defined in the French Security Documents) (its **Soulte Portion**); and

(ii) promptly notify each relevant Notes Secured Party of its Soulte Portion and the name of each Notes Secured Party which is entitled to receive the Soulte.

(I) In consideration of the Collateral Trustee acting as *agent des sûretés* in connection with any French Security Documents, the Collateral Trustee, the Company, each Guarantor, each security provider under the Indenture Document and each Notes Secured Party agree that each relevant Notes Secured Party is liable to pay in accordance with the provisions of article 2348 of the French Civil Code and the provisions of the relevant French Security Document, its Soulte Portion to the Company, the Guarantor or the relevant security provider, as applicable, which, before the enforcement by way of transfer of ownership of any Charged Property, was the owner of that Charged Property.

(J) Each relevant Notes Secured Party shall pay to the Collateral Trustee its Soulte Portion for payment to the Company, the Guarantor or the relevant security provider under the Indenture Document, as applicable, promptly following any request by the Collateral Trustee. In no circumstances shall the Collateral Trustee in its capacity as security agent or agent (as the case may be) be liable for the payment of any Soulte out of its own assets.

(K) The obligations of each Notes Secured Party in respect of the payment of any Soulte are several. Failure by a Notes Secured Party to pay its Soulte Portion under this **Section 11.09** does not affect the obligations of any other Notes Secured Party to pay its Soulte Portion under this **Section 11.09** and no Notes Secured Party is responsible for the obligations of any other Notes Secured Party under this **Section 11.09(K)**.

(L) The Collateral Trustee may resign, or be required to resign as *agent des sûretés*, only if the Collateral Trustee resigns or is required to resign as Collateral Trustee under **Section 11.07(F)** at the same time.

(M) If the Collateral Trustee resigns, or the Majority Holders require the Collateral Trustee to resign under **Section 11.07(F)**:

(i) the Collateral Trustee will be deemed to have resigned from its role as *agent des sûretés* under this **Section 11.09(L)**; and

(ii) the successor Collateral Trustee shall accept its appointment as *agent des sûretés* immediately on the successor Collateral Trustee's appointment under **Section 11.07(F).**

immediately on its acceptance of its appointment as *agent des sûretés* under paragraph (ii) above, all rights and assets held by the Collateral Trustee as *agent des sûretés* will be transferred to the successor Collateral Trustee automatically (*de plein droit*) in accordance with article 2488-11 of the French Civil Code.

Section 11.10. Appointment of Supplemental Collateral Trustee.

(A) Without limiting paragraphs of this **Article 11** hereof, the Company is hereby authorized to appoint an additional individual or institution selected by the Company in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral trustee, sub-trustee, administrative sub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually as a "**Supplemental Collateral Trustee**" and collectively as "**Supplemental Collateral Trustees**") by executing one or more supplemental indentures hereto.

(B) In the event that the Company appoints a Supplemental Collateral Trustee with respect to any Collateral, (i) subject to the terms of the Intercreditor Agreement, each and every right, power, privilege or duty expressed or intended by this Indenture or any of the other Notes Security Documents (other than the rights arising in respect of the Collateral Trustee Claims under **Section 11.04**) to be exercised by or vested in or conveyed to such Supplemental Collateral Trustee with respect to such Collateral shall be exercisable by and vest in such Supplemental Collateral Trustee to the extent, and only to the extent, necessary to enable such Supplemental Collateral Trustee to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Notes Security Documents and necessary to the exercise or performance thereof by such Supplemental Collateral Trustee (other than covenants and obligations relating to the Collateral Trustee Claims) shall run to and be enforceable by such Supplemental Collateral Trustee, and (ii) the provisions of this Indenture (and, in particular, this **Article 11**) that refer to the Collateral Trustee shall inure to the benefit of such Supplemental Collateral Trustee and all references therein to the Collateral Trustee shall be deemed to be references to a Collateral Trustee and/or such Supplemental Collateral Trustee, as the context may require.

(C) The Company hereby appoints the Philippine Supplemental Collateral Trustee as the collateral trustee in respect of the Philippine Collateral.

(D) The Philippine Supplemental Collateral Trustee agrees, with respect to the Philippine Collateral, (i) subject to the terms of the Intercreditor Agreement, each and every right, power, privilege or duty expressed or intended by this Indenture or the Philippine Security Document (other than the rights arising in respect of the Collateral Trustee Claims under **Section 11.04**) to be exercised by or vested in or conveyed to the Philippine Supplemental Collateral Trustee with respect to the Philippine Collateral shall be exercisable by and vest in the Philippine Supplemental Collateral Trustee to the extent, and only to the extent, necessary to enable the Philippine Supplemental Collateral Trustee to exercise such rights, powers and privileges with respect to the Philippine Collateral and to perform such duties with respect to Philippine Collateral, and every covenant and obligation contained in the Philippine Security Document and necessary to the exercise or performance thereof by the Philippine Supplemental Collateral Trustee (other than covenants and obligations relating to the Collateral Trustee Claims) shall run to and be enforceable by the Philippine Supplemental Collateral Trustee, and (ii) the provisions of this Indenture (and, in particular, this **Article 11**) that refer to the Collateral Trustee shall inure to the benefit of the Philippine Supplemental Collateral Trustee and all references therein to the Collateral Trustee shall be deemed to be references to a Collateral Trustee and/or the Philippine Supplemental Collateral Trustee, as the context may require.

Article 12. GUARANTEES

Section 12.01. **Subsidiary Guarantees**

(A) Subject to this **Article 12**, each of the Guarantors hereby, jointly and severally, unconditionally guarantees, on a senior secured basis, as primary obligors and not as a surety, to each Holder (and its successors and assigns) of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes, the Indenture Documents and/or the Obligations of the Company:

(i) that the principal of, interest on, or any other amount payable to the Holders, under the Notes shall be promptly paid in full or performed when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest (including but not limited to any interest, fees, costs or charges that would accrue but for the provisions of applicable Bankruptcy Law after any insolvency proceeding), on the Notes, if any, if lawful; and

(ii) that in the case of any extension of time of payment or renewal of any Notes or the payment of any other amount payable to the Holders, the same shall be promptly paid in full when due (such obligations in **clauses (i)** and **(ii)** being herein collectively called the "**Guaranteed Obligations**")

(B) Failing payment when so due of any amount so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. An Event of Default under this Indenture or the Notes shall constitute an event of default under the Subsidiary Guarantees, and shall entitle the Holders to accelerate the obligations of the Guarantors hereunder in the same manner and to the same extent as the obligations of the Company.

(C) The Guarantors hereby agree that their obligations hereunder shall be absolute, irrevocable and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of the Notes, this Indenture, the Indenture Documents or any other agreement or instrument referred to herein or therein, the absence of any action to enforce the same, any waiver or consent by any Holder with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance (other than complete performance) which might otherwise constitute a legal or equitable discharge or defense of a surety of Guarantor, all to the fullest extent permitted by law. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not alter or impair the liability of the Guarantors hereunder which remain absolute, irrevocable and unconditional under any and all circumstances as described above, to the fullest extent permitted by law:

(i) at any time or from time to time, without notice to the Guarantors, the time for any performance of or compliance with any of the Guaranteed Obligations shall be extended, or such performance or compliance shall be waived;

(ii) any of the acts mentioned in any of the provisions of this Indenture or the Notes, if any, or any other agreement or instrument referred to herein or therein shall be done or omitted;

(iii) the maturity of any of the Guaranteed Obligations shall be accelerated, or any of the Guaranteed Obligations shall be amended in any respect, or any right under the Indenture, Notes, or any other agreement or instrument referred to herein or therein shall be amended or waived in any respect or any other guarantee of any of the Guaranteed Obligations or any security therefor shall be released or exchanged in whole or in part or otherwise dealt with;

(iv) any Lien or security interest granted to, or in favor of any Holder, the Collateral Trustee or the Trustee as security for any of the Guaranteed Obligations shall fail to be perfected; or

(v) the release of any other Guarantor.

(D) Each Guarantor further, to the fullest extent permitted by law, hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenants that its Subsidiary Guarantee will not be discharged except by complete performance of the obligations contained in the Notes and this Indenture.

(E) Until terminated in accordance with **Section 12.05**, each Subsidiary Guarantee shall, to the fullest extent permitted by law, remain in full force and effect and continue to be effective should any petition be filed by or against the Company for liquidation, reorganization, should the Company become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee or other similar officer be appointed for all or any significant part of the Company's assets, and shall, to the fullest extent permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment of the Notes are, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on the Notes or Subsidiary Guarantees, whether as a "voidable preference," "fraudulent transfer" or otherwise, all as though such payment had not been made. In the event that any payment or any part thereof, is rescinded, reduced, restored or returned, the Notes shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

(F) Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (a) the maturity of the obligations guaranteed hereby may be accelerated as provided in **Section 7.02** hereof (and shall be deemed to have become automatically due and payable in the circumstances in said **Section 7.02**) for the purposes of its Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed thereby, and (b) in the event of any declaration of acceleration of such obligations as provided in **Section 7.02** hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantor for the purpose of its Subsidiary Guarantee. The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Subsidiary Guarantees.

(G) Each Guarantor also agrees to pay any and all costs and expenses (including reasonable attorneys' fees) incurred by the Trustee or the Collateral Trustee in enforcing any rights under the Indenture Documents.

(H) Each Guarantor shall be subrogated to all rights of Holders against the Company in respect of any amounts paid by such Guarantor pursuant to the provisions of this **Section 12.01**; provided that, no Guarantor shall be entitled to enforce or receive any payments arising out of, or based upon, such right of subrogation until all amounts then due and payable by the Company under this Indenture, the Notes or the Indenture Documents shall have been paid in full in cash.

(I) Each payment to be made by a Guarantor in respect of its Subsidiary Guarantee shall be made without set-off, counterclaim, reduction or diminution of any kind or nature.

(H) Each Subsidiary Guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held in connection with the Indenture Documents or any of them.

Section 12.02. Execution and Delivery

(A) To evidence its Subsidiary Guarantee set forth in **Section 12.01** hereof, each Guarantor hereby agrees that this Indenture (or a supplemental indenture) shall be executed on behalf of such Guarantor by one of its authorized officers.

(B) Each Guarantor hereby agrees that its Subsidiary Guarantee set forth in **Section 12.01** hereof shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Subsidiary Guarantee on the Notes. If an officer whose signature is on this Indenture (or a supplemental indenture) no longer holds that office at the time the Trustee authenticates a Note, the Subsidiary Guarantee of such Guarantor shall be valid nevertheless.

(C) The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Subsidiary Guarantee set forth in this Indenture on behalf of the Guarantors.

Section 12.03. [Reserved].

Section 12.04. Releases of Subsidiary Guarantees.

(A) The Subsidiary Guarantee of a Guarantor shall be automatically and unconditionally released: (1) in connection with (x) any disposition (including by way of merger or consolidation) of the Capital Stock of such Guarantor (or the Capital Stock of the direct parent of such Guarantor) to a Person that is not (either before or after giving effect to such transaction) a Company Indenture Party, to the extent such sale is permitted under any Priority Lien Debt Documents or (y) any sale or other disposition of all or substantially all of the properties or assets of that Guarantor, by way of merger, consolidation or otherwise solely to the extent that such sale or other disposition is permitted pursuant to **Section 6.01**, in each case, only provided that the applicable guarantee of such Guarantor under any Priority Lien Debt Documents is also released under any Priority Lien Debt Documents substantially at the same time; (2) the liquidation or dissolution of such Guarantor; *provided* that no Event of Default occurs as a result thereof or has occurred or is continuing; (3) upon satisfaction and discharge of this Indenture and the other Indenture Documents in accordance with **Article 9**; or (4) upon payment of the Obligations in full in immediately available funds.

(B) Upon delivery by the Company to the Trustee of an Officer's Certificate or an Opinion of Counsel to the effect that any of the conditions described in the foregoing **clauses (1)**, **(2)**, or **(3)** of **Section 12.04(A)** has occurred and the conditions precedent to such transactions provided for in this Indenture have been complied with, the Trustee shall promptly execute any documents reasonably requested by the Company in order to evidence the release of any Guarantor from its obligations under its Subsidiary Guarantee. Any Guarantor not released from its obligations under its Subsidiary Guarantee shall remain liable for the full amount of principal of and interest, premium, if any, on, the Notes and for the other obligations of such Guarantor under this Indenture as provided in this **Article 12**.

(C) Further, the Subsidiary Guarantees are not convertible and will automatically terminate when the Notes are all converted in full in accordance with **Article 5**.

Section 12.05. Instrument for the Payment of Money.

(A) Each Guarantor hereby acknowledges that the guarantee in this **Article 12** constitutes an instrument for the payment of money, and consents and agrees that any Holder (to the extent that the Holder is otherwise entitled to exercise rights and remedies hereunder) or the Trustee, at its sole option, in the event of a dispute by such Guarantor in the payment of any moneys due hereunder, shall have the right to bring a motion-action under New York CPLR Section 3213 to the extent permitted thereunder.

Section 12.06. Limitation on Guarantor Liability

(A) Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Subsidiary Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of any bankruptcy law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law or any comparable laws in any other jurisdiction to the extent applicable to any Subsidiary Guarantee. The obligations of each Guarantor under its Subsidiary Guarantee will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under its Subsidiary Guarantee or pursuant to its contribution obligations under this Indenture, result in the obligations of such Guarantor under its Subsidiary Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law or any comparable laws in any other jurisdiction and not otherwise being void or voidable under any similar laws affecting the rights of creditors generally.

(B) Limitation with respect to Swiss Guarantors

(i) If and to the extent a Guarantor incorporated in Switzerland (a "**Swiss Guarantor**") becomes directly or indirectly liable under this Indenture or any other Indenture Documents for obligations of any other Company Indenture Party (other than the wholly owned direct or indirect subsidiaries of such Swiss Guarantor) (the "**Restricted Obligations**") and if complying with such obligations would constitute a repayment of capital (*Einlagerückgewähr*), a violation of the legally protected reserves (*gesetzlich geschützte Reserven*) or the payment of a (constructive) dividend (*Gewinnausschüttung*) by such Swiss Guarantor or would otherwise be restricted under Swiss law and practice then applicable, such Swiss Guarantor's aggregate liability for Restricted Obligations shall not exceed the amount of the Swiss Guarantor's freely disposable equity (*frei verfügbares Eigenkapital*) at the time it becomes liable including, without limitation, any statutory reserves which can be transferred into unrestricted, distributable reserves, in accordance with Swiss law (the "**Freely Disposable Amount**").

(ii) This limitation shall only apply to the extent it is a requirement under applicable law at the time the Swiss Guarantor is required to perform Restricted Obligations under any Indenture Document. Such limitation shall not free the Swiss Guarantor from its obligations in excess of the Freely Disposable Amount, but merely postpone the performance date thereof until such times when the Swiss Guarantor has again freely disposable equity.

(iii) If the enforcement of the obligations of the Swiss Guarantor under any Indenture Documents would be limited due to the effects referred to in this Indenture, the Swiss Guarantor shall further, to the extent permitted by applicable law and Swiss accounting standards and upon request by the Collateral Trustee, (i) write up or sell any of its assets that are shown in its balance sheet with a book value that is significantly lower than the market value of the assets, in case of sale, however, only if such assets are not necessary for the Swiss Guarantor's business (*nicht betriebsnotwendig*) and (ii) reduce its share capital to the minimum allowed under then applicable law, provided that such steps are permitted under the Indenture Documents.

(iv) The Swiss Guarantor and any holding company of the Swiss Guarantor which is a party to an Indenture Document shall procure that the Swiss Guarantor will take and will cause to be taken all and any action as soon as reasonably practicable but in any event within 30 Business Days from the request of the Collateral Trustee, including, without limitation, (i) the passing of any shareholders' resolutions to approve any payment or other performance under this Indenture or any other Indenture Document, (ii) the provision of an audited interim balance sheet, (iii) the provision of a determination by the Swiss Guarantor of the Freely Disposable Amount based on such audited interim balance sheet, (iv) the provision of a confirmation from the auditors of the Swiss Guarantor that a payment of the Swiss Guarantor under the Indenture or any other Indenture Documents in an amount corresponding to the Freely Disposable Amount is in compliance with the provisions of Swiss corporate law which are aimed at protecting the share capital and legal reserves, and (v) the obtaining of any other confirmations which may be required as a matter of Swiss mandatory law in force at the time the Swiss Guarantor is required to make a payment or perform other obligations under this Indenture or any other Indenture Document, in order to allow a prompt payment in relation to Restricted Obligations with a minimum of limitations.

(v) If so required under applicable law (including tax treaties) at the time it is required to make a payment under this Indenture and any Indenture Document, the Swiss Guarantor:

(1) shall use its best efforts to ensure that such payments can be made without deduction of Swiss Withholding Tax, or with deduction of Swiss Withholding Tax at a reduced rate, by discharging the liability to such tax by notification pursuant to applicable law (including tax treaties) rather than payment of the tax;

(2) shall deduct the Swiss Withholding Tax at such rate (being 35% on the date hereof) as in force from time to time if the notification procedure pursuant to sub-paragraph (a) above does not apply; or shall deduct the Swiss Withholding Tax at the reduced rate resulting after discharge of part of such tax by notification if the notification procedure pursuant to sub-paragraph (a) applies for a part of the Swiss Withholding Tax only; and shall pay within the time allowed any such taxes deducted to the Swiss Federal Tax Administration; and

(3) shall promptly notify the Collateral Trustee that such notification or, as the case may be, deduction has been made, and provide the Collateral Trustee with evidence that such a notification of the Swiss Federal Tax Administration has been made or, as the case may be, such taxes deducted have been paid to the Swiss Federal Tax Administration.

(vi) In the case of a deduction of Swiss Withholding Tax, the Swiss Guarantor shall use its best efforts to ensure that any person that is entitled to a full or partial refund of the Swiss Withholding Tax deducted from such payment under this Indenture or any Indenture Documents, will, as soon as possible after such deduction:

(1) request a refund of the Swiss Withholding Tax under applicable law (including tax treaties), and

(2) pay to the Collateral Trustee upon receipt any amount so refunded.

The Collateral Trustee shall co-operate with the Swiss Guarantor to secure such refund.

(vii) To the extent the Swiss Guarantor is required to deduct Swiss Withholding Tax pursuant to this Indenture or any other Indenture Documents, and if the Freely Disposable Amount is not fully utilised, the Swiss Guarantor will be required to pay an additional amount so that after making any required deduction of Swiss Withholding Tax the aggregate net amount paid to the Collateral Trustee is equal to the amount which would have been paid if no deduction of Swiss Withholding Tax had been required, provided that the aggregate amount paid (including the additional amount) shall in any event be limited to the Freely Disposable Amount. If a refund is made to a Notes Secured Party, such Notes Secured Party shall transfer the refund so received to the Swiss Guarantor, subject to any right of set-off of such Notes Secured Party pursuant to the Indenture Documents.

Section 12.07. "Trustee" to Include Paying Agent

(A) In case at any time any Paying Agent other than the Trustee shall have been appointed and be then acting hereunder, the term "Trustee" as used in this **Article 12** shall in each case (unless the context shall otherwise require) be construed as extending to and including such Paying Agent within its meaning as fully and for all intents and purposes as if such Paying Agent were named in this Article 12 in place of the Trustee.

Article 13. MISCELLANEOUS

Section 13.01. Notices.

Any notice or communication by any Company Indenture Party or the Trustee, Collateral Trustee and Note Agent to the other must be provided in writing and will be deemed to have been duly given in writing if delivered in person or by first class mail (registered or certified, return receipt requested), facsimile transmission, electronic transmission or other similar means of unsecured electronic communication or overnight air courier guaranteeing next day delivery, or to the other's address, which initially is as follows:

If to any Company Indenture Party:

Maxeon Solar Technologies, Ltd.
8 Marina Boulevard, #05-02
Marina Bay Financial Centre
018981, Singapore
Attention: Chief Legal Officer
Telephone: (480) 734 - 1234
Email address: lindsey.wiedmann@maxeon.com

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

White & Case
16th floor, York House, The Landmark
15 Queen's Road Central
Hong Kong
Attention: Jessica Zhou; Kaya Proudian
Email: jessica.zhou@whitecase.com; kproudian@whitecase.com

If to the Trustee:

Deutsche Bank Trust Company Americas
1 Columbus Circle, 17th Floor
Mail Stop:NYC01-1710
New York, NY 10019
Facsimile: (732) 578-4635
Attention: Corporates Team, Maxeon Solar Technologies Ltd. – AA6573

If to the Collateral Trustee:

DB Trustees (Hong Kong) Limited
Level 60, International Commerce Centre
1 Austin Road West
Kowloon, Hong Kong

Facsimile No.: +852 2203 7320
Attention: The Directors
E-mail: debtagency.hkcsg@list.db.com

If to the Philippine Supplemental Collateral Trustee:

RCBC Trust Corporation
9th Floor, Yuchengco Tower
RCBC Plaza, 6819 Ayala Avenue
Makati City, Philippines 0727

Attention: Mr. Ryan Roy W. Sinaon
Telephone: 63 (02) 8894-9000 local 1278
E-mail: rwsinaon@rcbc.com

Any Company Indenture Party, the Trustee, the Collateral Trustee or the Philippine Supplemental Collateral Trustee, by notice to the other, may designate additional or different addresses (including facsimile numbers and electronic addresses) for subsequent notices or communications.

All notices and communications (other than those sent to Holders) will be deemed to have been duly given: (A) at the time delivered by hand, if personally delivered; (B) five (5) Business Days after being deposited in the mail, postage prepaid, if mailed; (C) when receipt acknowledged, if transmitted by facsimile, electronic transmission or other similar means of unsecured electronic communication; and (D) the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

All notices or communications required to be made to a Holder pursuant to this Indenture must be made in writing and will be deemed to be duly sent or given in writing if mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery, to its address shown on the Register; *provided*, *however*, that a notice or communication to a Holder of a Global Note may, but need not, instead be sent pursuant to the Depositary Procedures (in which case, such notice will be deemed to be duly sent or given in writing). The failure to send a notice or communication to a Holder, or any defect in such notice or communication, will not affect its sufficiency with respect to any other Holder.

If the Trustee is then acting as the Depositary's custodian for the Notes, then, at the reasonable request of the Company to the Trustee, the Trustee will cause any notice prepared by the Company to be sent to any Holder(s) pursuant to the Depositary Procedures, *provided* such request is evidenced in a Company Order delivered, together with the text of such notice, to the Trustee at least two (2) Business Days before the date such notice is to be so sent. For the avoidance of doubt, such Company Order need not be accompanied by an Officer's Certificate or Opinion of Counsel. The Trustee will not have any liability relating to the contents of any notice that it sends to any Holder pursuant to any such Company Order.

If a notice or communication is mailed or sent in the manner provided above within the time prescribed, it will be deemed to have been duly given, whether or not the addressee receives it.

Notwithstanding anything to the contrary in this Indenture or the Notes, (A) whenever any provision of this Indenture requires a party to send notice to another party, no such notice need be sent if the sending party and the recipient are the same Person acting in different capacities; and (B) whenever any provision of this Indenture requires a party to send notice to more than one receiving party, and each receiving party is the same Person acting in different capacities, then only one such notice need be sent to such Person.

Facsimile, documents executed, scanned and transmitted electronically and electronic signatures, including those created or transmitted through a software platform or application, will be deemed original signatures for purposes of this Indenture and all matters and agreements related thereto, with such facsimile, scanned and electronic signatures having the same legal effect as original signatures. The parties agree that this Indenture or any instrument, agreement or document necessary for the consummation of the transactions contemplated by this Indenture or related hereto or thereto (including addendums, amendments, notices, instructions, communications with respect to the delivery of securities or the wire transfer of funds or other communications) ("**Executed Documentation**") may be accepted, executed or agreed to through the use of an electronic signature in accordance with applicable laws, rules and regulations in effect from time to time applicable to the effectiveness and enforceability of electronic signatures. Any Executed Documentation accepted, executed or agreed to in conformity with such laws, rules and regulations will be binding on all parties to this Indenture to the same extent as if it were physically executed and each party hereby consents to the use of any third-party electronic signature capture service providers as may be reasonably chosen by a signatory hereto or thereto. When the Trustee, Collateral Trustee or a Note Agent acts on any Executed Documentation sent by electronic transmission, the Trustee, Collateral Trustee or Note Agent will not be responsible or liable for any losses, costs or expenses arising directly or indirectly from its reliance upon and compliance with such Executed Documentation, notwithstanding that such Executed Documentation (A) may not be an authorized or authentic communication of the party involved or in the form such party sent or intended to send (whether due to fraud, distortion or otherwise); or (B) may conflict with, or be inconsistent with, a subsequent written instruction or communication; it is understood and agreed that the Trustee, Collateral Trustee and each Note Agent will conclusively presume that Executed Documentation that purports to have been sent by an authorized officer of a Person has been sent by an authorized officer of such Person. The party providing Executed Documentation through electronic transmission or otherwise with electronic signatures agrees to assume all risks arising out of such electronic methods, including the risk of the Trustee, Collateral Trustee or a Note Agent acting on unauthorized instructions and the risk of interception and misuse by third parties.

Section 13.02. Delivery Of Officer's Certificate And Opinion Of Counsel As To Conditions Precedent.

Upon any request or application by the Company to the Trustee or to the Collateral Trustee to take any action under this Indenture (other than the initial authentication of Notes under this Indenture), the Company will furnish to the Trustee and the Collateral Trustee:

(A) an Officer's Certificate in form and substance reasonably satisfactory to the Trustee and the Collateral Trustee that complies with **Section 13.03** and states that, in the opinion of the signatory thereto, all conditions precedent and covenants, if any, provided for in this Indenture relating to such action have been satisfied; and

(B) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee that complies with **Section 13.03** and states that, in the opinion of such counsel, all such conditions precedent and covenants, if any, have been satisfied.

Section 13.03. Statements Required In Officer's Certificate And Opinion Of Counsel.

Upon any application or request by the Company to the Trustee to take or refrain from taking any action under any provision of this Indenture, the Company shall furnish to the Trustee such certificates and opinions as may be required under the provisions of the Trust Indenture Act made a part of this Indenture and hereunder. Each such certificate or opinion shall be given in the form of an Officer's Certificate, if to be given by an Officer of the Company, or an Opinion of Counsel, if to be given by counsel, and shall comply with the requirements of the Trust Indenture Act and any other requirements set forth in this Indenture.

Each Officer's Certificate (other than an Officer's Certificate pursuant to **Section 3.06**) or Opinion of Counsel with respect to compliance with a covenant or condition provided for in this Indenture will include:

(A) a statement that the signatory making such certificate or opinion thereto has read such covenant or condition;

(B) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion therein are based;

(C) a statement that, in the opinion of such signatory, he, she or it has made such examination or investigation as is necessary to enable him, her or it to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(D) a statement as to whether, in the opinion of such signatory, such covenant or condition has been complied with.

Any certificate, statement or opinion of an Officer of the Company or of counsel may be based, insofar as it relates to accounting matters, upon a certificate or opinion of or representations by an accountant or firm of accountants in the employ of the Company, unless such officer or counsel, as the case may be, knows that the certificate or opinion or representations with respect to the accounting matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous.

Any certificate or opinion of any independent firm of public accountants filed with the Trustee shall contain a statement that such firm is independent.

Section 13.04. Rules By The Trustee, The Registrar And The Paying Agent.

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 13.05. No Personal Liability Of Directors, Officers, Employees And Shareholders.

No past, present or future director, officer, employee, incorporator or shareholder of any Company Indenture Party, as such, will have any liability for any obligations of such Company Indenture Party under this Indenture, the Intercreditor Agreement or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

Section 13.06. Governing Law; Waiver Of Jury Trial.

THIS INDENTURE AND THE NOTES, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS INDENTURE OR THE NOTES, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY INDENTURE PARTIES, THE TRUSTEE AND THE COLLATERAL TRUSTEE IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED BY THIS INDENTURE OR THE NOTES.

Section 13.07. Submission To Jurisdiction.

Any legal suit, action or proceeding arising out of or based upon this Indenture or the transactions contemplated by this Indenture may be instituted in the federal courts of the United States of America located in the City of New York or the courts of the State of New York, in each case located in the City of New York (collectively, the "**Specified Courts**"), and each party irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail (to the extent allowed under any applicable statute or rule of court) to such party's address set forth in **Section 13.01** will be effective service of process for any such suit, action or proceeding brought in any such court. Each of the Company Indenture Parties, the Trustee, the Collateral Trustee and Holders (by its acceptance of any Note) irrevocably and unconditionally waives any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waives and agrees not to plead or claim any such suit, action or other proceeding has been brought in an inconvenient forum.

Section 13.08. No Adverse Interpretation Of Other Agreements.

Neither this Indenture nor the Notes may be used to interpret any other indenture, note, loan or debt agreement of the Company or its Subsidiaries or of any other Person, and no such indenture, note, loan or debt agreement may be used to interpret this Indenture or the Notes.

Section 13.09. Successors.

All agreements of each Company Indenture Parties in this Indenture and the Notes will bind its successors. All agreements of the Trustee and the Collateral Trustee in this Indenture will bind their respective successors.

Section 13.10. Force Majeure.

The Trustee, Collateral Trustee and each Note Agent will not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility under this Indenture or the Notes by reason of any occurrence beyond its control (including any act or provision of any present or future law or regulation or governmental authority, act of God or war, civil unrest, epidemic, pandemic, local or national disturbance or disaster, act of terrorism or unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility).

Section 13.11. U.S.A. Patriot Act.

In order to comply with the laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including those relating to the funding of terrorist activities and money laundering, including Section 326 of the USA PATRIOT Act of the United States ("**Applicable Terrorism Law**"), the Trustee, Collateral Trustee and the Note Agents are required to obtain, verify, record and update certain information relating to individuals and entities which maintain a business relationship with the Trustee, Collateral Trustee and/or the Note Agents. Accordingly, each of the Company Indenture Parties (including any Person that executes an agreement to become a Guarantor) agrees to provide to the Trustee, Collateral Trustee or any of the Note Agents (or any additional party that executes an agreement to become party to this Indenture as a trustee, a collateral trustee or a note agent) upon its request from time to time such documentation as may be available for such party in order to enable the Trustee, the Collateral Trustee or any of the Note Agents (or any such additional party) to comply with Applicable Terrorism Law.

Section 13.12. Calculations.

Except as otherwise provided in this Indenture, the Company will be responsible for making all calculations called for under this Indenture or the Notes, including, but not limited to, determinations of the Last Reported Sale Price, the Daily Conversion Value, the Daily Cash Amount, the Daily Share Amount, accrued interest on the Notes, the Conversion Rate, the Conversion Price, the Interest Make-Whole Amount and the Early Conversion Adjustment.

The Company will make all calculations in good faith, and, absent manifest error, its calculations will be final and binding on all Holders. The Company will provide a schedule of its calculations to the Trustee and the Conversion Agent, and each of the Trustee and the Conversion Agent may rely conclusively on the accuracy of the Company's calculations without independent verification. The Trustee will promptly forward a copy of each such schedule to a Holder upon its written request therefor.

Section 13.13. Severability.

If any provision of this Indenture or the Notes is invalid, illegal or unenforceable, then the validity, legality and enforceability of the remaining provisions of this Indenture or the Notes will not in any way be affected or impaired thereby.

Section 13.14. Counterparts.

The parties may sign any number of copies of this Indenture. Each signed copy will be an original, and all of them together represent the same agreement. Delivery of an executed counterpart of this Indenture by facsimile, electronically in portable document format or in any other format will be effective as delivery of a manually executed counterpart.

Section 13.15. Table Of Contents, Headings, Etc.

The table of contents and the headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and will in no way modify or restrict any of the terms or provisions of this Indenture.

Section 13.16. Service Of Process.

The Company Indenture Parties irrevocably appoint Corporation Service Company, which currently maintains an office at 19 West 44th Street, Suite 200, New York, New York 10036, United States of America, as their authorized agent in the City of New York upon which process may be served in any suit, action or proceeding referred to in **Section 13.07**, and agrees that service of process upon such agent, and written notice of such service to the Company Indenture Parties, as applicable, by the person serving the same to Maxeon Solar Technologies, Ltd., Maxeon Solar Technologies, Pte. Ltd., 51 Rio Robles, San Jose, California 95134, Attention: General Counsel, will be in every respect effective service of process upon the Company in any such suit, action or proceeding. The Company Indenture Parties agree to take any and all reasonable action as may be necessary to maintain such designation and appointment of such agent in full force and effect until the date that is six (6) months after the Maturity Date. If, for any reason, such agent ceases to be such agent for service of process, then the Company Indenture Parties will promptly appoint a new agent of recognized standing for service of process in the State of New York and deliver to the Holders and the Trustee a copy of the new agent's acceptance of that appointment within ten (10) Business Days of such acceptance. Nothing in this **Section 13.16** will affect the right of the Trustee, any Note Agent or any Holder to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed against the Company Indenture Parties in any other court of competent jurisdiction. To the extent that the Company Indenture Parties have or hereafter may acquire any sovereign or other immunity from jurisdiction of any court or from any legal process with respect to itself or its property, the Company Indenture Parties irrevocably waive such immunity in respect of their obligations under this Indenture or under any Note.

Section 13.17. Provision Required By Trust Indenture Act to Control.

If and to the extent that any provision of this Indenture limits, qualifies or conflicts with duties imposed by, or with another provision (an "incorporated provision") included in this Indenture by operation of Sections 310 to 3178, inclusive, of the Trust Indenture Act, such imposed duties or incorporated provision shall control.

Section 13.18. U.S. FEDERAL INCOME TAX MATTERS.

(A) The Company Indenture Parties (in each case solely to the extent such applicable Company Indenture Party is required to take a position pursuant to applicable law) and the Holders intend, for U.S. federal (and applicable state and local) income tax purposes, (i) to treat each of the Tranche A Notes and the Tranche B Notes as a separate issue of indebtedness for U.S. federal (and applicable state and local) income tax purposes, neither of which are "contingent payment debt instruments" within the meaning of U.S. Treasury regulations Section 1.1275-4; and (ii) to treat any adjustment to the Conversion Price of the Notes as being made pursuant to a "bona fide, reasonable, adjustment formula" within the meaning of U.S. Treasury regulations Section 1.305-7(b) (except to the extent otherwise required pursuant to the last sentence of Treasury regulations Section 1.305-7(b)(1)), and shall not take any position for U.S. federal (and applicable state and local) income tax purposes inconsistent with the foregoing clauses (i) and (ii), in each case, except to the extent otherwise required by a change in law or a "determination" within the meaning of Section 1313(a) of the Internal Revenue Code of 1986.

Article 14. INTERCREDITOR ARRANGEMENTS

Section 14.01. Intercreditor Agreement

(A) The Indenture is entered into with the benefit of, and subject to the terms of, the Intercreditor Agreement and each Holder, by accepting a Note, shall be deemed to have agreed to, and accepted the terms and conditions of, the Intercreditor Agreement, to have authorized the Collateral Trustee to enter into the Intercreditor Agreement on its behalf, and to have agreed that the Trustee and the Collateral Trustee shall be bound by the Intercreditor Agreement, as well as the Indenture. The rights, duties and benefits of the Trustee and the Collateral Trustee are governed by the Indenture and the Intercreditor Agreement. For the avoidance of doubt, to the extent any provision of the Intercreditor Agreement conflicts with the express provisions of this Indenture, the provisions of the Intercreditor Agreement shall govern and be controlling.

Section 14.02. Additional Intercreditor Agreement

(A) At the request of the Company, at the time of, or prior to, the incurrence of any Indebtedness that is permitted to share the Collateral or that is otherwise permitted to be incurred under this Indenture, the Company, the relevant Guarantors, the Trustee and the Collateral Trustee will (without the consent of Holders), to the extent authorized and permitted under the Intercreditor Agreement, enter into such amendments, supplements or agreements as necessary to add the obligees of such Indebtedness and/or any representative(s) thereof as party to the Intercreditor Agreement, or an additional Intercreditor Agreement (the "**Additional Intercreditor Agreement**"); *provided* that such amendments, supplements, agreements or such Additional Intercreditor Agreement will not impose any personal obligations on the Trustee or the Collateral Trustee or adversely affect the rights, duties, liabilities or immunities of the Trustee or the Collateral Trustee under the Indenture or the Intercreditor Agreement.

(B) At the written direction of the Company and without the consent of the Holders, the Trustee and the Collateral Trustee, to the extent authorized and permitted under the Intercreditor Agreement, shall upon the written direction of the Company from time to time enter into one or more Additional Intercreditor Agreements or amendments or supplements of the Intercreditor Agreement to: (1) cure any ambiguity, omission, defect or inconsistency therein; (2) increase the amount of Indebtedness permitted to be incurred or issued under this Indenture of the types covered thereby that may be incurred by the Company or any Company Indenture Party that is subject thereto (including the addition of provisions relating to new Indebtedness); (3) add Guarantors thereto; (4) further secure the Notes (including any Additional Notes); (5) allow any successor Trustee and/or Collateral Trustee to accede as a party thereto; or (6) make any other such change thereto that does not adversely affect the rights of holders of the Notes in any material respect; *provided* that such Additional Intercreditor Agreement will not impose any personal obligations on the Trustee or the Collateral Trustee or adversely affect the rights, duties, liabilities or immunities of the Trustee or the Collateral Trustee under the Indenture or the Intercreditor Agreement.

(C) In executing any execution of the Additional Intercreditor Agreement or the amendments or supplements of the Intercreditor Agreement in accordance with this **Section 14.02**, the Trustee and the Collateral Trustee, as the case may be will be entitled to receive, and (subject to **Sections 10.01** and **10.02**) will be fully protected in relying on, an Officer's Certificate and an Opinion of Counsel, provided in accordance with **Section 13.02**, each stating that (A) the execution and delivery of such Additional Intercreditor Agreement or such amendments or supplements of the Intercreditor Agreement is authorized or permitted by this Indenture; and (B) in the case of the Opinion of Counsel, such Additional Intercreditor Agreement, or such amendments or supplements of the Intercreditor Agreement is valid, binding and enforceable against the Company in accordance with its terms.

(D) Each Holder, by accepting a Note, will be deemed to have agreed to and accepted the terms and conditions of the Intercreditor Agreement and each Additional Intercreditor Agreement (in each case as may be amended or supplemented from time to time in accordance with the terms of this Indenture, the Intercreditor Agreement or other Indenture Documents), to have authorized the Trustee and the Collateral Trustee to become a party to any such Intercreditor Agreement, and Additional Intercreditor Agreement, and any amendment referred to in Article 8 and the Trustee or the Collateral Trustee will not be required to seek the consent of any Holders to perform their respective obligations under and in accordance with this Article 14.

[***The Remainder of This Page Intentionally Left Blank; Signature Page Follows***]

IN WITNESS WHEREOF, the parties to this Indenture have caused this indenture to be duly executed as of the date first written above.

Issuer:

MAXEON SOLAR TECHNOLOGIES, LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

Guarantors:

SUNPOWER CORPORATION LIMITED

By: /s/ Peter Aschenbrenner
Name: Peter Aschenbrenner
Title: Director

SUNPOWER ENERGY CORPORATION LIMITED

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Director

SUNPOWER MANUFACTURING CORPORATION LIMITED

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Director

[Signature Page to Second Lien Indenture]

MAXEON ROOSTER HOLDCO, LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Director

MAXEON SOLAR PTE. LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Director

SUNPOWER BERMUDA HOLDINGS

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Director

SUNPOWER TECHNOLOGY LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

[Signature Page to Second Lien Indenture]

SUNPOWER PHILIPPINES MANUFACTURING LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

ROOSTER BERMUDA DRE, LLC

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

SUNPOWER SYSTEMS SÀRL

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

[Signature Page to Second Lien Indenture]

Trustee:

DEUTSCHE BANK TRUST COMPANY AMERICAS,
AS TRUSTEE, REGISTRAR, PAYING AGENT,
CONVERSION AGENT

By: /s/ Carol Ng
Name: Carol Ng
Title: Vice President

By: /s/ Rodney Gaughan
Name: Rodney Gaughan
Title: Vice President

[Signature Page to Second Lien Indenture]

Collateral Trustee:

DB TRUSTEES (HONG KONG) LIMITED, AS COLLATERAL TRUSTEE

By: /s/ Ka Ho Mak
Name: Ka Ho Mak
Title: Authorized Signatory

By: /s/ Christina Nip
Name: Christina Nip
Title: Authorized Signatory

[Signature Page to Second Lien Indenture]

Philippine Supplemental Collateral Trustee:

RCBC TRUST CORPORATION,
AS PHILIPPINE SUPPLEMENTAL COLLATERAL TRUSTEE

By: /s/ Ryan Roy W. Sinaon
Name: Ryan Roy W. Sinaon
Title: RCBC Trust Corporation

By: /s/ Bernice Maffi S. Arizapa
Name: Bernice Maffi S. Arizapa
Title: Sales Officer

[Signature Page to Second Lien Indenture]

EXHIBIT A-1

FORM OF TRANCHE A NOTE

[Insert Global Note Legend, if applicable]

[THE FOLLOWING INFORMATION IS SUPPLIED SOLELY FOR U.S. FEDERAL INCOME TAX PURPOSES. THE NOTES WERE ISSUED WITH "ORIGINAL ISSUE DISCOUNT" ("OID") WITHIN THE MEANING OF SECTION 1273 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. NOTEHOLDERS MAY OBTAIN INFORMATION REGARDING THE AMOUNT OF ANY OID, THE ISSUE PRICE, THE ISSUE DATE, AND THE YIELD TO MATURITY RELATING TO THE NOTES BY CONTACTING THE COMPANY.]

Maxeon Solar Technologies, Ltd.

Adjustable-Rate Convertible Second Lien Senior Secured Note due 2028

CUSIP No.: [_____]*[Insert for a "unrestricted" CUSIP number:]* Certificate No. [_____]
ISIN No.: [_____][*Insert for a "unrestricted" ISIN number:]*

Maxeon Solar Technologies, Ltd., a company incorporated in Singapore, for value received, promises to pay to Cede & Co., or its registered assigns, the principal sum of [___] dollars ($[_]) [(as revised by the attached Schedule of Exchanges of Interests in the Global Note)]† on January 15, 2028 and to pay interest thereon, as provided in the Indenture referred to below, until the principal and all accrued and unpaid interest are paid or duly provided for.

Interest Payment Dates: June 20 and December 20 of each year, commencing on December 20, 2024, unless otherwise provided in the definition of "Interest Payment Date."

Regular Record Dates: June 5 and December 5, unless otherwise provided in the definition of "Regular Record Date."

Additional provisions of this Note are set forth on the other side of this Note.

[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]

† Insert bracketed language for Global Notes only.

IN WITNESS WHEREOF, Maxeon Solar Technologies, Ltd. has caused this instrument to be duly executed as of the date set forth below.

MAXEON SOLAR TECHNOLOGIES, LTD.

Date: _____

By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

Deutsche Bank Trust Company Americas, as Trustee, certifies that this is one of the Notes referred to in the within-mentioned Indenture.

Date: _____ By: _____
Authorized Signatory

Maxeon Solar Technologies, Ltd.

Adjustable-Rate Convertible Second Lien Senior Secured Note due 2028

This Note is one of a duly authorized issue of notes of Maxeon Solar Technologies, Ltd., a company incorporated in Singapore (the "**Company**"), designated as its Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028 (the "**Notes**"), all issued or to be issued pursuant to an indenture, dated as of June 20, 2024 (as the same may be amended from time to time, the "**Indenture**"), between the Company, the Guarantors from time to time party thereto and Deutsche Bank Trust Company Americas, a New York Banking Corporation as Trustee and as DB Trustees (Hong Kong) Limited as Collateral Trustee and RCBC Trust Corporation as Philippine Supplemental Collateral Trustee. Capitalized terms used in this Note without definition have the respective meanings ascribed to them in the Indenture.

The Indenture sets forth the rights and obligations of the Company, the Trustee and the Holders and the terms of the Notes. The Notes are secured pursuant to the terms of the Indenture, the Intercreditor Agreement (as defined in the Indenture) and the Notes Security Documents referred to in the Indenture and subject to the Priority Liens as defined in the Indenture. Notwithstanding anything to the contrary in this Note, to the extent that any provision of this Note conflicts with the provisions of the Indenture, the provisions of the Indenture will control.

1. **Interest**. This Note will accrue interest at a rate and in the manner set forth in Section 2.05 of the Indenture. Stated Interest on this Note will begin to accrue from, and including, June 20, 2024.

2. **Maturity**. This Note will mature on January 15, 2028, unless earlier repurchased, redeemed or converted.

3. **Method of Payment**. Cash amounts due on this Note will be paid in the manner set forth in Section 2.04 of the Indenture. Interest payable in PIK Notes or payment of interest in Ordinary Shares will be paid in the manner set forth in Section 2.04.

4. **Persons Deemed Owners**. The Holder of this Note will be treated as the owner of this Note for all purposes.

5. **Denominations; Transfers and Exchanges**. All Notes will be in registered form, without coupons, in principal amounts equal to any Authorized Denominations. Subject to the terms of the Indenture, the Holder of this Note may transfer or exchange this Note by presenting it to the Registrar and delivering any required documentation or other materials.

6. **Right of Holders to Require the Company to Repurchase Notes upon a Fundamental Change**. If a Fundamental Change occurs, then each Holder will have the right to require the Company to repurchase such Holder's Notes (or any portion thereof in an Authorized Denomination) for cash in the manner, and subject to the terms, set forth in Section 4.02 of the Indenture.

7. **Redemption of the Notes**. The Notes will be subject to Redemption for cash in the manner, and subject to the terms, set forth in Section 4.03 of the Indenture.

8. **Optional Exchange of the Notes**. The Notes may be subject to Optional Exchange for the Optional Exchange Consideration in the manner, and subject to the terms, set forth in Section 4.04 of the Indenture.

9. Limitation on Conversion and Optional Exchange. Any conversion (including in connection with the Optional Exchange) of any Note is subject to Section 4.05 of the Indenture.

10. **Conversion**. The Holder of this Note may convert this Note into Conversion Consideration in the manner, and subject to the terms, set forth in Article 5 of the Indenture.

11. **When the Company May Merge, Etc**. Article 6 of the Indenture places certain restrictions on the Company and the Guarantors' ability to be a party to a Business Combination Event.

12. **Defaults and Remedies**. If an Event of Default occurs, then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding may (and, in certain circumstances, will automatically) become due and payable in the manner, and subject to the terms, set forth in Article 7 of the Indenture.

13. **Amendments, Supplements and Waivers**. The Company and the Trustee may amend or supplement the Indenture or the Notes or waive compliance with any provision of the Indenture or the Notes in the manner, and subject to the terms, set forth in Section 7.05 and Article 8 of the Indenture.

14. **No Personal Liability of Directors, Officers, Employees and Shareholders**. No past, present or future director, officer, employee, incorporator or shareholder of the Company, as such, will have any liability for any obligations of the Company under the Indenture or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

15. **Authentication**. No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually or electronically signs the certificate of authentication of such Note.

16. **Abbreviations**. Customary abbreviations may be used in the name of a Holder or its assignee, such as TEN COM (tenants in common), TEN ENT (tenants by the entireties), JT TEN (joint tenants with right of survivorship and not as tenants in common), CUST (custodian), and U/G/M/A (Uniform Gift to Minors Act).

17. **Governing Law**. THIS NOTE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS NOTE, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

* * *

To request a copy of the Indenture, which the Company will provide to any Holder at no charge, please send a written request to the following address:

Maxeon Solar Technologies, Ltd.
8 Marina Boulevard, #05-02
Marina Bay Financial Centre
018981, Singapore
Attention: General Counsel

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE*

INITIAL PRINCIPAL AMOUNT OF THIS GLOBAL NOTE: $[ ]

The following exchanges, transfers or cancellations of this Global Note have been made:

Date	**Amount of Increase (Decrease) in Principal Amount of this Global Note**	**Principal Amount of this Global Note After Such Increase (Decrease)**	**Signature of Authorized Signatory of Trustee**

* Insert for Global Notes only.

CONVERSION NOTICE

Maxeon Solar Technologies, Ltd.

Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028

Subject to the terms of the Indenture, by executing and delivering this Conversion Notice, the undersigned Holder of the Note identified below directs the Company to convert (check one):

☐ the entire principal amount of

☐ $ _____* aggregate principal amount of

the Note identified by CUSIP No._____ and Certificate No._____ .

The undersigned acknowledges that if the Conversion Date of a Note to be converted is after a Regular Record Date and before the next Interest Payment Date, then such Note, when surrendered for conversion, must, in certain circumstances, be accompanied with an amount of cash equal to the interest that would have accrued on such Note to, but excluding, such Interest Payment Date.

Date: _____

_____
(Legal Name of Holder)

By: _____
Name:
Title:

* Must be an Authorized Denomination.

FUNDAMENTAL CHANGE REPURCHASE NOTICE

Maxeon Solar Technologies, Ltd.

Adjustable-Rate Convertible Second Lien Senior Secured Notes 2028

Subject to the terms of the Indenture, by executing and delivering this Fundamental Change Repurchase Notice, the undersigned Holder of the Note identified below is exercising its Fundamental Change Repurchase Right with respect to (check one):

☐ the entire principal amount of

☐ $_____* aggregate principal amount of

the Note identified by CUSIP No. _____ and Certificate No. _____ .

The undersigned acknowledges that this Note, duly endorsed for transfer, must be delivered to the Paying Agent before the Fundamental Change Repurchase Price will be paid.

Date: _____

_____
(Legal Name of Holder)

By: _____
Name:
Title:

* Must be an Authorized Denomination.

ASSIGNMENT FORM

Maxeon Solar Technologies, Ltd.

Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028

Subject to the terms of the Indenture, the undersigned Holder of the within Note assigns to:

Name: _____

Address: _____

Social security or
tax identification
number: _____

the within Note and all rights thereunder irrevocably appoints:

as agent to transfer the within Note on the books of the Company. The agent may substitute another to act for him/her.

Date: _____

_____
(Legal Name of Holder)

By: _____
Name:
Title:

EXHIBIT A-2

FORM OF TRANCHE B NOTE

[Insert Global Note Legend, if applicable]

[Insert Restricted Note Legend, if applicable]

[THE FOLLOWING INFORMATION IS SUPPLIED SOLELY FOR U.S. FEDERAL INCOME TAX PURPOSES. THE NOTES WERE ISSUED WITH "ORIGINAL ISSUE DISCOUNT" ("OID") WITHIN THE MEANING OF SECTION 1273 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. NOTEHOLDERS MAY OBTAIN INFORMATION REGARDING THE AMOUNT OF ANY OID, THE ISSUE PRICE, THE ISSUE DATE, AND THE YIELD TO MATURITY RELATING TO THE NOTES BY CONTACTING THE COMPANY.]

Maxeon Solar Technologies, Ltd.

Adjustable-Rate Convertible Second Lien Senior Secured Note due 2028

CUSIP No.: [_____]*[Insert for a "unrestricted"/"restricted" CUSIP number:*[*]*]*

Certificate No. [_____]

ISIN No.: [_____][*Insert for a "unrestricted"/"restricted" ISIN number:* [*]*]*

Maxeon Solar Technologies, Ltd., a company incorporated in Singapore, for value received, promises to pay to Cede & Co., or its registered assigns, the principal sum of [___] dollars ($[_____]) [(as revised by the attached Schedule of Exchanges of Interests in the Global Note)][†] on January 15, 2028 and to pay interest thereon, as provided in the Indenture referred to below, until the principal and all accrued and unpaid interest are paid or duly provided for.

Interest Payment Dates: June 20 and December 20 of each year, commencing on December 20, 2024, unless otherwise provided in the definition of "Interest Payment Date."

Regular Record Dates: June 5 and December 5, unless otherwise provided in the definition of "Regular Record Date."

Additional provisions of this Note are set forth on the other side of this Note.

[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]

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[*] This Note will be deemed to be identified by CUSIP No. [____] and ISIN No. [____] from and after such time when the Company delivers, pursuant to Section 2.12 of the within-mentioned Indenture, written notice to the Trustee of the deemed removal of the Restricted Note Legend affixed to this Note.

[†] Insert bracketed language for Global Notes only.

IN WITNESS WHEREOF, Maxeon Solar Technologies, Ltd. has caused this instrument to be duly executed as of the date set forth below.

MAXEON SOLAR TECHNOLOGIES, LTD.

Date: _____

By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

Deutsche Bank Trust Company Americas, as Trustee, certifies that this is one of the Notes referred to in the within-mentioned Indenture.

Date: _____ By: _____
Authorized Signatory

Maxeon Solar Technologies, Ltd.

Adjustable-Rate Convertible Second Lien Senior Secured Note due 2028

This Note is one of a duly authorized issue of notes of Maxeon Solar Technologies, Ltd., a company incorporated in Singapore (the "**Company**"), designated as its Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028 (the "**Notes**"), all issued or to be issued pursuant to an indenture, dated as of June 20, 2024 (as the same may be amended from time to time, the "**Indenture**"), between the Company, the Guarantors from time to time party thereto and Deutsche Bank Trust Company Americas, a New York Banking Corporation as Trustee and as DB Trustees (Hong Kong) Limited as Collateral Trustee and RCBC Trust Corporation as Philippine Supplemental Collateral Trustee. Capitalized terms used in this Note without definition have the respective meanings ascribed to them in the Indenture.

The Indenture sets forth the rights and obligations of the Company, the Trustee and the Holders and the terms of the Notes. The Notes are secured pursuant to the terms of the Indenture, the Intercreditor Agreement (as defined in the Indenture) and the Notes Security Documents referred to in the Indenture and subject to the Priority Liens as defined in the Indenture. Notwithstanding anything to the contrary in this Note, to the extent that any provision of this Note conflicts with the provisions of the Indenture, the provisions of the Indenture will control.

1. **Interest**. This Note will accrue interest at a rate and in the manner set forth in Section 2.05 of the Indenture. Stated Interest on this Note will begin to accrue from, and including, June 20, 2024.

2. **Maturity**. This Note will mature on January 15, 2028, unless earlier repurchased, redeemed or converted.

3. **Method of Payment**. Cash amounts due on this Note will be paid in the manner set forth in Section 2.04 of the Indenture. Interest payable in PIK Notes or payment of interest in Ordinary Shares will be paid in the manner set forth in Section 2.04.

4. **Persons Deemed Owners**. The Holder of this Note will be treated as the owner of this Note for all purposes.

5. **Denominations; Transfers and Exchanges**. All Notes will be in registered form, without coupons, in principal amounts equal to any Authorized Denominations. Subject to the terms of the Indenture, the Holder of this Note may transfer or exchange this Note by presenting it to the Registrar and delivering any required documentation or other materials.

6. **Right of Holders to Require the Company to Repurchase Notes upon a Fundamental Change**. If a Fundamental Change occurs, then each Holder will have the right to require the Company to repurchase such Holder's Notes (or any portion thereof in an Authorized Denomination) for cash in the manner, and subject to the terms, set forth in Section 4.02 of the Indenture.

7. **Redemption of the Notes**. The Notes will be subject to Redemption for cash in the manner, and subject to the terms, set forth in Section 4.03 of the Indenture.

8. Limitation on Conversion. Any conversion of any Note is subject to Section 4.05 of the Indenture.

9. **Conversion**. The Holder of this Note may convert this Note into Conversion Consideration in the manner, and subject to the terms, set forth in Article 5 of the Indenture.

10. **When the Company May Merge, Etc**. Article 6 of the Indenture places certain restrictions on the Company and the Guarantors' ability to be a party to a Business Combination Event.

11. **Defaults and Remedies**. If an Event of Default occurs, then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding may (and, in certain circumstances, will automatically) become due and payable in the manner, and subject to the terms, set forth in Article 7 of the Indenture.

12. **Amendments, Supplements and Waivers**. The Company and the Trustee may amend or supplement the Indenture or the Notes or waive compliance with any provision of the Indenture or the Notes in the manner, and subject to the terms, set forth in Section 7.05 and Article 8 of the Indenture.

13. **No Personal Liability of Directors, Officers, Employees and Shareholders**. No past, present or future director, officer, employee, incorporator or shareholder of the Company, as such, will have any liability for any obligations of the Company under the Indenture or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

14. **Authentication**. No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually or electronically signs the certificate of authentication of such Note.

15. **Abbreviations**. Customary abbreviations may be used in the name of a Holder or its assignee, such as TEN COM (tenants in common), TEN ENT (tenants by the entireties), JT TEN (joint tenants with right of survivorship and not as tenants in common), CUST (custodian), and U/G/M/A (Uniform Gift to Minors Act).

16. **Governing Law**. THIS NOTE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS NOTE, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

* * *

To request a copy of the Indenture, which the Company will provide to any Holder at no charge, please send a written request to the following address:

Maxeon Solar Technologies, Ltd.
8 Marina Boulevard, #05-02
Marina Bay Financial Centre
018981, Singapore
Attention: General Counsel

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE*

INITIAL PRINCIPAL AMOUNT OF THIS GLOBAL NOTE: $[ ]

The following exchanges, transfers or cancellations of this Global Note have been made:

Date	**Amount of Increase (Decrease) in Principal Amount of this Global Note**	**Principal Amount of this Global Note After Such Increase (Decrease)**	**Signature of Authorized Signatory of Trustee**

* Insert for Global Notes only.

CONVERSION NOTICE

Maxeon Solar Technologies, Ltd.

Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028

Subject to the terms of the Indenture, by executing and delivering this Conversion Notice, the undersigned Holder of the Note identified below directs the Company to convert (check one):

☐ the entire principal amount of

☐ $ _____* aggregate principal amount of

the Note identified by CUSIP No. _____ and Certificate No._____.

The undersigned acknowledges that if the Conversion Date of a Note to be converted is after a Regular Record Date and before the next Interest Payment Date, then such Note, when surrendered for conversion, must, in certain circumstances, be accompanied with an amount of cash equal to the interest that would have accrued on such Note to, but excluding, such Interest Payment Date.

Date: _____

_____
(Legal Name of Holder)

By: _____
Name:
Title:

* Must be an Authorized Denomination.

FUNDAMENTAL CHANGE REPURCHASE NOTICE

Maxeon Solar Technologies, Ltd.

Adjustable-Rate Convertible Second Lien Senior Secured Notes 2028

Subject to the terms of the Indenture, by executing and delivering this Fundamental Change Repurchase Notice, the undersigned Holder of the Note identified below is exercising its Fundamental Change Repurchase Right with respect to (check one):

☐ the entire principal amount of

☐ $ _____* aggregate principal amount of

the Note identified by CUSIP No._____ and Certificate No._____.

The undersigned acknowledges that this Note, duly endorsed for transfer, must be delivered to the Paying Agent before the Fundamental Change Repurchase Price will be paid.

Date: _____

_____
(Legal Name of Holder)

By: _____
Name:
Title:

* Must be an Authorized Denomination.

ASSIGNMENT FORM

Maxeon Solar Technologies, Ltd.

Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028

Subject to the terms of the Indenture, the undersigned Holder of the within Note assigns to:

Name: _____

Address: _____

Social security or
tax identification
number: _____

the within Note and all rights thereunder irrevocably appoints:

as agent to transfer the within Note on the books of the Company. The agent may substitute another to act for him/her.

Date: _____

_____
(Legal Name of Holder)

By: _____
Name:
Title:

TRANSFEROR ACKNOWLEDGMENT*

If the within Note bears a Restricted Note Legend, the undersigned further certifies that (check one):

1. ☐ Such Transfer is being made to the Company or a Subsidiary of the Company.

2. ☐ Such Transfer is being made pursuant to, and in accordance with, a registration statement that is effective under the Securities Act at the time of the Transfer.

3. ☐ Such Transfer is being made pursuant to, and in accordance with, Rule 144A under the Securities Act, and, accordingly, the undersigned further certifies that the within Note is being transferred to a Person that the undersigned reasonably believes is purchasing the within Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act in a transaction meeting the requirements of Rule 144A. **If this item is checked, then the transferee must complete and execute the acknowledgment contained on the next page**.

4. ☐ Such Transfer is being made pursuant to, and in accordance with, any other available exemption from the registration requirements of the Securities Act (including, if available, the exemption provided by Rule 144 under the Securities Act).

Dated: _____

_____
(Legal Name of Holder)

By: _____
Name:
Title:

* To be included only if the Tranche B Note constitutes a "restricted security" (as defined in Rule 144).

TRANSFEREE ACKNOWLEDGMENT*

The undersigned represents that it is purchasing the within Note for its own account, or for one or more accounts with respect to which the undersigned exercises sole investment discretion, and that and the undersigned and each such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act. The undersigned acknowledges that the transferor is relying, in transferring the within Note on the exemption from the registration and prospectus- delivery requirements of the Securities Act of 1933, as amended, provided by Rule 144A and that the undersigned has received such information regarding the Company as the undersigned has requested pursuant to Rule 144A.

Dated: _____

_____
(Name of Transferee)

By: _____
Name:
Title:

EXHIBIT B-1

FORM OF RESTRICTED NOTE LEGEND

THE OFFER AND SALE OF THIS NOTE AND THE ORDINARY SHARES, IF ANY, ISSUABLE UPON CONVERSION OF THIS NOTE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS NOTE MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT ONLY:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT; AND

(2) AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT ONLY:

(A) TO THE COMPANY, ITS PARENT OR ANY SUBSIDIARY THEREOF;

(B) PURSUANT TO A REGISTRATION STATEMENT THAT IS EFFECTIVE UNDER THE SECURITIES ACT;

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT;

(D) PURSUANT TO RULE 144 UNDER THE SECURITIES ACT;

(E) PURSUANT TO REGULATION S UNDER THE SECURITIES ACT; OR

(F) PURSUANT TO ANY OTHER EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

BEFORE THE REGISTRATION OF ANY SALE OR TRANSFER IN ACCORDANCE WITH (C), (D), (E) OR (F) ABOVE, THE COMPANY, THE TRUSTEE AND THE REGISTRAR RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH CERTIFICATES OR OTHER DOCUMENTATION OR EVIDENCE AS THEY MAY REASONABLY REQUIRE IN ORDER TO DETERMINE THAT THE PROPOSED SALE OR TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS."

* This paragraph and the immediately preceding paragraph will be deemed to be removed from the face of this Note at such time when the Company delivers written notice to the Trustee of such deemed removal pursuant to Section 2.12 of the within-mentioned Indenture.

EXHIBIT B-2

FORM OF GLOBAL NOTE LEGEND

THIS IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITARY OR A NOMINEE OF THE DEPOSITARY, WHICH MAY BE TREATED BY THE COMPANY, THE TRUSTEE AND ANY AGENT THEREOF AS THE OWNER AND HOLDER OF THIS NOTE FOR ALL PURPOSES.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY ("DTC") TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL NOTE WILL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC, OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE, AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE WILL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN ARTICLE 2 OF THE INDENTURE HEREINAFTER REFERRED TO.

EXHIBIT C

FORM OF SUPPLEMENTAL INDENTURE

SUPPLEMENTAL INDENTURE (this "**Supplemental Indenture**") dated as of _____, 20___ among Maxeon Solar Technologies, Ltd. (or its successor) (the "**Company**"), Deutsche Bank Trust Company Americas, as trustee (the "**Trustee**"), and DB Trustees (Hong Kong) Limited as collateral trustee (the "**Collateral Trustee**"), under the indenture referred to below.

WHEREAS the Company (or its successor) has heretofore executed and delivered to the Trustee and the Collateral Trustee an indenture (as amended, supplemented or otherwise modified, the "**Indenture**") dated as of June 20, 2024, providing for the issuance of the Company's Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028 (the "**Notes**"), initially in an aggregate principal amount of $204,019,403; and

WHEREAS pursuant to [Section 8.01] / [Section 8.02] / [Section 8.03] of the Indenture, the Trustee, the Collateral Trustee and the Company are authorized to execute and deliver this Supplemental Indenture [without]/[with] the consent of [any Holder]/[Majority Holder]/[Supermajority Holder]/[each Holder] of the Notes;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Company, the Trustee and the Collateral Trustee mutually covenant and agree for the equal and ratable benefit of the Holders (as defined in the Indenture) as follows:

1. **Defined Terms.** As used in this Supplemental Indenture, terms defined in the Indenture or in the preamble or recital hereto are used herein as therein defined. The words "herein," "hereof" and "hereby" and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular section hereof.

2. **Amendments. [ ]**

3. **Ratification of Indenture; Supplemental Indentures Part of Indenture.** Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder shall be bound hereby.

4. **Governing Law.** THIS SUPPLEMENTAL INDENTURE AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS SUPPLEMENTAL INDENTURE, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

5. **Trustee and Collateral Make No Representation.** The Trustee and the Collateral Trustee make no representation as to the validity or sufficiency of this Supplemental Indenture or with respect to the recitals contained herein, all of which recitals are made solely by the other parties hereto.

6. **Counterparts.** The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

7. **Effect of Headings.** The Section headings herein are for convenience only and shall not affect the construction thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed as of the date first above written.

MAXEON SOLAR TECHNOLOGIES, LTD.

By: _____
Name:
Title:

DEUTSCHE BANK TRUST COMPANY AMERICAS, AS TRUSTEE, REGISTRAR, PAYING AGENT, CONVERSION AGENT

By: _____
Name:
Title:

By: _____
Name:
Title:

DB TRUSTEES (HONG KONG) LIMITED, AS COLLATERAL TRUSTEE

By: _____
Name:
Title:

By: _____
Name:
Title:

Schedule I

Conversion Agent's wire instructions to receive wire from the Company for cash in lieu for fractional shares:

[_____]

Schedule II

Company's wire instructions for interest reimbursement:

[_____]

Schedule III

Part 1

(A) consents, approvals, expiration of waiting periods or agreements required under the HSR Act or any other applicable Antitrust Laws; and

(B) the consummation of the regulatory approval procedures in connection with the filings as set forth in Schedule III – Part 2 without there having been a Regulatory Turndown.

Part 2

(i). a filing under 31 C.F.R. Part 800, Subpart E regarding the transactions contemplated by the Forward Purchase Agreement; and

(ii). the filing of notifications that the Forward Purchaser and its counsel reasonably determine are required under, and as contemplated by, Investment Screening Laws regarding the transactions contemplated by the Forward Purchase Agreement.

For the purpose of this Schedule

"**Antitrust Laws**" means the HSR Act and any other applicable U.S. or foreign competition, antitrust or merger control laws.

"**HSR Act**" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

"**Investment Screening Laws**" means applicable laws of jurisdictions other than the United States pertaining to the screening or regulation of foreign investment on national security grounds and any regulation, order or directive promulgated, issued or enforced pursuant to such laws.

"**Regulatory Turndown**" means any applicable U.S. or foreign governmental authority for the regulatory filings as set forth in Schedule III – Part 2 has taken action, or otherwise indicated in writing to the Company and the Forward Purchaser an intention to take action, to prevent the consummation of the transactions contemplated by the Forward Purchase Agreement.

Schedule IV
Early Conversion Adjustment

Relevant Date	Relevant Amount
07/02/2024	$318.126
07/15/2024	$314.167
08/15/2024	$307.275
09/15/2024	$300.375
10/15/2024	$293.377
11/15/2024	$286.403
12/15/2024	$279.362
01/15/2025	$272.292
02/15/2025	$268.287
03/15/2025	$257.633
04/15/2025	$250.375
05/15/2025	$243.078
06/15/2025	$235.811
07/15/2025	$228.447
08/15/2025	$224.055
09/15/2025	$213.368
10/15/2025	$205.912
11/15/2025	$198.493
12/15/2025	$191.054
01/15/2026	$183.649
02/15/2026	$179.358
03/15/2026	$168.480
04/15/2026	$160.953
05/15/2026	$153.413
06/15/2026	$145.889
07/15/2026	$138.360
08/15/2026	$133.956
09/15/2026	$123.053
10/15/2026	$115.408
11/15/2026	$107.793
12/15/2026	$100.179
01/15/2027	$92.592
02/15/2027	$88.132
03/15/2027	$77.132
04/15/2027	$69.453
05/15/2027	$61.766
06/15/2027	$54.108
07/15/2027	$46.450
08/15/2027	$41.935
09/15/2027	$30.923
10/15/2027	$23.171
11/15/2027	$15.435
12/15/2027	$7.711

Schedule V

Closing Security Documents

(i) Singapore:

1. "Second Ranking" Debenture, dated the Issue Date, by the Company in favor of DB Trustees (Hong Kong) Limited to secure the Notes;

2. "Second Ranking" Debenture, dated the Issue Date, by Maxeon Solar Pte. Ltd. in favor of DB Trustees (Hong Kong) Limited to secure the Notes;

3. "Second Ranking" Share Charge, dated the Issue Date, by Maxeon Rooster HoldCo, Ltd. in favour of DB Trustees (Hong Kong) Limited (with respect to shares in Maxeon Solar Pte. Ltd) to secure the Notes; and

4. "Second Ranking" Account Charge, dated the Issue Date, by SunPower Systems Sàrl in respect of its Singapore accounts in favor of DB Trustees (Hong Kong) Limited to secure the Notes.

(ii) Switzerland

1. "Second Ranking" Quota Pledge, dated the Issue Date, by SunPower Bermuda Holdings in favor of DB Trustees (Hong Kong) Limited to secure the Notes; and

2. "Second Ranking" Account Pledge, dated the Issue Date, by SunPower Systems Sàrl in respect of its Swiss accounts in favor of DB Trustees (Hong Kong) Limited to secure the Notes.

(iii) Bermuda

1. "Second Ranking" Bermuda Fixed and Floating Charge, dated the Issue Date, between Maxeon Rooster HoldCo Ltd. and Rooster Bermuda DRE, LLC (as chargors) and DB Trustees (Hong Kong) Limited (as chargee) to secure the Notes; and

2. "Second Ranking" Bermuda Share Charge, dated the Issue Date, between the Company and SunPower Corporation Limited (as chargors) and DB Trustees (Hong Kong) Limited (as chargee), in respect of the shares issued by Maxeon Rooster HoldCo Ltd., to secure the Notes.

(iv) Cayman Islands

3. "Second Ranking" Equitable Share Mortgage, dated the Issue Date, between SunPower Systems Sàrl (as mortgagor) and DB Trustees (Hong Kong) Limited (as mortgagee), in respect to the shares issued by SunPower Technology Ltd., to secure the Notes; and

4. "Second Ranking" Equitable Share Mortgage, dated the Issue Date, between SunPower Technology Ltd. (as mortgagor) and DB Trustees (Hong Kong) Limited (as mortgagee), in respect to the shares issued by SunPower Philippines Manufacturing Ltd., to secure the Notes.

(v) Hong Kong

1. "Second Ranking" Hong Kong Composite Share Charge, dated the Issue Date, by and between the Company as chargor and DB Trustees (Hong Kong) Limited as collateral trustee, in relation to the shares of SunPower Energy Corporation Limited, SunPower Corporation Limited and SunPower Manufacturing Corporation Limited, to secure the Notes;

2. "Second Ranking" Hong Kong Debenture, dated the Issue Date, by and between SunPower Systems International Limited as chargor and DB Trustees (Hong Kong) Limited as collateral trustee, to secure the Notes; and

3. "Second Ranking" Hong Kong Share Charge, dated the Issue Date, by and between SunPower Energy Corporation Limited and DB Trustees (Hong Kong) Limited as collateral trustee, in relation to the shares of SunPower Systems International Limited, to secure the Notes.

(vi) France

1. "Second Ranking" French Securities Accounts Pledge, dated the Issue Date, by and between the Company and DB Trustees (Hong Kong) Limited as collateral trustee, in relation to the shares of SunPower Energy Solutions France SAS, to secure the Notes.

(vii) Malaysia

1. "Second Ranking" Malaysia Share Pledge, dated the Issue Date, by and between SunPower Technology Ltd. and DB Trustees (Hong Kong) Limited as collateral trustee, in relation to the shares of SunPower Malaysia Manufacturing Sdn Bhd, to secure the Notes.

(viii) New York

1. "Second Ranking" New York law governed Security Agreement, dated the Issue Date, by and among the Company, the Guarantors and SunPower Systems International Limited and DB Trustees (Hong Kong) Limited as collateral trustee, to secure the Notes; and

2. "Second Ranking" New York law governed Intellectual Property Security Agreement, dated the Issue Date, by and between Maxeon Solar Pte. Ltd. in favor of DB Trustees (Hong Kong) Limited as collateral trustee, to secure the Notes.

Schedule 1.01 Post-Closing Security Documents

1. For purposes of this Schedule 1.01, '**Patents**' shall mean all granted and in-force patents, designs and utility models (or the equivalent thereof), including all reissues, continuations, divisions, continuations-in-part, renewals or extensions thereof (i) granted to or acquired by Maxeon Solar Pte. Ltd. as sole owner; and (ii) any such patents, designs and utility models (or the equivalent thereof) co-owned by Maxeon Solar Pte. Ltd. and one or more third-parties ("**Co-Owned Patents**"), other than those Co-Owned Patents in respect of which Maxeon Solar Pte. Ltd. has not yet received consent from each such co-owner of such Co-Owned Patents to the granting of a Lien in such Co-Owned Patents under applicable local law security documents described in paragraph 2 below (the "**Local Law Patent Security Documents**") (such consent to be obtained by Maxeon Solar Pte. Ltd. through commercially reasonable endeavours), such that a Lien will be granted over such Co-Owned Patents once such consent from the relevant co-owner(s) is obtained by Maxeon Solar Pte. Ltd., as more particularly described in each of the Local Law Patent Security Documents.

2. Subject to prompt assistance from the entity holding the security interest in the applicable Collateral, as may be necessary, Maxeon Solar Pte. Ltd. shall:

(a) by July 31, 2024 negotiate and execute the following Local Law Patent Security Documents in respect of the Patents in the PRC, United Kingdom, France, the European Union Intellectual Property Office ("**EUIPO**"), Australia, Korea, Japan, Germany, Italy, and the European Patent Office ("**EPO**") (collectively, the "**Agreed IP Security Jurisdictions**"), which shall be on terms that are substantially the same as those in the local law security documents between the Collateral Trustee and Maxeon Solar Pte. Ltd. dated (where applicable) October 7, 2022, or October 20, 2022 (as amended from time to time): -

a. **Australia**:
   · New South Wales law governed Security Trust Deed Poll ("**STDP**") and Specific Security Deed ("**SSD**") to secure the Notes.

b. **PRC**:
   · PRC law governed Pledge Agreement to secure the Notes.

c. **France**:
   · French law governed 2nd ranking Pledge of Intellectual Property Rights Agreement to secure the First Lien Notes and the Notes.

d. **Germany & EPO**:
   · German law governed Sub-Junior Ranking Pledge of IP Rights Agreement (*Nachrangige Verpfändung Gewerblicher Schutzrechte*) to secure the Notes.

e. **Italy**: Italian law governed amendment and restatement agreement of the pledge agreement dated October 21, 2022, to be entered into in notarial form to secure the Notes (*provided*, that the Obligations to be secured by the Liens on the applicable Collateral under any Italian law patent security document shall not exceed US$100,000).

f. **EUIPO**: Italian law governed amendment and restatement agreement of the pledge agreement dated October 20, 2022, to be entered into by way of exchange of commercial correspondence, to secure the Notes (*provided*, that the Obligations to be secured by the Liens on the applicable Collateral under any Italian law patent security document shall not exceed US$100,000).

g. **Japan**:
- Japanese law governed Agreement on release of pledge agreement executed on October 7, 2022; and
- Japanese law governed Second- Priority Pledge Agreement for the Notes.

h. **South Korea**:
- South Korean law governed Second ranking keun-pledge to secure the Notes.

i. **United Kingdom**:
- English law governed Security Agreement for the Notes.

(b) contemporaneously with execution of each Local Law Patent Security Document, provide: -

a. any relevant constitutional documents and necessary corporate approvals with respect to entry into the respective Local Law Patent Security Documents;
b. any related opinions as requested by the entity holding the security interest in the applicable Collateral to be issued based on standard opinion practice of each Agreed IP Security Jurisdiction, appointment of agents for service of process as applicable; and
c. any additional documentation or deliverables as reasonably required in the respective jurisdictions.

(c) take practical steps consistent with generally accepted market practice in the PRC, the United Kingdom, France, the European Union Intellectual Property Office, Australia (to the extent that only a centralized filing will be made), South Korea and Italy (the "**Agreed IP Perfection Jurisdictions**") to ensure that the Liens under the Local Law Patent Security Documents in respect of the Patents in the Agreed IP Perfection Jurisdictions are recorded, filed and notified in the Agreed IP Perfection Jurisdictions and on all relevant registers of the Agreed IP Perfection Jurisdictions, to ensure the enforceability, validity and priority of such Liens, specifically:

a. for the PRC, within 90 days from the date of signing of the PRC Local Law Patent Security Documents; and

b. for the other Agreed IP Perfection Jurisdictions apart from the PRC, within 30 days from the date of signing of the respective Local Law Patent Security Documents in such Agreed IP Perfection Jurisdictions.

3. By the date falling 30 days after the Issue Date, SunPower Philippines Manufacturing Ltd. shall enter into the Philippine Security Document to secure the Notes.

Schedule 3.17 Post-Closing Obligations

1. Not later than the dates specified in Schedule 1.01 (or such later date as may be reasonably agreed by the Collateral Trustee upon receiving written instruction, advice or concurrence of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture, subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction, as it deems appropriate, subject to the terms of the Intercreditor Agreement), the Company and the Restricted Subsidiaries shall enter into each document or take the actions set forth on **Schedule 1.01**.

Exhibit 99.2

Execution Version

WARRANT AGENCY AGREEMENT

WARRANT AGENCY AGREEMENT dated as of June 20, 2024 (this "**Agreement**") between Maxeon Solar Technologies, Ltd., a company incorporated in Singapore with company registration number 201934268H (the "**Company**"), and Computershare, Inc., a Delaware corporation ("**Computershare**"), and its affiliate Computershare Trust Company, N.A., a federally chartered trust company (collectively with Computershare, the "**Warrant Agent**").

W I T N E S S E T H

WHEREAS, the Company has entered, or from time to time after the execution and delivery of this Agreement and ending on the third Business Day prior to the Determination Date will enter, into agreements (each, an "**Exchange Agreement**") with certain holders of the Company's outstanding 6.50% Green Convertible Senior Notes due 2025 (the "**Existing Notes**") to exchange such Existing Notes held by such holders for, among other things, warrants (the "**Warrants**") entitling the respective Holders of the Warrants to acquire ordinary shares, no par value per share, of the Company (the "**Ordinary Shares**") upon the terms and subject to the conditions hereinafter set forth; and

WHEREAS, the Company wishes the Warrant Agent to act on behalf of the Company, and the Warrant Agent is willing so to act, in connection with the issuance, registration, transfer, exchange, exercise and replacement of the Warrants and, in the Warrant Agent's capacity as the Company's transfer agent, the delivery of the Warrant Shares.

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein set forth, the parties hereby agree as follows:

Section 1 Certain Definitions. For purposes of this Agreement, the following terms have the meanings indicated:

(a) "**Business Day**" means any day, other than a Saturday, Sunday or other day on which commercial banks in the City of New York or Singapore are authorized or required by law to remain closed.

(b) "**Close of Business**" on any given date means 5:00 p.m., Eastern time, on such date; *provided, however,* that if such date is not a Business Day it means 5:00 p.m., Eastern time, on the next succeeding Business Day.

(c) "**Holder**" means the holder of record of a Warrant.

(d) "**Person**" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity or a government or any department or agency thereof.

(e) "**Warrant Certificate**" means a certificate in substantially the form attached as Exhibit 1 hereto, representing such number of Warrants as is indicated therein, provided that any reference to the delivery of a Warrant Certificate in this Agreement shall include delivery of notice from the Depositary or a Participant (each as defined below) of the transfer or exercise of a Warrant in the form of a Global Warrant (as defined below).

(f) "**Warrant Shares**" means the Ordinary Shares underlying the Warrants and issuable upon exercise of the Warrants.

All other capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Warrant Certificate.

Section 2 Appointment of Warrant Agent. The Company hereby appoints the Warrant Agent to act as agent for the Company in accordance with the express terms and conditions hereof (and no implied terms and conditions), and the Warrant Agent hereby accepts such appointment.

Section 3 Global Warrants.

(a) The Warrants shall be issuable in book-entry form (the "**Global Warrants**"). All of the Warrants shall initially be represented by one or more Global Warrants deposited with the Warrant Agent and registered in the name of Cede & Co., as nominee of The Depository Trust Company (the "**Depositary**"), or as otherwise directed by the Depositary. Ownership of beneficial interests in the Warrants shall be shown on, and the transfer of such ownership shall be effected through, records maintained by (i) the Depositary or its nominee for each Global Warrant or (ii) institutions that have accounts with the Depositary (such institution, with respect to a Warrant in its account, a "**Participant**"), in each case, in accordance with the applicable procedures of the Depositary. All notices and communications to be given to the Holders and all deliveries to be made to Holders in respect of the Warrants shall be given or made only to, or upon the order of, the registered Holder(s) (which shall be the Depositary or its nominee in the case of the Global Warrants), and neither the Company nor the Warrant Agent shall have any responsibility or liability for the delivery of Warrant Shares or other property to owners of beneficial interests in a Global Warrant, for any aspect of the records relating to or payments or deliveries made on account of those interests by or to the Depositary, for maintaining, supervising or reviewing any records of the Depositary relating to such beneficial ownership of those interests or for any act or omission of the Depositary.

(b) At any time and from time to time after the execution and delivery of this Agreement and ending on the third Business Day prior to the Determination Date, the Company may issue additional Warrants in connection with any exchanges of Existing Notes pursuant to any additional Exchange Agreements with the holders of such Existing Notes entered into after the date hereof, in the amount proportionate to the amount of the Existing Notes being so exchanged, upon receipt of written instructions from the Company (with written notice thereof to the Warrant Agent). Such additional Warrants shall initially be represented by one or more Global Warrants deposited with the Warrant Agent and registered in the name of Cede & Co., as nominee of the Depositary, or as otherwise directed by the Depositary and shall have the same terms and conditions as the Warrants in all respects except for the issuance date.

(c) So long as the Warrants are held in global form through DTC (or any successor Depository), the Global Warrant Certificate will be represented by 9,925,000 beneficial interests held by beneficial owners of the Warrants through DTC (or any successor Depository) as of the Date of Issuance and up to 75,000 additional beneficial interests may be issued pursuant to any additional Exchange Agreements with holders of the Existing Notes before the Determination Date (calculated, in each case, by taking the principal amount of 2025 Notes that are being exchanged pursuant to any Exchange Agreement following the Date of Issuance, multiplying it by 75,000 and dividing it by 1.5 million). The number of Warrant Shares into which all Warrants issued pursuant to this Agreement will be exercisable shall initially equal to 10% of the outstanding Ordinary Shares of the Company on a fully diluted basis on the Determination Date if all 10,000,000 beneficial interests have been issued prior to the Determination Date, with such percentage reduced to 9.925% if no additional beneficial interests have been issued before the Determination Date, or, if any additional beneficial interests have been issued, the percentage calculated by dividing the outstanding beneficial interests by 10,000,000 and multiplying by 10.

(d) If the Depositary subsequently ceases to make its book-entry settlement system available for the Warrants, the Company may instruct the Warrant Agent regarding other arrangements for book-entry settlement. In the event that the Warrants are not eligible for, or it is no longer necessary to have the Warrants available in, book-entry form, the Warrant Agent shall provide written instructions to the Depositary to deliver to the Warrant Agent for cancellation each Global Warrant, and the Company shall instruct the Warrant Agent to deliver to each Holder a Warrant Certificate. In such event, the transfer, exchange or exercise of the Warrants shall be conducted in accordance with the customary procedures of the Warrant Agent.

Section 4 Form of Warrant Certificates. The Warrant Certificate, together with the form of election to purchase Ordinary Shares and the form of assignment to be printed on the reverse thereof, shall be in the form of Exhibit 1 hereto, with such additional identifying marks, notations, legends or endorsements as may be required to comply with any law or with any rule or regulation made pursuant thereto. The terms of the Warrants (including, for the avoidance of doubt, Global Warrants) shall be as set forth herein and in the Warrant Certificate; *provided* that, to the extent any provision of this Agreement conflicts with the express provisions of the Warrant Certificate, the provisions of this Agreement shall govern and be controlling.

Section 5 Countersignature and Registration.

(a) The Warrant Certificates shall be executed on behalf of the Company by its Chief Executive Officer, Chief Financial Officer, Chief Legal Officer, any Executive Vice President, any Senior Vice President, any Vice President or such other officers or directors of the Company as the Chief Executive Officer, Chief Financial Officer or Chief Legal Officer may in his or her discretion designate, either manually or by electronic signature. The Warrant Certificates shall be countersigned by the Warrant Agent either manually or by electronic signature and shall not be valid for any purpose unless so countersigned. In case any officer of the Company who shall have signed any of the Warrant Certificates shall cease to be such officer of the Company before countersignature by the Warrant Agent and issuance and delivery by the Company, such Warrant Certificates, nevertheless, may be countersigned by the Warrant Agent, issued and delivered with the same force and effect as though the person who signed such Warrant Certificate had not ceased to be such officer of the Company; and any Warrant Certificate may be signed on behalf of the Company by any person who, at the actual date of the execution of such Warrant Certificate, shall be a proper officer of the Company to sign such Warrant Certificate, although at the date of the execution of this Agreement any such person was not such an officer.

(b) Upon the receipt of all relevant information from the Company or its agents, the Warrant Agent will keep or cause to be kept, at its office or offices designated for such purpose, books for registration and transfer of the Warrant Certificates issued hereunder. Such books shall show the names and addresses of the respective Holders of the Warrant Certificates, the number of Warrants evidenced on the face of each of such Warrant Certificate and the date of each of such Warrant Certificate.

Section 6 Transfer and Exchange of Warrant Certificates; Mutilated, Destroyed, Lost or Stolen Warrant Certificates.

(a) Subject to the provisions of the Warrant Certificate and the last sentence of this first paragraph of Section 6 and subject to applicable law, rules or regulations, or any "stop transfer" instructions the Company may give to the Warrant Agent, at any time after the Issuance Date and at or prior to the Close of Business on the Maturity Date, any Warrant Certificate may be transferred, split up, combined or exchanged for another Warrant Certificate representing a like number of Warrants as the Warrant Certificate surrendered then entitled such Holder to exercise. Any Holder desiring to transfer, split up, combine or exchange any Warrant Certificate shall make such request in writing delivered to the Warrant Agent, and shall surrender the Warrant Certificate, together with the form of assignment and certificate duly executed and properly completed and such other documentation that the Company or the Warrant Agent may reasonably request, to be transferred, split up, combined or exchanged at the office or offices of the Warrant Agent designated for such purpose. Any requested transfer of a Warrant Certificate shall be accompanied by satisfactory evidence of authority of the party making such request that may be required by the Warrant Agent. Thereupon the Warrant Agent shall, subject to the last sentence of this first paragraph of Section 6, countersign and deliver to the Person entitled thereto a Warrant Certificate as so requested. The Holder shall be responsible for any tax or governmental charges imposed in connection with any transfer of any Warrant Certificate and, to the extent the Company may be liable for such tax or charges, the Company shall not be required to deliver any Warrant Certificate until the Holder requesting such transfer has paid any tax or governmental charge imposed in connection with such transfer or until it has been established to the Company's reasonable satisfaction that no such tax or governmental charge is due. The Warrant Agent shall not have any duty or obligation to take any action under any section of this Agreement that requires the payment of taxes and/or charges unless and until it is satisfied that all such payments have been made.

(b) If any Warrant Certificate is lost, stolen, mutilated or destroyed, the Company and the Warrant Agent may upon receipt by the Warrant Agent of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of a Warrant Certificate, which evidence shall include an affidavit of loss, or in the case of mutilated certificates, the certificate or portion thereof remaining, and, in case of loss, theft, mutilation or destruction, of indemnity in customary form and amount, provision of an open penalty surety bond satisfactory to the Warrant Agent and holding it and Company harmless, absent notice to Warrant Agent that such certificates have been acquired by a bona fide purchaser and satisfaction of any other reasonable requirements established by Section 8-405 of the Uniform Commercial Code as in effect in the State of New York, and reimbursement to the Company and the Warrant Agent of all reasonable expenses incidental thereto, and upon surrender to the Warrant Agent and cancellation of the Warrant Certificate if mutilated, the Company will issue and deliver a new Warrant Certificate of like tenor to the Warrant Agent for delivery to the Holder in lieu of the Warrant Certificate so lost, stolen, destroyed or mutilated.

(c) A party requesting transfer of Warrant Shares must provide any evidence of authority that may be required by the Warrant Agent, including but not limited to, a signature guarantee from an eligible guarantor institution participating in a signature guarantee program approved by the Securities Transfer Association.

Section 7 Exercise of Warrants; Exercise Price; Expiration Date.

(a) The Warrants shall be exercisable during the Exercise Period (as defined in the Warrant Certificate) in accordance with Section 2 of the Warrant Certificate.

(b) In case the Holder of any Warrant Certificate shall exercise fewer than all Warrants evidenced thereby, a new Warrant Certificate evidencing the number of Warrants equivalent to the number of Warrants remaining unexercised may be issued by the Warrant Agent to the Holder of such Warrant Certificate or to his duly authorized assigns in accordance with Section 2 of the Warrant Certificate, subject to the provisions of Section 6 hereof.

(c) The Company shall calculate and transmit to the Warrant Agent, and the Warrant Agent shall have no obligation under this Agreement to calculate, the cashless exercise ratio. The number of Warrant Shares to be issued on such exercise will be determined by the Company (with written notice thereof to the Warrant Agent) using the formula set forth in Section 3(a)(ii) of the Warrant Certificate, the Warrant Agent shall have no duty or obligation to investigate or confirm whether the Company's determination of the number of Warrant Shares to be issued on such exercise, pursuant to Section 3(a)(ii) of the Warrant Certificate, is accurate or correct.

(d) In the event of a cash exercise of the Warrants, the Company hereby instructs the Warrant Agent to record basis for newly issued Warrant Shares in manner subsequently communicated in writing to the Warrant Agent.

(e) The Company shall provide cost basis for Warrant Shares issued pursuant to a cashless exercise at the time the Company provides the cashless exercise ratio to the Warrant Agent pursuant to Section 3(a)(ii) of the Warrant Certificate.

Section 8 Cancellation and Destruction of Warrant Certificates. All Warrant Certificates surrendered for the purpose of exercise, transfer, split up, combination or exchange shall, if surrendered to the Company or to any of its agents, be delivered to the Warrant Agent for cancellation or in canceled form, or, if surrendered to the Warrant Agent, shall be canceled by it (at the expense of the Company), and no Warrant Certificates shall be issued in lieu thereof except as expressly permitted by any of the provisions of this Agreement. The Company shall deliver to the Warrant Agent for cancellation and retirement, and the Warrant Agent shall so cancel and retire, any other Warrant Certificate purchased or acquired by the Company otherwise than upon the exercise thereof. The Warrant Agent shall deliver all canceled Warrant Certificates to the Company, or shall, at the written request of the Company, destroy such canceled Warrant Certificates, and in such case shall deliver a certificate of destruction thereof to the Company, subject to any applicable law, rule or regulation requiring the Warrant Agent to retain such canceled certificates, and the Warrant Agent's document management policies.

Section 9 Reservation and Availability of Ordinary Shares or Cash.

(a) The Company covenants and agrees that it will cause to be reserved and kept available out of its authorized and unissued Ordinary Shares or its authorized and issued Ordinary Shares held in its treasury, free from preemptive rights, the number of Ordinary Shares that will be sufficient to permit the exercise in full of all outstanding Warrants.

(b) The Company further covenants and agrees that it will pay when due and payable any and all federal and state documentary, stamp or similar issue or transfer taxes and governmental charges which may be payable in respect of the original issuance or delivery of the Warrants or the Warrant Shares. The Company shall not, however, be required to pay any tax or governmental charge which may be payable in respect of any transfer of Warrants or Warrant Shares or the issuance or delivery of Warrant Shares in a name other than that of the Holder of the Warrants surrendered for exercise, all such taxes and governmental charges being the responsibility of the Holder of the Warrants or Warrant Shares at the time of such transfer or of the Holder of the Warrants at the time of such exercise, as applicable, and, to the extent the Company may be liable for such taxes or charges, the Company shall not be required to issue or deliver any Warrant Certificate or certificate for Warrant Shares until such taxes or governmental charges have been duly paid or until the Holder has been established to the Company's reasonable satisfaction that no such tax or governmental charge is due.

Section 10 Adjustment of Exercise Price or Warrant Shares. The Exercise Price and the number of Warrant Shares to be issued upon exercise of the Warrants are subject to adjustment from time to time upon the occurrence of certain events as provided in Section 5 of the Warrant Certificate ("**Adjustment Events**"). All Warrants originally issued by the Company subsequent to any adjustment made to the Exercise Price pursuant to the Warrant Certificate shall evidence the right to purchase, at the adjusted Exercise Price per share, a number of Warrant Shares per Warrant equal to the number of Warrant Shares (as adjusted) in effect from time to time hereunder upon exercise of the Warrants, all subject to further adjustment as provided herein and in the Warrant Certificate. The Company hereby agrees that it will provide the Warrant Agent with reasonable notice of Adjustment Events. The Company further agrees that it will provide the Warrant Agent with any new or amended terms. The Warrant Agent shall have no obligation under any section of this Agreement to determine whether an Adjustment Event has occurred or to calculate any of the adjustments set forth herein.

Section 11 Certification of Adjusted Exercise Price or Warrant Shares. Whenever the Exercise Price or the number of Warrant Shares with respect to each Warrant is adjusted as provided herein or in the Warrant Certificate, the Company shall (a) promptly prepare a certificate setting forth the Exercise Price and number of Warrant Shares as so adjusted, and a brief statement of the facts accounting for such adjustment; (b) promptly file with the Warrant Agent and with each transfer agent for the Ordinary Shares a copy of such certificate; and (c) instruct the Warrant Agent to send a copy thereof to each Holder. The Warrant Agent shall be fully protected in relying on such certificate and on any such adjustment or statement contained therein and shall have no duty or liability with respect to, and shall not be deemed to have knowledge of, any such adjustment or any such event unless and until it shall have received such certificate is accurate and correct.

Section 12 Fractional Ordinary Shares.

(a) The Company shall not issue fractions or scrip representing fractional shares of Warrants or distribute Warrant Certificates which evidence fractional Warrants. If, on Exercise of a Warrant, the Holder would be entitled to a fractional Ordinary Share or a right to acquire a fractional Ordinary Share, such fractional share shall be disregarded and the number of Ordinary Shares issuable upon Exercise shall be the next higher whole number of shares.

(b) The Company shall not issue fractions of Ordinary Shares upon exercise of Warrants or distribute stock certificates which evidence fractional Ordinary Shares. Whenever any fraction of an Ordinary Shares would otherwise be required to be issued or distributed, the actual issuance or distribution in respect thereof shall be made in accordance with Section 6 of the Warrant Certificate.

Section 13 Conditions of the Warrant Agent's Obligations. The Warrant Agent accepts its obligations herein set forth upon the express (and no implied) terms and conditions hereof, including the following to all of which the Company agrees and to all of which the rights hereunder of the Holders from time to time of the Warrant Certificates shall be subject:

(a) Compensation and Indemnification. The Company agrees to pay the Warrant Agent such fees set forth on the fee schedule as mutually agreed between the Company and the Warrant Agent and to reimburse the Warrant Agent for reasonable and documented out-of-pocket expenses (including reasonable counsel fees and other disbursements incurred in the preparation, delivery, negotiation, amendment, administration and execution of this Agreement and the exercise and performance of its duties hereunder) incurred by the Warrant Agent in connection with the services rendered hereunder by the Warrant Agent. The Company also agrees to indemnify the Warrant Agent for, and to hold it harmless against, any loss, liability damage, judgment, fine, penalty, claim, demand, settlement, cost or expense (including, without limitation, the reasonable fees and expenses of legal counsel) incurred without gross negligence, bad faith or willful misconduct on the part of the Warrant Agent (which gross negligence, bad faith or willful misconduct must be determined by a final, non-appealable judgment of a court of competent jurisdiction), for any action taken, suffered or omitted to be taken by the Warrant Agent in connection with the execution, acceptance, administration, exercise and performance of its duties under this Agreement, including the reasonable costs and expenses of defending against any claim in connection herewith, directly or indirectly, or of enforcing its right of indemnification under this Agreement. The costs and expenses incurred in enforcing this right of indemnification shall also be paid by the Company.

(b) Agent for the Company. In acting under this Agreement and in connection with the Warrant Certificates, the Warrant Agent is acting solely as agent of the Company and does not assume any obligations or relationship of agency or trust for or with any of the Holders of Warrant Certificates or beneficial owners of Warrants.

(c) Documents. The Warrant Agent shall be protected and shall incur no liability for or in respect of any action taken or omitted by it in reliance upon any Warrant Certificate, notice, direction, consent, certificate, affidavit, statement or other paper or document reasonably believed by it to be genuine and to have been presented or signed by the proper parties.

(d) Certain Transactions. The Warrant Agent, and its officers, directors and employees, may become the owner of, or acquire any interest in, Warrants, with the same rights that it or they would have if it were not the Warrant Agent hereunder, and, to the extent permitted by applicable law, it or they may engage or be interested in any financial or other transaction with the Company and may act on, or as depositary, trustee or agent for, any committee or body of holders of Warrant Shares or other obligations of the Company as freely as if it were not the Warrant Agent hereunder. Nothing in this Agreement shall be deemed to prevent the Warrant Agent from acting as trustee under any indenture to which the Company is a party.

(e) No Liability for Interest. Unless otherwise agreed in writing with the Company, the Warrant Agent shall have no liability for interest on any monies at any time received by it pursuant to any of the provisions of this Agreement or of the Warrant Certificates.

(f) No Liability for Invalidity. The Warrant Agent shall have no liability with respect to any invalidity of this Agreement or any of the Warrant Certificates (except as to the Warrant Agent's countersignature thereon, which may be either manual, electronic or facsimile signature).

(g) No Responsibility for Representations. The Warrant Agent shall not be responsible for any of the recitals or representations herein or in the Warrant Certificates (except as to the Warrant Agent's countersignature thereon, which may be either manual, electronic or facsimile signature), all of which are made solely by the Company.

(h) No Implied Obligations. The Warrant Agent shall be obligated to perform only such duties as are herein and in the Warrant Certificates specifically set forth and no implied duties or obligations shall be read into this Agreement or the Warrant Certificates against the Warrant Agent. The Warrant Agent shall not be under any obligation to take any action hereunder which may tend to involve it in any expense or liability, the payment of which within a reasonable time is not, in its reasonable opinion, assured to it. The Warrant Agent shall not be accountable or under any duty or responsibility for the use by the Company of any of the Warrant Certificates authenticated by the Warrant Agent and delivered by it to the Company pursuant to this Agreement or for the application by the Company of the proceeds of the Warrant Certificates. The Warrant Agent shall have no duty or responsibility in case of any default by the Company in the performance of its covenants or agreements contained herein or in the Warrant Certificates or in the case of the receipt of any written demand from a Holder of a Warrant Certificate with respect to such default, including, without limiting the generality of the foregoing, any duty or responsibility to initiate or attempt to initiate any proceedings at law. Provided that the Warrant Agent has performed its duties as soon as commercially practicable, the Warrant Agent shall not be liable for the Company's failure to timely deliver the Warrant Shares pursuant to the terms of the Warrants, nor shall the Warrant Agent be liable for any liquidated damages or any other damages associated therewith.

(i) No Duty to Verify Beneficial Ownership. The Warrant Agent shall not have any obligation to verify or confirm the beneficial ownership of Ordinary Shares or any other security of any Holder at any time, and it shall not have any responsibility or liability with respect to the provisions under Section (2)(i) of the Warrant Certificate, including for any exercise of a Warrant that is not in compliance with the exercise limitations thereunder.

(j) Limitation of Liability. Notwithstanding anything contained herein to the contrary, the Warrant Agent's aggregate liability during any term of this Agreement with respect to, arising from, or arising in connection with this Agreement, or from all services provided or omitted to be provided under this Agreement, whether in contract, or in tort, or otherwise, is limited to, and shall not exceed, the amounts paid hereunder by the Company to Warrant Agent as fees and charges, but not including reimbursable expenses, during the twelve (12) months immediately preceding the event for which recovery from Warrant Agent is being sought.

(k) Consequential Damages. Neither party to this Agreement shall be liable to the other party for any consequential, indirect, special or incidental damages under any provisions of this Agreement or for any consequential, indirect, punitive, special or incidental damages arising out of any act or failure to act hereunder even if that party has been advised of or has foreseen the possibility of such damages.

(l) Legal Opinion. As of the date hereof, the Company shall have provided to the Warrant Agent an opinion of counsel, which shall state that all Warrants, and when issued the Warrants Shares, as applicable, (i) were offered, sold or issued as part of an offering that was registered in compliance with the Securities Act of 1933, as amended or pursuant to an exemption from the registration requirements of the 1933 Act, as amended (as the case may be) and (ii) are duly authorized, validly issued by the Company in accordance with the Constitution of the Company and are "non-assessable." For the purpose of this provision, the term "non-assessable" in relation to the Warrants and, when issued, the Warrant Shares, as applicable, means that holders of such Warrants and Warrant Shares, as applicable, having duly and fully paid up all amounts due on such Warrants and Warrant Shares (if any), are under no further liability to make contributions to the Company solely in their capacities, or by virtue of the holder's ownership of such Warrants and Warrant Shares, as applicable.

(m) Confidentiality. The Warrant Agent and the Company agree that all books, records, information and data pertaining to the business of the other party, including inter alia, personal, non-public warrant holder information, which are exchanged or received pursuant to the negotiation or the carrying out of this Agreement including the fees for services set forth in the fee schedule mutually agreed upon by the parties hereto shall remain confidential, and shall not be voluntarily disclosed to any other person, except as may be required by law, including, without limitation, pursuant to subpoenas from state or federal government authorities (e.g., in divorce and criminal actions).

(n) Survival. Notwithstanding anything contained herein to the contrary, the provisions of this Section 13 shall survive termination of this Agreement, the expiration of the Warrants and/or the resignation, removal or replacement of the Warrant Agent.

Section 14 Purchase or Consolidation or Change of Name of Warrant Agent.

(a) Any Person into which the Warrant Agent or any successor Warrant Agent may be merged or with which it may be consolidated, or any Person resulting from any merger or consolidation to which the Warrant Agent or any successor Warrant Agent shall be party, or any Person succeeding to the corporate trust business of the Warrant Agent or any successor Warrant Agent, shall be the successor to the Warrant Agent under this Agreement without the execution or filing of any paper or any further act on the part of any of the parties hereto, provided that such corporation would be eligible for appointment as a successor Warrant Agent under the provisions of Section 16. In case at the time such successor Warrant Agent shall succeed to the agency created by this Agreement any of the Warrant Certificates shall have been countersigned but not delivered, any such successor Warrant Agent may adopt the countersignature of the predecessor Warrant Agent and deliver such Warrant Certificates so countersigned; and in case at that time any of the Warrant Certificates shall not have been countersigned, any successor Warrant Agent may countersign such Warrant Certificates either in the name of the predecessor Warrant Agent or in the name of the successor Warrant Agent; and in all such cases such Warrant Certificates shall have the full force provided in the Warrant Certificates and in this Agreement.

(b) In case at any time the name of the Warrant Agent shall be changed and at such time any of the Warrant Certificates shall have been countersigned but not delivered, the Warrant Agent may adopt the countersignature under its prior name and deliver Warrant Certificates so countersigned; and in case at that time any of the Warrant Certificates shall not have been countersigned, the Warrant Agent may countersign such Warrant Certificates either in its prior name or in its changed name; and in all such cases such Warrant Certificates shall have the full force provided in the Warrant Certificates and in this Agreement.

Section 15 Duties of Warrant Agent. The Warrant Agent undertakes the duties and obligations imposed by this Agreement upon the following express terms and conditions, by all of which the Company, by its acceptance hereof, shall be bound:

(a) From time to time, the Company may provide Warrant Agent with instructions concerning the services performed by the Warrant Agent hereunder. In addition, at any time Warrant Agent may apply to any officer of Company for instruction, and may consult with legal counsel satisfactory to it, who may be legal counsel for the Company, with respect to any matter arising in connection with the services to be performed by the Warrant Agent under this Agreement. The advice or opinion of such counsel shall be full and complete authorization and protection for the Warrant Agent and its agents and subcontractors in respect of any action taken, suffered or omitted by it hereunder in the absence of bad faith and in accordance with the advice or opinion of such counsel. The Warrant Agent and its agents and subcontractors shall not be liable and shall be indemnified by Company for any action taken, suffered or omitted by Warrant Agent in the absence of bad faith and in reliance upon any Company instructions or upon the advice or opinion of such counsel. Warrant Agent shall not be held to have notice of any change of authority of any person, until receipt of written notice thereof from Company.

(b) Whenever in the performance of its duties under this Agreement the Warrant Agent shall deem it necessary or desirable that any fact or matter be proved or established by the Company prior to taking or suffering any action hereunder, such fact or matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate signed by the Chief Executive Officer, President, Chief Financial Officer, any Executive Vice President or any Senior Vice President of the Company; and such certificate shall be full authorization and protection to the Warrant Agent, and the Warrant Agent shall incur no liability for or in respect of any action taken, suffered or omitted to be taken in the absence of bad faith by it under the provisions of this Agreement in reliance upon such certificate.

(c) Subject to the limitation set forth in Section 13, the Warrant Agent shall be liable hereunder only for its own gross negligence, bad faith or willful misconduct (which gross negligence, bad faith or willful misconduct must be determined by a final, non-appealable judgment of a court of competent jurisdiction).

(d) The Warrant Agent shall not be liable for or by reason of any of the statements of fact or recitals contained in this Agreement or in the Warrant Certificates (except its countersignature thereof, which may be either manual, electronic or facsimile signature) by the Company or be required to verify the same, but all such statements and recitals are and shall be deemed to have been made by the Company only.

(e) The Warrant Agent shall not be under any responsibility in respect of the validity of this Agreement or the execution and delivery hereof (except the due execution hereof by the Warrant Agent) or in respect of the validity or execution of any Warrant Certificate (except its countersignature thereof, which may be either manual, electronic or facsimile signature); nor shall it be responsible for any breach by the Company of any covenant or condition contained in this Agreement or in any Warrant Certificate; nor shall it be responsible for the adjustment of the Exercise Price or the making of any change in the number of Ordinary Shares required under the provisions of Section 10 or 12 or responsible for the manner, method or amount of any such change or the ascertaining of the existence of facts that would require any such adjustment or change (except with respect to the exercise of Warrants evidenced by Warrant Certificates after actual notice of any adjustment of the Exercise Price); nor shall it by any act hereunder be deemed to make any representation or warranty as to the authorization or reservation of any Ordinary Shares to be issued pursuant to this Agreement or any Warrant Certificate or as to whether any Ordinary Shares will, when issued, be duly authorized, validly issued and fully paid.

(f) The Company shall perform, execute, acknowledge and deliver or cause to be performed, executed, acknowledged and delivered all such further and other acts, documents, instruments and assurances as may reasonably be required by the Warrant Agent for the carrying out or performing by the Warrant Agent of the provisions of this Agreement.

(g) The Warrant Agent is hereby authorized to accept instructions with respect to the performance of its duties hereunder from the Chief Executive Officer, President, Chief Financial Officer, any Executive Vice President or any Senior Vice President of the Company, and to apply to such officers for advice or instructions in connection with its duties, and it shall not be liable and shall be indemnified and held harmless for any action taken or, suffered or omitted to be taken by it in the absence of bad faith in accordance with instructions of any such officer, provided Warrant Agent carries out such instructions without gross negligence, bad faith or willful misconduct (which gross negligence, bad faith, or willful misconduct must be determined by a final, non-appealable judgment of a court of competent jurisdiction).

(h) The Warrant Agent and any shareholder, director, officer or employee of the Warrant Agent may buy, sell or deal in any of the Warrants or other securities of the Company or become pecuniarily interested in any transaction in which the Company may be interested, or contract with or lend money to the Company or otherwise act as fully and freely as though it were not Warrant Agent under this Agreement. Nothing herein shall preclude the Warrant Agent from acting in any other capacity for the Company or for any other legal entity.

(i) The Warrant Agent may execute and exercise any of the rights or powers hereby vested in it or perform any duty hereunder either itself or by or through its attorney or agents, and the Warrant Agent shall not be answerable or accountable for any act, default, neglect or misconduct of any such attorney or agents or for any loss to the Company resulting from any such act, default, neglect or misconduct, absent gross negligence, bad faith or willful misconduct (each as determined by a final, non-appealable judgment of a court of competent jurisdiction) in the selection or continued employment thereof.

Section 16 Change of Warrant Agent. The Warrant Agent may resign and be discharged from its duties under this Agreement upon thirty (30) days' notice in writing sent to the Company and to each transfer agent of the Ordinary Shares, and to the Holders of record of the Warrant Certificates. In the event the transfer agency relationship in effect between the Company and the Warrant Agent terminates, the Warrant Agent will be deemed to have resigned automatically and be discharged from its duties under this Agreement as of the effective date of such termination, and the Company shall be responsible for sending any required notice thereunder. The Company may remove the Warrant Agent or any successor Warrant Agent upon thirty (30) days' notice in writing, sent to the Warrant Agent or successor Warrant Agent, as the case may be, and to each transfer agent of the Ordinary Shares, and to the Holders of the Warrant Certificates. If the Warrant Agent shall resign or be removed or shall otherwise become incapable of acting, the Company shall appoint a successor to the Warrant Agent. If the Company shall fail to make such appointment within a period of thirty (30) days after such removal or after it has been notified in writing of such resignation or incapacity by the resigning or incapacitated Warrant Agent or by the Holder of a Warrant Certificate (who shall, with such notice, submit his Warrant Certificate for inspection by the Company), then the Holder of any Warrant Certificate may apply to any court of competent jurisdiction for the appointment of a new Warrant Agent, provided that, for purposes of this Agreement, the Company shall be deemed to be the Warrant Agent until a new warrant agent is appointed. Any successor Warrant Agent, whether appointed by the Company or by such a court, shall be a Person, other than a natural person organized and doing business under the laws of the United States or of a state thereof, in good standing, which is authorized under such laws to exercise stock transfer powers and is subject to supervision or examination by federal or state authority and which has at the time of its appointment as Warrant Agent a combined capital and surplus of at least $50,000,000. After appointment, the successor Warrant Agent shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named as Warrant Agent without further act or deed; but the predecessor Warrant Agent shall deliver and transfer to the successor Warrant Agent any property at the time held by it hereunder, and execute and deliver any conveyance, act or deed necessary for the purpose, but such predecessor Warrant Agent shall not be required to make any additional expenditure (without proper reimbursement by the Company) or assume any additional liability in connection with the foregoing. Not later than the effective date of any such appointment, the Company shall file notice thereof in writing with the predecessor Warrant Agent and each transfer agent of the Ordinary Shares, and mail a notice thereof in writing to the Holders of the Warrant Certificates. However, failure to give any notice provided for in this Section 16, or any defect therein, shall not affect the legality or validity of the resignation or removal of the Warrant Agent or the appointment of the successor Warrant Agent, as the case may be.

Section 17 Issuance of New Warrant Certificates. Notwithstanding any of the provisions of this Agreement or of the Warrants to the contrary, the Company may, at its option, issue new Warrant Certificates evidencing Warrants in such form as may be approved by its Board of Directors to reflect any adjustment or change in the Exercise Price per share and the number or kind or class of shares of stock or other securities or property purchasable under the several Warrant Certificates made in accordance with the provisions of this Agreement.

Section 18 Funds. All funds received by Computershare under this Agreement that are to be distributed or applied by Computershare in the performance of its services hereunder (the "**Funds**") shall be held by Computershare as agent for the Company and deposited in one or more bank accounts to be maintained by Computershare in its name as agent for the Company. Until paid pursuant to this Agreement, Computershare may hold or invest the Funds through such accounts in: (a) funds backed by obligations of, or guaranteed by, the United States of America; (b) debt or commercial paper obligations rated A-1 or P-1 or better by S&P Global Inc. ("**S&P**") or Moody's Investors Service, Inc. ("**Moody's**"), respectively; (c) U.S. government and Treasury backed AAA-rated Fixed NAV money market funds that comply with Rule 2a-7 of the Investment Company Act of 1940, as amended; or (d) short term certificates of deposit, bank repurchase agreements, and bank accounts with commercial banks with Tier 1 capital exceeding $1 billion, or with an investment grade rating by S&P (LT Local Issuer Credit Rating), Moody's (Long Term Rating) and Fitch Ratings, Inc. (LT Issuer Default Rating) (each as reported by Bloomberg Finance L.P.). The Warrant Agent shall have no responsibility or liability for any diminution of the Funds that may result from any deposit or investment made by Computershare in accordance with this paragraph, including any losses resulting from a default by any bank, financial institution or other third party. Computershare may from time to time receive interest, dividends or other earnings in connection with such deposits or investments. The Warrant Agent shall not be obligated to pay such interest, dividends or earnings to the Company, any holder or any other party. The Warrant Agent shall forward funds received for warrant exercises in a given month by the fifth (5th) business day of the following month by wire transfer to an account designated by the Company.

Section 19 Notices. Notices or demands authorized by this Agreement to be given or made (i) by the Warrant Agent or by the Holder of any Warrant Certificate to or on the Company; (ii) subject to the provisions of Section 16, by the Company or by the Holder of any Warrant Certificate to or on the Warrant Agent; or (iii) by the Company or the Warrant Agent to the Holder of any Warrant Certificate, shall be deemed given (a) on the date delivered, if delivered personally, (b) on the date deposited thereof with Federal Express or another recognized overnight courier, if sent by Federal Express or another recognized overnight courier, (c) on the date of the mailing thereof with postage prepaid, if mailed by registered or certified mail (return receipt requested), and (d) except in the case of the Warrant Agent, the date of transmission, if such notice or communication is delivered via email attachment at or prior to 5:30 p.m. (Eastern time) on a Business Day and (e) except in the case of the Warrant Agent, the next Business Day after the date of transmission, if such notice or communication is delivered via email attachment on a day that is not a Business Day or later than 5:30 p.m. (Eastern time) on any Business Day, in each case to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(a) If to the Company, to:

Maxeon Solar Technologies, Ltd.
8 Marina Boulevard #05-02
Marina Bay Financial Center, 018981
Singapore
Attention: Lindsey Wiedmann, Chief Legal Officer
Email: lindsey.wiedmann@maxeon.com
with copies (which shall not constitute notice) to:

White & Case
16th floor, York House, The Landmark
15 Queen's Road Central
Hong Kong
Attention: Jessica Zhou; Kaya Proudian
Email: jessica.zhou@whitecase.com; kproudian@whitecase.com

(b) If to the Warrant Agent, to:

Computershare Trust Company, N.A.
Computershare Inc.
150 Royall Street
Canton, MA 02021
Attention: Client Services

For any notice delivered by email to be deemed given or made, such notice must be followed by notice sent by overnight courier service to be delivered on the next business day following such email, unless the recipient of such email has acknowledged via return email receipt of such email.

(c) If to the Holder of any Warrant Certificate, to the address of such Holder as shown on the registry books of the Company. Any notice required to be delivered by the Company to the Holder of any Warrant may be given by the Warrant Agent on behalf of the Company. Notwithstanding any other provision of this Agreement, where this Agreement provides for notice of any event to a Holder of any Warrant, such notice shall be sufficiently given if given to the Depositary (or its designee) pursuant to the procedures of the Depositary or its designee.

Section 20 Supplements and Amendments.

(a) The Company and the Warrant Agent may from time to time supplement or amend this Agreement without the approval of any Holders of the Warrants in order to add to the covenants and agreements of the Company for the benefit of the Holders of the Warrants or to surrender any rights or power reserved to or conferred upon the Company in this Agreement, provided that such addition or surrender shall not adversely affect the interests of the Holders of the Warrants in any material respect. As a condition precedent to the Warrant Agent's execution of any amendment, the Company shall deliver to the Warrant Agent a certificate from a duly authorized officer of the Company that states that the proposed amendment is in compliance with the terms of this Section 20. No supplement or amendment to this Agreement shall be effective unless executed by the Warrant Agent. The Warrant Agent may, but shall not be obligated to, execute any amendment or supplement or waiver that affects the Warrant Agent's own rights, liabilities, duties, obligations or immunities under this Agreement.

(b) In addition to the foregoing, with the consent of Holders of a majority of the outstanding Warrants, the Company and the Warrant Agent may modify this Agreement and/or the Warrant Certificate for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Agreement or the Warrant Certificate or modifying in any manner the rights of the Holders of the Warrants; provided, however, that no modification of the terms upon which the Warrants are exercisable (including, but not limited to, the Exercise Price, the number of Warrant Shares, the Black Scholes Value (as defined in the form of the Warrant Certificate), Section 5(g) of the Warrant Certificate and adjustments described in Section 10) or of this Section 20 or how the number of Warrant Shares into which the Warrants will be convertible is determined may be made without the consent of the Holder of each outstanding Warrant. Any Warrants held by the Company or its Affiliates shall be deemed not to be outstanding for purposes of this Section 20(b). The Company will provide written notice to the Warrant Agent of any amendment to the terms of any Warrants with one or more Holders. The Company shall not amend the Warrants without the written consent of the Warrant Agent, not to be unreasonably withheld or delayed.

Notwithstanding anything to the contrary in this Agreement, solely for purposes of determining whether any notice, direction, action to be taken or consent to be given under this Agreement is authorized, provided or given (as the case may be) by Holders of a sufficient aggregate principal amount of the Warrants, a beneficial owner of an interest in the Warrant shall be treated as a Holder, and the Company shall accept evidence of such beneficial ownership provided by such owner (with written notice thereof to the Warrant Agent), which may be in the form of "screenshots" or other reasonable or customary electronic or other evidence of such beneficial owner's position.

Section 21 Successors. All covenants and provisions of this Agreement by or for the benefit of the Company or the Warrant Agent shall bind and inure to the benefit of their respective successors and assigns hereunder.

Section 22 Benefits of this Agreement. Nothing in this Agreement shall be construed to give any Person other than the Company, the Holders of Warrants and the Warrant Agent any legal or equitable right, remedy or claim under this Agreement; but this Agreement shall be for the sole and exclusive benefit of the Company, the Warrant Agent and the Holders of the Warrants.

Section 23 Governing Law. This Agreement and each Warrant Certificate issued hereunder shall be governed by and construed in accordance with the law of the State of New York, without regard to the principles of conflicts of law thereof. The Company hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper.

Section 24 Counterparts. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument. A signature to this Agreement transmitted electronically shall have the same authority, effect, and enforceability as an original signature.

Section 25 Force Majeure. Notwithstanding anything to the contrary contained herein, the Warrant Agent will not be liable for any delays or failures in performance resulting from acts beyond its reasonable control including, without limitation, acts of God, epidemic, pandemic, terrorist acts, shortage of supply, breakdowns or malfunctions, interruptions or malfunction of computer facilities, or loss of data due to power failures or mechanical difficulties with information storage or retrieval systems, labor difficulties, war, or civil unrest.

Section 26 Entire Agreement. This Agreement and the Warrant Certificate contain the entire agreement and understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. Notwithstanding anything to the contrary contained in this Agreement, in the event of inconsistency between any provision in this Agreement and any provision in a Warrant Certificate, as it may from time to time be amended, all rights, duties, obligations, liabilities and immunities of the Warrant Agent shall be governed and controlled by this Agreement. The Company shall not amend any provisions of the Warrant Certificate without the prior consent of the Warrant Agent, not to be unreasonably withheld or delayed.

Section 27 Severability. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement; *provided, however,* that if such prohibited and invalid provision shall adversely affect the rights, immunities, liabilities, duties or obligations of the Warrant Agent, the Warrant Agent shall be entitled to resign immediately upon written notice to the Company.

Section 28 Captions. The captions of the sections of this Agreement have been inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

MAXEON SOLAR TECHNOLOGIES, LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

COMPUTERSHARE TRUST COMPANY, N.A., and COMPUTERSHARE INC., collectively as Warrant Agent

By: /s/ Collin Ekeogu
Name: Collin Ekeogu
Title: Senior Manager, Corporate Actions

Exhibit 1

Form of Global Warrant Certificate

This Global Warrant Certificate is held by The Depository Trust Company (the "Depository") or its nominee in custody for the benefit of the beneficial owners hereof, and is not transferable to any Person under any circumstances except that (i) this Global Warrant Certificate may be exchanged in whole but not in part pursuant to Section 6(a) of the Warrant Agency Agreement, (ii) this Global Warrant Certificate may be delivered to the Warrant Agent for cancellation pursuant to Section 8 of the Warrant Agency Agreement and (iii) this Global Warrant Certificate may be transferred to a successor Depository with the prior written consent of the Company.

Unless this Global Warrant Certificate is presented by an authorized representative of the Depository to the Company or the Warrant Agent for registration of transfer, exchange or payment and any certificate issued is registered in the name of Cede & Co. or such other entity as is requested by an authorized representative of the Depository (and any payment hereon is made to Cede & Co. or to such other entity as is requested by an authorized representative of the Depository), any transfer, pledge or other use hereof for value or otherwise by or to any Person is wrongful because the registered owner hereof, Cede & Co., has an interest herein.

Transfers of this Global Warrant Certificate shall be limited to transfers in whole, but not in part, to nominees of the Depository or to a successor thereof or such successor's nominee, and transfers of portions of this Global Warrant Certificate shall be limited to transfers made in accordance with the restrictions set forth in Section 6 of the Warrant Agency Agreement.

No registration or transfer of the securities issuable pursuant to the Warrant will be recorded on the books of the Company until such provisions have been complied with.

Certificate No. _____

CUSIP: Y58473 110
Warrant Number: [___]
Issuance Date: [___]

MAXEON SOLAR TECHNOLOGIES, LTD.

GLOBAL WARRANT TO PURCHASE ORDINARY SHARES

FORM OF FACE OF WARRANT CERTIFICATE

VOID AFTER JANUARY 15, 2028,

UNLESS EARLIER TERMINATED PURSUANT TO THE TERMS HEREOF

THIS GLOBAL WARRANT CERTIFICATE CERTIFIES that Cede & Co. or any transferee, assignee or other subsequent holder hereof ("**Holder**") is the registered holder in custody for the benefit of the beneficial owners hereof of a Warrant (the "**Warrant**") of Maxeon Solar Technologies, Ltd., a company incorporated in Singapore with company registration number 201934268H (the "**Company**"), to purchase fully paid ordinary shares of the Company, no par value per share ("**Ordinary Shares**") (the "**Warrant Shares**"), in an amount determined pursuant to Section 1 below, subject to adjustment as provided herein, at a price equal to the Exercise Price as defined in Section 1 below, at any time during the Exercise Period (as defined below).

This Global Warrant Certificate is not valid unless countersigned and registered by the Warrant Agent.

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS WARRANT CERTIFICATE SET FORTH ON THE REVERSE HEREOF. SUCH FURTHER PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS THOUGH FULLY SET FORTH AT THIS PLACE.

IN WITNESS WHEREOF, the undersigned has executed this Global Warrant Certificate as of the Issuance Date set out above.

MAXEON SOLAR TECHNOLOGIES, LTD.

By: _____
Name:
Title:

COMPUTERSHARE TRUST COMPANY, N.A., and COMPUTERSHARE INC., collectively as Warrant Agent

By: _____
Name:
Title:

MAXEON SOLAR TECHNOLOGIES, LTD.

The Holder agrees with the Company that this Warrant to Purchase Ordinary Shares of the Company (this "**Warrant**" or this *"***Agreement**") is issued and all rights hereunder shall be held subject to all of the conditions, limitations and provisions set forth herein.

1. Date of Issuance and Term.

This Warrant shall be deemed to be issued on June 20, 2024 ("**Date of Issuance**"). The term of this Warrant begins on the Date of Issuance and ends at 5:00 p.m., New York City time, on January 15, 2028 (the "**Maturity Date**") unless terminated earlier in accordance with Section 2(g) of this Warrant. This Warrant was issued in conjunction with those certain Exchange Agreements, between the Company and the holders identified therein (in such capacity, a "**Holder**") (as may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof, the "**Exchange Agreement***"*).

The number of Warrant Shares into which this Warrant will be exercisable shall equal up to 10% of the outstanding Ordinary Shares of the Company on a fully diluted basis on the Determination Date (with the percentage calculated in accordance with the Warrant Agency Agreement). The exercise price will be set on the Determination Date and shall initially equal 175% of the FPA Price per Ordinary Share, subject to adjustment pursuant to the terms hereof (as so adjusted, the "**Exercise Price***"*).

After the Determination Date, if this Warrant has not been terminated pursuant to Section 2(g), the Company shall promptly deliver to the Warrant Agent and the Holder a notice setting forth (i) the number of Warrant Shares into which this Warrant is exercisable and (ii) the Exercise Price. The Company shall, upon the written request at any time of the Holder, furnish to the Holder a like Warrant setting forth such number of Warrant Shares and Exercise Price.

For the purposes of the determination of the number of Warrant Shares into which this Warrant will be exercisable and other determinations under this Warrant, "on a fully diluted basis" shall mean all Ordinary Shares outstanding as of the applicable measurement date together with all Ordinary Shares then issuable upon (i) the conversion of the First Lien Notes at the then applicable conversion rate, (ii) the conversion of the Second Lien Notes at the then applicable conversion rate, (iii) the conversion of the Company's 6.50% Green Convertible Senior Notes due 2025 (the **"2025 Notes**"), at the then applicable conversion rate, (iv) the exercise in full of this Warrant and all other Warrants held by the Holders at the then applicable Exercise Price, (v) the exercise in full of the Forward Purchaser Warrant, (vi) the exercise of TZE's option to purchase additional Ordinary Shares under the Amended and Restated Option Agreement, dated as of May 30, 2024, by and between the Company and TZE, (vii) the purchase of Forward Purchase Shares, and (viii) the full exercise, exchange, settlement or conversion of any other Equity Securities or debt securities of the Company that are outstanding (whether vested or unvested) as of immediately prior to the applicable measurement date, including pursuant to any Company Equity Awards; provided that, all conditions to the convertibility and/or exercisability of the Equity Securities and debt securities of the Company, shall be deemed to have been satisfied and the number of Ordinary Shares issuable upon exercise of the Warrant or any other warrants or options shall be deemed to be the number of Ordinary Shares issuable if such securities are exercised for cash as of the date of determination.

For purposes hereof:

"**Affiliate**" means any person or entity that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a person or entity, as such terms are used in and construed under Rule 144.

"**Amended 2029 First Lien Notes Indenture**" means the indenture entered into among the Company, the Guarantors named therein, Deutsche Bank Trust Company Americas, as trustee, DB Trustees (Hong Kong) Limited, as the collateral trustee, and Rizal Commercial Banking Corporation—Trust and Investment Group, as Philippine Supplemental Collateral Trustee, as will be amended and supplemented by a supplemental indenture, in relation to the Amended 2029 First Lien Notes, as may be further amended and supplemented from time to time.

"**Attribution Parties**" means, with respect to a beneficial owner of the Warrants, collectively, the following persons and entities: (i) any direct or indirect Affiliates of the Holder, (ii) any person acting or who could be deemed to be acting as a "group" (within the meaning of Section 13(d)(3) of the Exchange Act) together with such beneficial owner or any Attribution Parties and (iii) any other persons whose beneficial ownership of the Ordinary Shares would or could be aggregated with the beneficial owner and/or any other Attribution Parties for purposes of Section 13(d) of the Exchange Act.

"**Black Scholes Value**" means the value of the Warrant at the time of the public announcement of the applicable Fundamental Transaction, as determined by the Board of Directors of the Company (the "**Board of Directors**"), in good faith, based upon the advice of an independent bank of national standing selected by the Board of Directors, and shall be determined by customary investment banking practices using the Black Scholes model using option pricing inputs selected within one month prior to such public announcement. For purposes of calculating such amount, (i) the term of the Warrant will be the time from the Fundamental Transaction Date to the Maturity Date and the exercise price shall be the then applicable Exercise Price, (ii) the assumed volatility will be the 90-day historical volatility of the Ordinary Shares as shown at the time of determination on Bloomberg or, if such information is not available, 90-day historical volatility of the Ordinary Shares as determined in a commercially reasonably manner by the Board of Directors upon the advice of such bank, but in no case in excess of 85%, (iii) the assumed risk-free rate will equal the yield on U.S. Treasury securities having a maturity nearest to but not later than the Maturity Date, (iv) the price of each Ordinary Share will be the arithmetic average of the VWAP of the Ordinary Shares on each of the ten (10) consecutive Trading Days immediately prior to the public announcement of the applicable Fundamental Transaction and (v) cost of borrowing will be one percent per annum. Prior to the Determination Date, the Exercise Price shall be deemed to be 1.3125 times the price per share under clause (iv) above.

"**Business Day**" means any day, other than a Saturday, Sunday or other day on which commercial banks in the City of New York and Singapore are authorized or required by law to remain closed.

"**Capital Stock**" means any and all shares, interests, participations or other equivalents (however designated) of capital stock of the Company and all warrants or options to acquire such capital stock.

"**Carryover Warrants**" shall mean, for each Warrant, that portion of such Warrant equal to one minus the Black Scholes Proportion, which shall be exercisable for the amount of Registered and Listed Shares that would have been received with respect to the Warrant Shares that would have resulted from exercise of such Warrant immediately prior to consummation of the applicable Fundamental Transaction.

"**Cash**" means such coin or currency of the United States as at any time of payment is legal tender for the payment of public and private debts.

"**Close of Business**" on any given date means 5:00 p.m., Eastern time, on such date; *provided, however,* that if such date is not a Business Day it means 5:00 p.m., Eastern time, on the next succeeding Business Day.

"**Closing Sale Price**" means, as of any date, the last reported per share sales price of an Ordinary Share or any other security on such date (or, if no last reported sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices on such date) as reported by the principal U.S. national or regional securities exchange or quotation system on which the Ordinary Shares or such other security is then listed or quoted; provided, however, that in the absence of such quotations, the Board of Directors will make a good faith determination of the Closing Sale Price.

"**Company Equity Award**" means, as of any determination time, each award to any current or former director, manager, officer, employee, individual independent contractor or other service provider of the Company or any of its Subsidiaries (the "**Group Company**") of rights of any kind to acquire or receive any Equity Security of any Group Company under any Company Equity Plan or otherwise that is outstanding.

"**Company Equity Plans**" means, each plan that provides for the award to any current or former director, manager, officer, employee, individual independent contractor or other service provider of any Group Company of rights of any kind to acquire or receive Equity Securities of any Group Company or benefits measured in whole or in part by reference to Equity Securities of any Group Company.

"**Convertible Securities**" mean any share or securities (other than Options) directly or indirectly convertible into or exercisable or exchangeable for Ordinary Shares.

"**Current Market Price**" means, in connection with a dividend, issuance or distribution, the volume weighted average price per Ordinary Share for the twenty (20) Trading Days ending on, but excluding, the earlier of the date in question and the Trading Day immediately preceding the Ex-Date for such dividend, issuance or distribution for the regular trading session (including any extensions thereof, without regard to pre-open or after hours trading outside of such regular trading session) as reported by the principal U.S. national or regional securities exchange or quotation system on which the Ordinary Shares or such other security is then listed or quoted, whichever is applicable, as published by Bloomberg at 4:15 P.M., New York City time (or 15 minutes following the end of any extension of the regular trading session), on such Trading Day, or if such volume weighted average price is unavailable or in manifest error as reasonably determined in good faith by the Board of Directors, the market value of one Ordinary Share during such twenty (20) Trading Day period determined using a volume weighted average price method by an independent nationally recognized investment bank or other qualified financial institution selected by the Board of Directors. If the Ordinary Shares are not traded on any U.S. national or regional securities exchange or quotation system, the Current Market Price shall be the price per Ordinary Share that the Company could obtain from a willing buyer for Ordinary Shares sold by the Company from authorized but unissued Ordinary Share, as such price shall be determined by a nationally recognized independent investment banking firm selected by the Company.

"**Determination Date**" means the 10th Business Day after the FPA Closing.

"**Equity Securities**" means any share, share capital, Capital Stock, partnership, right of first refusal, restricted stock units, subscription rights, purchase rights, membership, joint venture, or similar interest in any Person (including any stock appreciation, phantom stock, profit participation or similar rights), and any option, call, put, warrant, right or security (including debt securities) convertible, exchangeable or exercisable therefor.

"**Ex-Date**" means, when used with respect to any issuance of or distribution in respect of the Ordinary Shares or any other securities, the first date on which the Ordinary Shares or such other securities trade without the right to receive such issuance or distribution.

"**Excess Shares**" means, with respect to a beneficial owner of the Warrants, in connection with any exercise of the Warrant, the number of Ordinary Shares equal to (i) the Pro Forma Owned Shares less (ii) the Exercise Cap, to the extent it is greater than zero.

"**Exchange**" means any of The New York Stock Exchange, The NASDAQ Global Market or The NASDAQ Global Select Market (or any of their respective successors).

"**Exchange Act**" means the U.S. Securities Exchange Act of 1934, as amended.

"**Exercise Cap**" means, with respect to the Holder, in connection with any exercise of the Warrant, the number of Ordinary Shares equal to the product of the Maximum Percentage and the Pro Forma Outstanding Share Numbers.

"**Exercise Cap Limitation**" means the limitation on the Company to issue any Ordinary Shares to any Holder as a result of Section 2(i).

"**Exercise Period**" means the period commencing on the date that is 10 Business Days after the FPA Closing and ending on the Maturity Date.

"**First Lien Notes**" means, collectively, (i) $207 million Variable-Rate First Lien Senior Secured Convertible Notes due 2029 of the Company, and (ii) $97.5 million 9.00% First Lien Senior Secured Convertible Notes due 2029 (the "**New 2029 First Lien Notes**").

"**First Lien Notes Indentures**" means, collectively, the Amended 2029 First Lien Notes Indenture and the New 2029 First Lien Notes Indenture.

"**Fundamental Transaction Date**" means the date on which a Fundamental Transaction is consummated.

"**Fundamental Transaction**" means any of the following events:

(a) a "person" or "group" (within the meaning of Section 13(d)(3) of the Exchange Act), other than the Company or its wholly owned Subsidiaries, or their respective employee benefit plans), files a Schedule TO (or any successor schedule, form or report) or any report under the Exchange Act disclosing that such person or group has become the direct or indirect "beneficial owner" (as defined below) of Ordinary Shares representing more than fifty percent (50%) of the voting power of all of the Ordinary Shares; *provided*, *however*, that, for purposes of this clause (a), no person or group will be deemed to be a beneficial owner of any securities tendered pursuant to a tender offer or exchange offer made by or on behalf of such person or group until such tendered securities are accepted for purchase or exchange in such offer;

(b) the consummation of (i) any sale, lease or other transfer, in one transaction or a series of transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person, other than solely to one or more of the Company's wholly owned Subsidiaries; or (ii) any transaction or series of related transactions in connection with which (whether by means of merger, consolidation, share exchange, combination, reclassification, recapitalization, acquisition, liquidation or otherwise) (other than changes solely resulting from a subdivision or combination of the Ordinary Shares or solely a change in the par value or nominal value of the Ordinary Shares) all of the Ordinary Shares are exchanged for, converted into, acquired for, or constitute solely the right to receive, other securities, cash or other property; *provided*, *however*, that any transaction described in clause (b)(ii) above pursuant to which the Persons that directly or indirectly "beneficially owned" (as defined below) all classes of the Company's common equity immediately before such transaction directly or indirectly "beneficially own," immediately after such transaction, more than fifty percent (50%) of all classes of common equity of the surviving, continuing or acquiring company or other transferee, as applicable, or the parent thereof, in substantially the same proportions vis-à-vis each other as immediately before such transaction will be deemed not to be a Fundamental Transaction pursuant to this clause (b);

(c) the Company's shareholders approve any plan or proposal for the liquidation or dissolution of the Company;

(d) the Forward Purchaser or any of its Affiliates become the direct or indirect "beneficial owner" of Ordinary Shares representing more than the greater of (i) eighty-five percent (85%) of the voting power of all of the Ordinary Shares, and (ii) the Relevant Investor Ownership Percentage;

(e) at any time after Issuance Date, the Ordinary Shares are not listed on an Exchange;

provided, *however*, that (i) a transaction or event described in clause (a) or (b) above will not constitute a Fundamental Transaction if at least ninety percent (90%) of the Market Price of the consideration received or to be received by the holders of Ordinary Shares (excluding cash payments for fractional shares or pursuant to dissenters rights), in connection with such transaction or event, consists of ordinary shares or shares of common stock or other corporate common equity listed on any of Exchange or that will be so listed when issued or exchanged in connection with such transaction or event (such shares, "***Registered and Listed Shares***"), and such transaction or event constitutes a Reorganization Event whose Reference Property consists of such consideration; or (ii) a transaction or event described in clause (a) above will not constitute a Fundamental Transaction if such a transaction or event occurs as a result of (w) the Forward Purchaser's beneficial ownership of any First Lien Notes or any of the Second Lien Notes or the Ordinary Shares such First Lien Notes or Second Lien Notes are convertible into, (x) the Forward Purchaser's exercise of its right to convert the any First Lien Notes or Second Lien Notes beneficially owned by it pursuant to the terms of the First Lien Notes Indentures or the Second Lien Notes Indenture, (y) the receipt by the Forward Purchaser of any Ordinary Shares issued by the Company in payment of interest due and payable on any First Lien Notes or the Second Lien Notes pursuant to the terms of the First Lien Notes Indentures or the Second Lien Notes Indenture, as the case may be, (z) the receipt by the Forward Purchaser of the Forward Purchase Shares at the FPA Closing, (aa) the receipt by the Forward Purchaser of any Ordinary Shares in connection with any exercise under the Warrant to Purchase Ordinary Shares of the Company held by the Forward Purchaser (the "**Forward Purchaser Warrant**"), and/or (bb) any other transaction entered into or action taken by the Forward Purchaser pursuant to other agreements and/instruments existing on the Issuance Date, through which the Forward Purchaser acquires Capital Stock of the Company or options, warrants, convertible notes or other securities convertible or exercisable into Capital Stock of the Company (the events and/or transactions described in clauses (w) through (bb), collectively, the "**Relevant Investor Events**").

For the purposes of this definition, any transaction or event described in both clause (a) and in clause (b) above (without regard to the proviso in clause (b)) will be deemed to occur solely pursuant to clause (b) above (subject to such proviso).

For the purpose of this Warrant, whether a Person is a "**beneficial owner**" and whether shares are "**beneficially owned**" will be determined in accordance with Rule 13d-3 under the Exchange Act.

"**Fundamental Transaction Payment Amount**" means an amount in Cash equal to the product of (1) the Black Scholes Value multiplied by (2) a fraction, (x) the numerator of which is the Market Price of the Other Property received in exchange for an Ordinary Share in a Fundamental Transaction as of the Fundamental Transaction Date (as determined by an independent investment bank of national standing selected by the Company and determined by customary investment banking practices) and (y) the denominator of which is the sum of (a) the Closing Sale Price of the Registered and Listed Shares received in exchange for an Ordinary Share in a Fundamental Transaction as of the Fundamental Transaction Date (if any), and (b) the Market Price (determined as above) of the Other Property as of the Fundamental Transaction Date received in exchange for an Ordinary Share in a Fundamental Transaction (such fraction referred to herein as the "**Black Scholes Proportion**").

For purposes of determining the Fundamental Transaction Payment Amount, if holders of Ordinary Shares are entitled to receive differing forms or types of consideration in any transaction or series of transactions contemplated by the definition of "**Fundamental Transaction**" each holder shall be deemed to have received the same proportion of Other Property and Registered and Listed Shares that all holders of Ordinary Shares in the aggregate elected or were required to receive in such transaction or transactions.

"**Forward Purchase Agreement**" means that certain forward purchase agreement, dated as of June 14, 2024, between the Company and Zhonghuan Singapore Investment and Development Pte. Ltd. (in such capacity, the "**Forward Purchaser**"), pursuant to which the Forward Purchaser agreed to purchase Ordinary Shares (the "**Forward Purchase Shares**") for an aggregate purchase price of $100,000,000, subject to the terms and conditions therein.

"**FPA Closing**" means the closing of the Forward Purchaser's purchase of the Forward Purchase Shares pursuant to the terms of the Forward Purchase Agreement.

"**FPA Price**" means the price per share at which the Forward Purchaser purchases the Forward Purchase Shares pursuant to the terms of the Forward Purchase Agreement.

"**Holder**" has the meaning set forth in the preamble to this Warrant.

"**HSR Approval**" means the expiration or termination of all waiting periods (and all extensions thereof) in connection with the exercise of this Warrant under the HSR Act.

"**Market Price**" means (w) if in reference to cash, the current cash value on the date of measurement in U.S. dollars, (x) if in reference to equity securities or securities included within Other Property, which are listed or admitted for trading on a national securities exchange, the average closing price of a share (or similar relevant unit) of such securities as reported on the principal national securities exchange on which the shares (or similar relevant units) of such securities are listed or admitted for trading, (y) if in connection with a determination of Black Scholes Value, the volume weighted average price per Ordinary Share, or (z) in all other cases, the value as determined in good faith by the Board of Directors of the Company. In each such case, the average price shall be averaged over a period of twenty-one (21) consecutive trading days consisting of the trading day immediately preceding the day on which the "**Market Price**" is being determined and the twenty (20) consecutive trading days prior to such day.

"**Maximum Percentage**" means 9.9%.

"**New 2029 First Lien Notes Indenture**" means an indenture between the Company, the Guarantors named therein, DB Trustees (Hong Kong) Limited, as the collateral trustee, and Deutsche Bank Trust Company Americas, as trustee, in relation to the New 2029 First Lien Notes, as may be amended and supplemented from time to time.

"**New Warrants**" shall have the meaning set forth in Section 5(e)(iii).

"**New Warrant Exercise Price**" means, with respect to New Warrants, an amount equal to the Exercise Price in effect immediately prior to the time of issuance of New Warrants multiplied by one minus the Black Scholes Proportion.

"**Options**" means any rights, warrants or options to subscribe for or purchase Ordinary Shares or Convertible Securities.

"**Other Property**" means any cash, property or other securities received in a Fundamental Transaction other than Registered and Listed Shares.

"**Person**" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity or a government or any department or agency thereof.

"**Pro Forma Outstanding Share Numbers**" means, with respect to any exercise of the Warrant, the sum of the most recent Reported Outstanding Share Numbers and the number of Warrant Shares to be issued in connection with such exercise, without giving effect to Section 2(i).

"**Pro Forma Owned Shares**" means with respect to the Holder, in connection with any exercise of the Warrant, the aggregate number of Warrant Shares held and/or beneficially owned by the Holder together with the applicable Attribution Parties, plus the number of Ordinary Shares held and/or beneficially owned by such Holder together with the applicable Attribution Parties plus the number of Warrant Shares issuable upon the exercise of the Warrant with respect to which the determination is being made, without giving effect to Section 2(i), but, for the avoidance of doubt, shall exclude the number of Warrant Shares which would be issuable upon (i) exercise of the remaining outstanding Warrants held and/or beneficially owned by the Holder or the applicable Attribution Parties and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company held and/or beneficially owned by such Holder or any applicable Attribution Party (including, without limitation, any convertible notes, convertible stock or warrants) that are subject to a limitation on conversion or exercise analogous to the limitation contained in Section 2(i).

"**Record Date**" means, with respect to any dividend, distribution or other transaction or event in which the holders of Ordinary Shares have the right to receive any Cash, securities or other property or in which Ordinary Shares (or other applicable security) is exchanged for or converted into any combination of Cash, securities or other property, the date fixed for determination of holders of Ordinary Shares entitled to receive such Cash, securities or other property (whether such date is fixed by the Board of Directors or by statute, contract or otherwise).

"**Relevant Investor Ownership Percentage**" means, at any time of determination, a percentage equal to the sum of (A) (x) the voting power of all of the Ordinary Shares beneficially owned by the Forward Purchaser or any of its Affiliates at such time, after giving effect to the Relevant Investor Events, divided by (y) the voting power of all of the outstanding Ordinary Shares of the Company, after giving effect to the Relevant Investor Events and assuming the settlement of the Optional Exchange (as defined in the Second Lien Notes Indenture) in full (without giving any effect to Section 2(i)) and (B) five percent (5%).

"**Reported Outstanding Share Number**" means the number of outstanding Ordinary Shares as reflected in (1) the Company's most recent Form 20-F, Current Report on Form 6-K or other public filing with the SEC, as the case may be, or (2) a more recent public announcement by the Company.

"**Rule 144**" means Rule 144 under the Securities Act.

"**Second Lien Notes**" means the Convertible Second Lien Senior Secured Notes due 2028 of the Company, which shall include both the Tranche A 4.0% Cash/5.5% PIK Convertible Second Lien Senior Secured Notes due 2028 ("**Tranche A Second Lien Convertible Notes**") and the Tranche B Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028.

"**Second Lien Notes Indenture**" means the indenture entered into among the Company, the Guarantors named therein, Deutsche Bank Trust Company Americas, as trustee, DB Trustees (Hong Kong) Limited, as the collateral trustee, and Rizal Commercial Banking Corporation-Trust and Investment Group, as Philippine Supplemental Collateral Trustee in relation to the Second Lien Notes, as may be amended and supplemented from time to time.

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

"**Subsidiary**" means, with respect to any Person, any corporation, partnership, joint venture or other legal entity as to which such Person (either alone or through or together with any other Subsidiary), (a) owns, directly or indirectly, more than fifty percent (50%) of the stock or other equity interests, (b) has the power to elect a majority of the board of directors or similar governing body, or (c) has the power to direct the business and policies.

"**Trading Day**" means any day on which the Ordinary Shares are traded for any period on NASDAQ, or on the principal United States securities exchange or market on which the Ordinary Shares are then being traded; *provided, however,* that during any period in which the Ordinary Shares are not listed or quoted on NASDAQ, or any other United States securities exchange or market, the term "**Trading Day**" shall mean any Business Day.

"**Transfer Agent**" means Computershare Inc., a Delaware corporation, and its affiliate, Computershare Trust Company, N.A., a federally chartered trust company, and any successor transfer agent of the Company.

"**TZE**" means Zhonghuan Singapore Investment and Development Pte. Ltd., and/or its Affiliates.

"**Warrant Agency Agreement**" means that certain Warrant Agency Agreement dated as of the Issuance Date, between the Company and the Warrant Agent.

"**Warrant Agent**" means Computershare Inc., a Delaware corporation, and its affiliate, Computershare Trust Company, N.A., a federally chartered trust company, and any successor Warrant Agent under the Warrant Agency Agreement.

"**Warrant Number**" has the meaning set forth in the preamble to this Warrant.

For purposes of this Warrant, terms used herein and not otherwise defined herein shall have the meanings given to such terms in the Warrant Agency Agreement.

2. Exercise.

(a) *Manner of Exercise.* During the Exercise Period, this Warrant may be exercised as to all or any lesser number of whole Warrant Shares covered hereby (the "**Exercise Shares**") at the Holder's election (x) in the case of Warrants represented by a Warrant certificate that is not a Global Warrant, delivery to the Company by the Holder (by electronic mail in accordance with Section 14 below) of the Exercise Form attached hereto as Exhibit A (the "**Exercise Form**") duly completed and executed, or (y) in the case of Global Warrants, complying with the applicable procedures of the Depositary (any such exercise of the Warrant being hereinafter called an "**Exercise**" of this Warrant). The date on which such applicable requirements are complied with is an "**Exercise Date**." If (and only if) Cash Exercise is applicable to such exercise pursuant to Section 3(a)(i) below, the Holder shall deliver the aggregate Exercise Price for the Warrant Shares covered by such exercise to the Warrant Agent at the office of the Warrant Agent designed for such purpose from time to time, by (A) wire transfer from a United States bank payable to the Warrant Agent or (B) payment to the Warrant Agent through the DTC system, unless cashless exercise is applicable, by no later than 10:00 a.m. Eastern time on the Trading Day immediately following the applicable Exercise Date. If less than all of the Warrants evidenced by a Warrant surrendered upon the exercise of the purchase rights represented by the Warrants are exercised at any time prior to the expiration of the Warrants, a new Warrant Certificate shall be issued for the remaining number of such Warrants, and the Warrant Agent is hereby authorized to countersign the required new Warrant pursuant to the terms of the Agreement. Partial exercises of this Warrant shall have the effect of lowering the outstanding number of Warrants represented hereby in an amount equal to the applicable number of Warrants exercised, and any new Warrant issued as a result thereof shall reflect such applicable lower number. The Holder and the Company shall maintain records showing the number of Warrants exercised and the date of such exercises. So long as this Warrant is held in global form through DTC (or any successor Depository) or in book-entry form, Holder shall not be required to deliver the original Warrant in order to effect an exercise hereunder, nor shall any ink-original signature or medallion guarantee (or other type of guarantee or notarization) with respect to any Exercise Form be required. Together with the delivery of the Exercise Form, the Holder shall deliver to the Company a written notice setting forth the Pro Forma Owned Shares, the Exercise Cap and the Excess Share, if any (the "**Holder's Ownership Information Notice**"). If the Holder fails or refuses to provide the Company the Holder Ownership Information Notice together with the applicable Exercise Form, the Holder shall be deemed to represent and warrant to the Company that no Exercise Cap Limitation shall apply to such exercise, and the Company shall be entitled to disregard any Exercise Cap Limitation in connection with such exercise.

(b) *Date of Exercise.* On the Exercise Date, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Exercise Shares with respect to which this Warrant has been Exercised, irrespective of the date such Exercise Shares are credited to the Holder's or its designee's Depository Trust Company ("**DTC**") account or the date of delivery of the certificates evidencing such Exercise Shares, as the case may be, provided that payment of the aggregate Exercise Price (solely in the case of Cash Exercise) is received by no later than 10:00 a.m. Eastern time on the Trading Day immediately following the applicable Exercise Date. In the case of Warrants represented by a Warrant certificate that is not a Global Warrant, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Exercise Shares available hereunder and the Warrant has been exercised in full, in which case the Holder shall surrender this Warrant to the Company for cancellation within three Trading Days following the date the final Exercise Form is delivered to the Warrant Agent.

(c) *Delivery of Warrant Shares Upon Exercise.* The Company shall instruct the Warrant Agent to cause the Exercise Shares issuable hereunder to be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder or its designee with the Depository through its Deposit or Withdrawal at Custodian system ("**DWAC**") in lieu of delivering physical certificates representing the Exercise Shares or legend removal, unless the Holder requests physical certificates in writing, by the date that is within (i) five (5) Trading Days, if the Holder elects to have the relevant Exercise Shares credited to its or its designee's DTC account, or (ii) fifteen (15) Trading Days, if the Holder elects to receive certificates evidencing such Exercise Shares, as the case may be, after any Exercise Date but, solely if Cash Exercise is applicable to such exercise, no earlier than such time as the aggregate Exercise Price has been delivered to the Warrant Agent (the "**Delivery Period**"). The Company agrees to maintain a transfer agent that is a participant in the FAST program so long as the Warrants remain outstanding and exercisable. The Warrant Shares issuable hereunder shall be issued free of any restrictive legends and bearing an unrestricted CUSIP number.

(d) *Delivery Failure.* Subject to Section 3(b), in addition to any other remedies which may be available to the Holder, in the event that the Company fails to instruct the Transfer Agent to effect delivery of the applicable Exercise Shares by the end of the Delivery Period (a "**Delivery Failure**") (other than any such failure that is solely due to any action or inaction by the Holder with respect to such exercise), the Holder will be entitled to revoke all or part of the relevant Exercise by delivery of a notice to such effect to the Warrant Agent, whereupon the Warrant Agent and the Holder shall each be restored to their respective positions immediately prior to the delivery of such notice of revocation. Provided that the Warrant Agent has performed its duties as soon as commercially practicable, the Warrant Agent shall not be liable for the Company's failure to timely deliver the Exercise Shares pursuant to the terms of the Warrants, nor shall the Warrant Agent be liable for any liquidated damages or any other damages associated therewith. For purposes of this paragraph, references to the Holder include the beneficial owner of the Warrants.

(e) *Holder Representations.* The Holder acknowledges and agrees that (i) the consideration for the Warrant is no less than S$200,000 (or its equivalent in a foreign currency) which shall be paid for in cash or by exchange of securities, securities-based derivatives contracts or other assets, (ii) it is not purchasing the Warrant with a view to all or any of such Warrant being subsequently offered for sale to another person, and (iii) this document has not been and no document or material will be lodged or registered as a prospectus with the Monetary Authority of Singapore.

(f) *Cancellation of Warrant.* This Warrant shall be canceled upon the full Exercise of this Warrant. If this Warrant is not exercised in full, then as soon as practical after the Exercise Date, the Holder shall be entitled to receive a new Warrant (containing terms identical to this Warrant) representing the unexercised portion of this Warrant (in addition to the Warrant Shares issuable upon such Exercise); *provided, however,* as set forth in Section 2(b), the Holder shall not be required to physically surrender this Warrant if the Warrant is not exercised in full.

(g) *Termination of Warrant.* If, on the Determination Date, after giving effect to the issuance of the Forward Purchase Shares upon FPA Closing and the issuance of Ordinary Shares in the Optional Exchange (as defined in the Second Lien Notes Indenture), former holders of the Tranche A Second Lien Convertible Notes and their transferees beneficially own, in aggregate, at least 30.0% of the equity interest in the Company calculated as follows:

$$A / (A + B + C + D)$$

Where:

A = the aggregate number of Warrant Shares issuable upon the exchange in full, at the Company's option pursuant to the terms set forth in Section 4.04 of the Second Lien Notes Indenture, of the then-outstanding Tranche A Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028 (the "**Tranche A Second Lien Notes**"), which, for the avoidance of doubt, shall include any Warrant Shares previously issued to Holders upon conversion of the Tranche A Second Lien Convertible Notes;

B = the number of Ordinary Shares issuable under the Forward Purchaser Warrant as antidilution protection for the Tranche A Second Lien Notes (the "**Forward Purchaser Warrant Tranche A**"), assuming Forward Purchaser Warrant Tranche A is exercised in full;

C = the number of outstanding Ordinary Shares of the Company at the time of determination; and

D = the number of Forward Purchase Shares, then this Warrant shall be automatically terminated and the Company shall cease to have any obligations under this Warrant, and the Company shall promptly deliver a notice to the Warrant Agent informing the Warrant Agent that this Warrant has been terminated.

(h) *Holder of Record.* Each person in whose name any Warrant for Ordinary Shares is issued shall, for all purposes, be deemed to be the Holder of record of such shares on the Exercise Date, irrespective of the date of delivery of the Ordinary Shares purchased upon the Exercise of this Warrant.

(i) *Limitation on Exercise.* Notwithstanding anything to the contrary contained herein, the Company is entitled to not effect any delivery of the Exercise Shares, and the beneficial owner of the Warrant shall not have the right to exercise the Warrant, to the extent that immediately following such exercise, such beneficial owner of the Warrant, together with the Attribution Parties, beneficially owns or would beneficially own the Ordinary Shares in excess of the Exercise Cap. The Company's obligation to deliver the Excess Shares in connection with any exercise of the Warrant shall be suspended and not extinguished, and the Company shall deliver such Excess Shares within five (5) Business Days following delivery of written notice from the beneficial owner of the Warrant to the Company that the receipt of such Excess Share will not be restricted under the preceding sentence.

(j) *HSR Submissions.* If the Holder determines that, in connection with the exercise of this Warrant, it and the Company are required to file Premerger Notification Reports with the Federal Trade Commission (the "**FTC**") and the United States Department of Justice ("**DOJ**") and observe the waiting period under the Hart-Scott Rodino Antitrust Improvements Act of 1976, as amended, and the related rules and regulations promulgated thereunder (collectively, the "**HSR Act**"), (a) the Company agrees to (i) cooperate with the Holder in the Holder's preparing and making such submission and any responses to inquiries of the FTC and DOJ; and (ii) prepare and make any submission required to be filed by the Company under the HSR Act and respond to inquiries of the FTC and DOJ in connection therewith, and (b) the Holder agrees to not exercise any or all portion of this Warrant prior to the receipt of HSR Approval. For the avoidance of doubt, the Holder shall bear all of its other costs and expenses in connection with such submission, including any of its attorneys' fees associated therewith.

(k) *Taxes*. The Company shall be responsible for paying all present or future stamp, court or documentary, intangible, recording, filing or similar taxes that arise from the execution or delivery of, or the Company's performance of this Agreement; *provided* that the Company shall not be required to pay any tax which may be payable in respect of any transfer and the issuance and delivery of any Ordinary Shares in a name other than that of the initial Holder.

3. Payment of Warrant Exercise Price for Cash Exercise or Cashless Exercise.

(a) *Exercise Price.* The exercise price will be initially determined as set forth in Section 1, subject to adjustment pursuant to the terms hereof.

Payment of the Exercise Price may be made by any of the following at the election of the Holder:

(i) Cash Exercise: The Holder may pay the Exercise Price in cash, bank or cashier's check or wire transfer (a "**Cash Exercise**"); or

(ii) Cashless Exercise: In lieu of paying the Exercise Price in cash, the Holder, at its option, may exercise this Warrant (in whole or in part) on a cashless basis by making appropriate notation on the applicable Exercise Form or complying with the applicable procedures of the Depositary in which event the Company shall issue to the Holder a number of Warrant Shares computed using the following formula (a "**Cashless Exercise**"):

$$X = Y \times [(A-B)/A]$$

where: X = the number of Warrant Shares to be issued to the Holder.

Y = the number of Warrant Shares for which this Warrant is being exercised.

A = the Trading Price of one Ordinary Share (for purposes of this Section 3(a)(ii)), where "**Trading Price**," as of any date, means the arithmetic average of the VWAP of the Ordinary Shares on each of the ten (10) consecutive Trading Days immediately preceding the Exercise Date, or other date in question, as applicable).

B = the Exercise Price.

As used herein, the "**VWAP**" means, for any Trading Day, the per share volume-weighted average price of the Ordinary Shares as displayed under the heading "**Bloomberg VWAP**" on Bloomberg page identified by "**MAXN**" (or such other ticker symbol for such Ordinary Shares) appended by the suffix "<EQUITY> AQR" (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such Trading Day (or, if such volume- weighted average price is unavailable, the market value of one Ordinary Share on such Trading Day, reasonably determined, using a volume-weighted average price method, by a nationally recognized independent investment banking firm selected by the Company. The VWAP will be determined without regard to after-hours trading or any other trading outside of the regular trading session.

For purposes of Rule 144 and subsection (d)(3)(ii) thereof, it is intended, understood and acknowledged that the Ordinary Shares issuable upon Exercise of this Warrant in a Cashless Exercise shall be deemed to have been acquired, and the holding period thereof shall be deemed to have commenced, at the time this Warrant was issued, or such earlier time as permitted by Rule 144. As provided in Section 2(b), the Holder shall only be required to physically surrender this Warrant in the event that the Holder is exercising this Warrant in full.

If the foregoing calculation results in a negative number, then no Warrant Shares shall be issuable via a Cashless Exercise. The number of Warrant Shares to be issued on such exercise will be determined by the Company (with written notice thereof to the Warrant Agent) using the formula set forth in this Section 3. The Warrant Agent shall have no duty or obligation to investigate or confirm whether the Company's determination of the number of Warrant Shares to be issued on such exercise, pursuant to this Section 3, is accurate or correct.

(b) *Dispute Resolution.* In the case of a dispute as to the determination of the closing price or the VWAP of the Ordinary Shares, the Company shall submit the disputed determinations or arithmetic calculations via electronic mail within two Trading Days of receipt, or deemed receipt, of the Exercise Form, or other event giving rise to such dispute, as the case may be, to the Holder. If the Holder and the Company are unable to agree upon such determination or calculation within two Trading Days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Company shall, within two Trading Days, submit via electronic mail the disputed determination of the closing price or the VWAP of the Ordinary Shares to an independent, reputable investment bank selected by the Company and approved by the Holder, which approval shall not be unreasonably withheld. The Company shall use its reasonable best efforts to cause the investment bank to perform the determinations or calculations and notify the Company and the Holder of the results no later than five Trading Days from the time it receives the disputed determinations or calculations. Such investment bank's determination shall be binding upon all parties absent demonstrable error, and the Company and Holder shall each pay one half of the fees and costs of such investment bank.

(c) For the avoidance of doubt, in the event that a dispute referred to in Section 3(b)occurs and is continuing, the Company may suspend its obligations to issue and deliver any Exercise Share within the relevant Delivery Period pursuant to Section 2. If so suspended, the Company shall resume performing such obligations to issue and deliver the relevant Exercise Shares within the relevant Delivery Period starting from the date that a binding resolution of such dispute is reached in accordance with Section 3(b) (such date, the "**Resolution Date**"), as if such Resolution Date is the relevant Exercise Date for the purpose of calculating the relevant Delivery Period.

Notwithstanding the existence of a dispute contemplated by this paragraph, if requested by the Holder, the Company shall issue to the Holder the Exercise Shares, if any, that are not in dispute in accordance with the terms hereof.

4. Transfer and Redemption.

(a) *Transfer Rights.* This Warrant may be transferred, in whole or in part, upon surrender at the principal office of the Company or the office or offices of its designated agent (which includes the Warrant Agent) of this Warrant properly completed and endorsed. This Warrant shall be canceled upon such surrender and, as soon as practicable thereafter, the person to whom such transfer is made shall be entitled to receive a new Warrant or Warrants as to the portion of this Warrant transferred, and the Holder shall be entitled to receive a new Warrant as to the portion hereof retained, if any. The Company and the Warrant Agent shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. At any time when the Holder has assigned this Warrant in full, the Holder shall surrender this Warrant to the Company within three (3) Trading Days of the date the Holder delivers an assignment form to the Company assigning this Warrant in full. The Warrants, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued. Any party requesting transfer of Warrants or the Warrant Shares must provide any evidence of authority that may be required by the Warrant Agent, including, but not limited to, a signature guarantee from an eligible guarantor institution participating in a signature guarantee program approved by the Securities Transfer Association.

(b) Except as set forth in Section 5(e), the Warrants shall not be redeemable by the Company or any other Person.

(c) New Warrant Certificates. If this Warrant Certificate is not held in global form through DTC (or any successor Depositary), this Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company or the Warrant Agent, together with a written notice specifying the names and denominations in which new Warrant Certificates are to be issued, signed by the Holder or its agent or attorney. As to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant Certificate or Certificates in exchange for the Warrant Certificate or Certificates to be divided or combined in accordance with such notice. All Warrant Certificates issued on transfers or exchanges shall be dated the Issuance Date and shall be identical with this Warrant Certificate except as to the number of Warrants represented thereby.

5. Adjustments Upon Certain Events.

(a) *Recapitalization or Reclassification*. If, following the Date of Issuance, the Company shall at any time effect any subdivision of outstanding Ordinary Shares (by any share split, share dividend, recapitalization or otherwise), combination of outstanding Ordinary Shares (by consolidation, combination, reverse share split or otherwise), reclassification or other similar transaction of such character that Ordinary Shares shall be changed into or become exchangeable for a larger or smaller number of shares (a "**Share Event**"), then upon the effective date thereof, the number of Warrant Shares which the Holder shall be entitled to purchase upon Exercise of this Warrant shall be increased or decreased, as the case may be, in direct proportion to the increase or decrease in the number of Ordinary Shares by reason of such Share Event, and the Exercise Price shall be, in the case of an increase in the number of shares, proportionally decreased or, in the case of decrease in the number of shares, proportionally increased. The Company shall give the Holder the same notice it provides to holders of Ordinary Shares of any transaction described in this Section 5(a).

(b) *Other Adjustments*. The applicable Exercise Price and the number of Warrant Shares issuable upon the exercise of each Warrant are subject to adjustment from time to time upon the occurrence of the events enumerated in this Section 5(b).

(i) The issuance of Ordinary Shares as a dividend or distribution to all holders of Ordinary Shares, in which event the Exercise Price shall be adjusted based on the following formula:

$$EP_1 = EP_0 \, x \quad \frac{OS_0}{OS_1}$$

where:

EP_0 = the Exercise Price in effect immediately prior to the Close of Business on the Record Date for such dividend or distribution;

EP_1 = the Exercise Price in effect immediately after the Close of Business on the Record Date for such dividend or distribution;

OS_0 = the number of Ordinary Shares outstanding immediately prior to the Close of Business on the Record Date for such dividend or distribution; and

OS_1 = the number of Ordinary Shares that would be outstanding immediately after, and solely as a result of, such dividend or distribution.

Such adjustment shall become effective immediately after the Close of Business on the Record Date for such dividend or distribution. If any dividend or distribution is declared or announced but not so paid or made, the Exercise Price shall again be adjusted to be the Exercise Price that would then be in effect if the distribution had not been declared or announced.

(ii) The issuance to all holders of Ordinary Shares of rights or warrants entitling them for a period expiring 60 days or less from the date of issuance of such rights or warrants to purchase Ordinary Shares (or securities convertible into Ordinary Shares) at less than (or having a conversion price per share less than) the Current Market Price of Ordinary Shares, in which event the Exercise price will be adjusted based on the following formula:

$$EP_1 = EP_0 \, x \qquad \frac{OS_0 + Y}{OS_0 + X}$$

where:

EP_0 = the Exercise Price in effect immediately prior to the Close of Business on the Record Date for such issuance;

EP_1 = the Exercise Price in effect immediately after the Close of Business on the Record Date for such issuance;

OS_0 = the number of Ordinary Shares outstanding immediately prior to the Close of Business on the Record Date for such issuance;

X = the total number of Ordinary Shares issuable pursuant to such rights, warrants or Convertible Securities; and

Y = the aggregate price payable to exercise such rights, warrants or Convertible Securities *divided by* the Current Market Price.

Such adjustment shall become effective immediately after the Close of Business on the Record Date for such issuance. In the event that the issuance of such rights, warrants or Convertible Securities is announced but such rights, warrants or Convertible Securities are not so issued, the Exercise Price shall again be adjusted to be the Exercise Price that would then be in effect if the Record Date for such issuance had not occurred. To the extent that such rights or warrants are not exercised prior to their expiration or Ordinary Shares are otherwise not delivered pursuant to such rights, warrants or Convertible Securities, upon the expiration, termination or maturity of such rights, warrants or Convertible Securities, the Exercise Price shall be readjusted to the exercise price that would then be in effect had the adjustments made upon the issuance of such rights, warrants or Convertible Securities been made on the basis of the delivery of only the number of Ordinary Shares actually delivered. In determining the aggregate price payable for such Ordinary Shares, there shall be taken into account any consideration received for such rights or warrants, as well as any consideration received in connection with the conversion of any Convertible Securities issued upon exercise of such rights or warrants, and the value of such consideration, if other than Cash, shall be determined in good faith by the Board of Directors.

(iii) The dividend or distribution to all holders of Ordinary Shares of (i) shares of the Company's Capital Stock (other than Ordinary Shares), (ii) evidences of the Company's indebtedness, (iii) rights or warrants to purchase the Company's securities (other than Ordinary Shares) or the Company's assets or (iv) property or Cash, in which event the Exercise Price will be adjusted based on the following formula:

$$EP_1 = EP_0 \, x \qquad \frac{SP_0 - FMV}{SP_0}$$

where:

EP_0 = the Exercise Price in effect immediately prior to the Close of Business on the Record Date for such dividend or distribution;

EP_1 = the Exercise Price in effect immediately after the Close of Business on the Record Date for such dividend or distribution;

SP_0 = the Current Market Price; and

FMV = the Market Price, on the Record Date for such dividend or distribution, of the shares of Capital Stock, evidences of indebtedness or property, rights or warrants so distributed or the amount of Cash expressed as an amount per share of outstanding Ordinary Shares.

However, if the transaction that gives rise to an adjustment pursuant to this clause (c) is one pursuant to which the payment of a dividend or other distribution on Ordinary Shares consists of shares of capital stock of, or similar equity interests in, a Subsidiary of the Company or other business unit of the Company (i.e., a spin-off) that are, or, when issued, will be, traded or quoted on any national or regional securities exchange or market, then the Exercise Price will instead be adjusted based on the following formula:

$$EP_1 = EP_0 \, x \quad \frac{MP_0}{MP_0 + FMV_0}$$

where:

EP_0 = the Exercise Price in effect immediately prior to the Close of Business on the Record Date for such dividend or distribution;

EP_1 = the Exercise Price in effect immediately after the Close of Business on the Record Date for such dividend or distribution;

FMV_0 = the average of the Closing Sale Prices of the Capital Stock or similar equity interests distributed to holders of Ordinary Shares applicable to one Ordinary Share over the 10 consecutive Trading Days commencing on, and including, the third Trading Day after the Ex-Date for such dividend or distribution; and

MP_0 = the average of the Closing Sale Prices of the Ordinary Shares over the 10 consecutive Trading Days commencing on, and including, the third Trading Day after the Ex-Date for such dividend or distribution.

Such decrease shall become effective immediately after the Ex-Date for such dividend or distribution. In the event that such dividend or distribution is declared or announced but not so paid or made, the Exercise Price shall again be adjusted to be the Exercise Price which would then be in effect if such distribution had not been declared or announced.

For the purposes of Section 5(b)(i), (ii) and (iii) any dividend or distribution to which Section 5(b)(iii) is applicable that also includes Ordinary Shares, or rights or warrants to subscribe for or purchase of Ordinary Shares (or both) to which Section 5(b)(i) and/or (ii) is applicable, shall be deemed instead to be (i) a dividend or distribution of the indebtedness, assets or shares or other property to which Section 5(b)(iii) applies (and any Exercise Price adjustment required by Section 5(b)(iii) with respect to such dividend or distribution shall be made in respect of such dividend or distribution) immediately followed (ii) by a dividend or distribution of the Ordinary Shares or such rights or warrants to which Section 5(b)(i) and/or (ii), as applicable, applies (and any further Exercise Price adjustment required by Section 5(b)(i) and/or (ii) with respect to such dividend or distribution shall then be made), except, for purposes of such adjustment, any Ordinary Shares included in such dividend or distribution shall not be deemed "outstanding immediately prior to the Close of Business on the Record Date."

(iv) If the Company or any of its Subsidiaries makes a payment in respect of a tender or exchange offer for the Ordinary Shares (other than an odd-lot tender offer), to the extent that the Cash and value of any other consideration included in the payment per Ordinary Share exceeds the average of the Closing Sale Prices of the Ordinary Shares over the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer, the Exercise Price shall be reduced based on the following formula

$$EP_1 = EP_0 \, x \qquad \frac{OS_0 \text{ x } SP_1}{AC + (SP_1 \text{ x } OS_1)}$$

where:

EP_0 = the Exercise Price in effect immediately prior to the Close of Business on the 10th Trading Day immediately following, and including, the Trading Day next succeeding the date such tender or exchange offer expires;

EP_1 = the Exercise Price in effect immediately after the Close of Business on the 10th Trading Day immediately following, and including, the Trading Day next succeeding the date such tender or exchange offer expires;

AC = the aggregate value of all Cash and any other consideration (as determined by the Board of Directors in good faith) paid or payable for Ordinary Shares purchased in such tender or exchange offer;

OS_0 = the number of Ordinary Shares outstanding immediately prior to the date such tender or exchange offer expires (prior to giving effect to the purchase of all Ordinary Shares accepted for purchase or exchange in such tender or exchange offer);

OS_1 = the number of Ordinary Shares outstanding immediately after the date such tender or exchange offer expires (after giving effect to the purchase of all Ordinary Shares accepted for purchase or exchange in such tender or exchange offer); and

SP_1 = the average of the Closing Sale Prices of the Ordinary Shares over the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the date such tender or exchange offer expires.

(c) If the Company issues (other than in a transaction covered by Section 5(b)(i)) any Ordinary Shares, or Options or Convertible Securities at a price per share less than Current Market Price immediately prior to the issuance of such security, other than securities issued pursuant to any Company Equity Plans, then the Exercise Price in effect immediately prior to each such issuance shall be reduced, effective as of the date of such issuance, to a price equal to the product obtained by multiplying the Exercise Price in effect immediately prior to such issuance by the quotient obtained by dividing:

(i) an amount equal to the sum of (x) the total number of Ordinary Shares on a fully diluted basis immediately prior to such issuance, multiplied by the Current Market Price of one Ordinary Share immediately prior to such issuance of such Ordinary Shares, Options or Convertible Securities, and (y) the consideration received by the Company upon such issuance of such Ordinary Shares, Options or Convertible Securities; by

(ii) the total number of Ordinary Shares on a fully diluted basis immediately after such issuance of such Ordinary Shares, Options or Convertible Securities multiplied by the Current Market Price of one Ordinary Share immediately prior to such issuance of such Ordinary Shares, Options or Convertible Securities.

(d) *Reorganization Event.* If any of the following events occur: (A) any recapitalization; (B) any reclassification or change of the outstanding Ordinary Shares; (C) any consolidation, merger or combination involving the Company; (D) any sale or conveyance to a third party of all or substantially all of the Company's assets; or (E) any statutory share exchange (each such event a "**Reorganization Event**"), in each case as a result of which the Ordinary Shares would be converted into, or exchanged for, stock, other securities, other property or assets (including Cash or any combination thereof) (the "**Reference Property**"), then following the effective time of the transaction, the right to receive Ordinary Shares upon exercise of the Warrants shall be changed to a right to receive, upon exercise of such Warrants, the kind and amount of shares of stock, other securities or other property or assets (including Cash or any combination thereof) that a holder of one Ordinary Share would have owned or been entitled to receive in connection with such Reorganization Event (such kind and amount of Reference Property per Ordinary Share, a "**Unit of Reference Property**"); provided in the event of a Fundamental Transaction, the Warrants shall be treated solely in accordance with Section 5(e). In the event holders of Ordinary Shares have the opportunity to elect the form of consideration to be received in a Reorganization Event, other than with respect to a Fundamental Transaction, the type and amount of consideration into which the Warrant shall be exercisable from and after the effective time of such Reorganization Event shall be deemed to be the weighted average of the types and amounts of consideration received by the holders of Ordinary Shares in such Reorganization Event.

(i) At any time from, and including, the effective time of a Reorganization Event:

(A) if Cashless Exercise does not apply or is not elected upon exercise of a Warrant, each Ordinary Share per Warrant shall be equal to a single Unit of Reference Property;

(B) if Cashless Exercise applies upon exercise of a Warrant, the number of Warrant Shares issuable upon a Cashless Exercise per Warrant shall be a number of Units of Reference Property calculated as set forth in Section 3(a)(ii), except that the Market Price used to determine the number of Units of Reference Property issuable upon a Cashless Exercise on any Trading Day shall be the Unit Value for such Trading Day; and

(C) the Closing Sale Price and the Current Market Price shall be calculated with respect to a Unit of Reference Property.

(ii) The value of a Unit of Reference Property (the "**Unit Value**") shall be determined as follows:

(A) any shares of common stock of the successor or purchasing corporation or any other corporation that are traded on a national or regional stock exchange included in such Unit of Reference Property shall be valued as if such shares were "**Ordinary Shares**" using procedures set forth in the definition of "**Closing Sale Price**";

(B) any other property (other than Cash) included in such Unit of Reference Property shall be valued in good faith by the Board of Directors (in a manner not materially inconsistent with the manner the Board of Directors valued such property for purposes of the Reorganization Event, if applicable) or by a firm selected by the Board of Directors; and

(C) any Cash included in such Unit of Reference Property shall be valued at the amount thereof.

(iii) On or prior to the effective time of any Reorganization Event, the Company or the successor or purchasing Person, as the case may be, shall execute an amendment to the Warrant Agency Agreement and this Warrant providing that the Warrant shall be exercisable for Units of Reference Property in accordance with the terms of this Section 5(d). If the Reference Property in connection with any Reorganization Event includes shares of stock or other securities and assets of a Person other than the successor or purchasing Person, as the case may be, in such Reorganization Event, then the Company shall cause such amendment to the Warrant Agency Agreement and this Warrant to be executed by such other Person and such amendment shall contain such additional provisions to protect the interests of the Holders as the Board of Directors shall reasonably consider necessary by reason of the foregoing. Any such amendment to this Warrant shall provide for adjustments which shall be as nearly equivalent as may be practicable to the adjustments provided for in this Section 5. In the event the Company shall execute an amendment to the Warrant Agency Agreement and this Warrant pursuant to this Section 5, the Company shall promptly file with the Warrant Agent a certificate executed by a duly authorized officer of the Company briefly stating the reasons therefor, the kind or amount of Cash, securities or property or asset that will comprise a Unit of Reference Property after the relevant Reorganization Event, any adjustment to be made with respect thereto and that all conditions precedent have been complied with. The Company shall cause notice of the execution of amendment to be mailed or delivered through the facilities of the Depositary to each of the Holders within 20 Business Days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of such amendment.

(e) *Fundamental Transaction*.

(i) No less than 15 Business Days prior to the scheduled closing of a Fundamental Transaction (or, to the extent such Fundamental Transaction does not permit 15 Business Days' notice, the earliest date that is reasonably practicable under the circumstances), the Company shall:

(A) deliver to the Warrant Agent a notice of redemption, which shall be binding on the Company and on all Holders (unless such a Fundamental Transaction does not actually occur), stating that all Warrants (other than Carryover Warrants, if any, to be issued in connection with such Fundamental Transaction in accordance with this Section 5(e)(i)(A))) that have not been exercised prior to the Cut-Off Time shall be redeemed on the Fundamental Change Payment Date at a price equal to the Fundamental Transaction Payment Amount (the "**Redemption**") and the Warrant Agent will send by mail or through the facilities of the Depositary to the Holders the notice stating:

(i) the Redemption is being made pursuant to this Section 5(e)(i)(A)(i)) and that all Warrants (other than Carryover Warrants, if any, to be issued in connection with such Fundamental Transaction in accordance with this Section 5(e)(i)(A)(i)) that have not been exercised prior to the Cut-Off Time will be redeemed on the Fundamental Change Payment Date for payment of the Fundamental Transaction Payment Amount;

(ii) formula for calculating the Black Scholes Value and the Fundamental Transaction Payment Amount;

(iii) date of the Redemption (which shall be a Business Day no later than five (5) Business Days following the Fundamental Transaction Date (the "**Fundamental Change Payment Date**"));

(iv) no outstanding Warrant may be exercised after the Close of Business on the Business Day prior to the Fundamental Transaction Date (the "**Cut-Off Time**");

(v) if applicable, that New Warrants will be issued to the Holders on the Fundamental Change Payment Date in accordance with the terms of the Warrant Agency Agreement and this Warrant (as the same may have been amended in connection with such Fundamental Transaction pursuant to Section 5(d));

(vi) other reasonable procedures that the Holders must follow (to the extent consistent with the terms and conditions set forth herein) in connection with such Redemption; and

(vii) the name and address of the Warrant Agent.

(ii) Within two (2) Business Days prior to the Fundamental Change Payment Date, the Company or the surviving Person (if other than the Company) shall deliver to the Warrant Agent for distribution to the Holders the calculation of the Fundamental Transaction Payment Amount and deposit with the Warrant Agent money sufficient to pay the Fundamental Transaction Payment Amount for all outstanding Warrants (other than the Carryover Warrants, if any);

(iii) On the Fundamental Change Payment Date, (A) the Company or the surviving Person (if other than the Company) shall redeem all outstanding Warrants (other than Carryover Warrants, if any) pursuant to the Redemption, (B) the Company shall, or shall instruct the Warrant Agent to, mail (or otherwise cause to be paid or provide for payment to (or on behalf of)) each Holder of the Warrants so redeemed payment in Cash in an amount equal to the aggregate Fundamental Transaction Payment Amount in respect of such redeemed Warrants, and (C) the Company or the surviving Person (if other than the Company) shall execute and issue to the Holders, and the Warrant Agent shall authenticate, new Warrants representing the Carryover Warrants (if any) exercisable for Registered and Listed Shares (the "**New Warrants**"); provided that the terms thereof shall, subject to Section 5(e)(v), be substantially consistent with the terms of this Warrant (and all references herein to Warrants shall thereafter be deemed to be references to such New Warrants).

(iv) No Warrant (which for the avoidance of doubt does not include New Warrants to be issued in connection with such Fundamental Transaction) may be exercised after the Cut-Off Time.

(v) Following the Fundamental Change Payment Date, any holder of New Warrants issued in connection with such Fundamental Transaction shall have the right to exercise such New Warrant and to receive, upon such exercise, the Reference Property in accordance with Section 5(e) and the remaining terms of the Warrant Agency Agreement and this Warrant (as the same may have been amended in connection with such Fundamental Transaction pursuant to Section 5(e)); provided that, for purposes of this sentence, (x) each Unit of Reference Property shall initially only consist of the Registered and Listed Shares included in such Unit of Reference Property, determined in accordance with the definition of "**Carryover Warrants**", and no other cash, securities, or other property, and (y) the initial exercise price for each New Warrant shall be equal to the New Warrant Exercise Price.

(vi) The provisions of this Section 5(e) are subject, in all cases, to any applicable requirements under the Securities Act and the Exchange Act and the respective rules and regulations promulgated thereunder. Where there is any inconsistency between the requirements of the Securities Act or the Exchange Act or the rules and regulations promulgated thereunder and the requirements of this Section 5(e), the requirements of the Securities Act and the Exchange Act and the respective rules and regulations promulgated thereunder, shall supersede.

(vii) The Company hereby agrees not to become a party to any Reorganization Event or Fundamental Transaction unless its terms are consistent in all material respects with this Section 5(e).

(viii) The above provisions of Section 5(e) shall similarly apply to successive Reorganization Events and Fundamental Transactions.

(ix) For the avoidance of doubt, any payments (including the Company's obligation to pay any Fundamental Transaction Payment Amount) pursuant to this Section 5(e) shall be subject and subordinate to the rights to payment of the Company's existing and future creditors and the holders of any Capital Stock of the Company that by its terms is preferred over the Ordinary Shares as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of the Company.

(x) If this Section 5(e) applies to any event or occurrence, no other provision of this Section 5 with respect to anti-dilution adjustments shall apply to such event or occurrence.

(f) *Adjustments to Number of Warrants.* Concurrently with any adjustment to the Exercise Price under Section 5, the number of Warrant Shares into which this Warrant will be exercisable will be adjusted such that the number of Warrant Shares into which this Warrant will be exercisable in effect immediately following the effectiveness of such adjustment will be equal to the number of Warrant Shares into which this Warrant will be exercisable in effect immediately prior to such adjustment, multiplied by a fraction, (i) the numerator of which is the Exercise Price in effect immediately prior to such adjustment and (ii) the denominator of which is the Exercise Price in effect immediately following such adjustment.

(g) *Exercise Price Adjusted.* As used in this Warrant, the term "**Exercise Price**" shall mean the purchase price per share as determined in accordance with Section 1 of this Warrant, until the occurrence of an event stated in this Section 5 or otherwise set forth in this Warrant, and thereafter shall mean said price as adjusted from time to time in accordance with the provisions of this Section 5. No adjustment made pursuant to any provision of this Section 5 shall have the net effect of increasing the Exercise Price in relation to the split adjusted and distribution adjusted price of the Ordinary Shares.

(h) *Adjustments*. Additional Shares, Securities or Assets. In the event that at any time, as a result of an adjustment made pursuant to this Section 5 or otherwise, the Holder shall, upon Exercise of this Warrant, become entitled to receive shares and/or other securities or assets (other than Ordinary Shares) then, wherever appropriate, all references herein to Ordinary Shares shall be deemed to refer to and include such shares and/or other securities or assets; and thereafter the number of such shares and/or other securities or assets shall be subject to adjustment from time to time in a manner and upon terms as nearly equivalent as practicable to the provisions of this Section 5.

(i) *Notice of Adjustments.* Whenever the Exercise Price and/or number or type of securities issuable upon Exercise is adjusted pursuant to the terms of this Warrant, the Company shall promptly deliver to the Holder a notice (an "**Exercise Price Adjustment Notice**") setting forth the Exercise Price and/or number or type of securities issuable upon Exercise after such adjustment and setting forth a statement of the facts requiring such adjustment. The Company shall, upon the written request at any time of the Holder, furnish to the Holder a like Warrant setting forth (i) such adjustment or readjustment, (ii) the Exercise Price at the time in effect and (iii) the number of Ordinary Shares and the amount, if any, of other securities or property which at the time would be received upon Exercise of the Warrant. For purposes of clarification, whether or not the Company provides an Exercise Price Adjustment Notice pursuant to this Section 5(i), upon the occurrence of any event that leads to an adjustment of the Exercise Price, the Holder shall be entitled to receive a number of Exercise Shares based upon the new Exercise Price, as adjusted, for exercises occurring on or after the date of such adjustment, regardless of whether the Holder accurately refers to the adjusted Exercise Price in the Exercise Form.

(j) *Choice of Consideration.* If holders of Ordinary Shares are given any choice as to the securities, cash or property to be received in a Reorganization Event or a Fundamental Transaction, then Holder shall be given the same choice as to the type of consideration it receives upon any Exercise of this Warrant in connection with such Reorganization Event or Fundamental Transaction.

(k) *Restrictions on Adjustments*. No adjustment shall be made to the Exercise Price or the number of Warrant Shares into which this Warrant will be exercisable for any Global Warrant Certificate for any of the transactions described in Section 5 if the Company makes provisions for Holders to participate in any such transaction without exercising their Warrants on the same basis as holders of Ordinary Shares and with notice that the Board of Directors determines in good faith to be fair and appropriate. If the Company takes a record of the holders of Ordinary Shares for the purpose of entitling them to receive a dividend or other distribution, and thereafter (and before the dividend or distribution has been paid or delivered to stockholders) legally abandons its plan to pay or deliver such dividend or distribution, then thereafter no adjustment to the Exercise Price or number of Warrant Shares into which this Warrant will be exercisable for any Global Warrant Certificate then in effect shall be required by reason of the taking of such record.

(l) *When De Minimis Adjustment May Be Deferred*. The Company shall not be required to make any adjustment pursuant to this Section 5 if the amount of such adjustment would be less than 1% of the then applicable Exercise Price or number of Warrant Shares into which this Warrant will be exercisable in effect immediately before the event that would otherwise have given rise to such adjustment. Any adjustments that are not made shall be carried forward and taken into account in any subsequent adjustment. All calculations under this Section 5 shall be made to the nearest cent or to the nearest one-hundredth of a share, as the case may be, but in no event shall the Company be obligated to issue fractional shares or fractional portions of any securities upon the exercise of the Warrant.

(m) *U.S. Income Tax Treatment.* The Company (solely to the extent the Company is required to take a position pursuant to applicable law) and the Holder intend, for U.S. federal (and applicable state and local) income tax purposes, to treat any adjustment pursuant to this Section 5 to the Exercise Price of the Warrant as being made pursuant to a "bona fide, reasonable, adjustment formula" within the meaning of Treasury Regulations Section 1.305-7(b) (except to the extent otherwise required pursuant to the last sentence of Treasury Regulations Section 1.305-7(b)(1)), and shall not take any position for U.S. federal (and applicable state and local) income tax purposes inconsistent with the foregoing, except to the extent otherwise required by a change in law or a "determination" within the meaning of Section 1313(a) of the Internal Revenue Code of 1986, as amended.

6. Fractional Interests.

No fractional shares or scrip representing fractional shares shall be issuable upon the Exercise of this Warrant, but on Exercise of this Warrant, the Holder may purchase only a whole number of Ordinary Shares. If, on Exercise of this Warrant, the Holder would be entitled to a fractional Ordinary Share or a right to acquire a fractional Ordinary Share, such fractional share shall be disregarded and the number of Ordinary Shares issuable upon Exercise shall be the next higher whole number of shares.

7. Ordinary Shares Issued upon the Exercise of the Warrant.

All Ordinary Shares (or other securities substituted therefor as provided herein above) to be issued upon the exercise of all or any portion of the Warrant, shall be duly and validly issued, fully paid and not subject to preemptive rights, rights of first refusal or similar rights of any Person. The Company covenants and agrees that all Ordinary Shares issuable upon Exercise of this Warrant shall be approved for listing on NASDAQ, or, if that is not the principal trading market for the Ordinary Shares, such principal market on which the Ordinary Shares are traded or listed.

8. Transfer and Assignment.

(a) *Transfer.* This Warrant may be offered for sale, sold, transferred or assigned without the consent of the Company.

(b) *Assignment*. This Warrant may not be assigned by the Company without the written consent of the Holder, except to a successor in the event of a Fundamental Transaction. The Holder may sell, transfer, assign, pledge, or otherwise dispose of this Warrant, in whole or in part. The Holder shall deliver a written notice to the Company, substantially in the form of the Assignment attached hereto as Exhibit B, indicating the Person or Persons to whom the Warrant shall be assigned and the respective number of warrants to be assigned to each assignee. Subject to the last two sentences of this paragraph, the Company shall effect the assignment within three Trading Days, and shall deliver to the assignee(s) designated by the Holder a Warrant or Warrants of like tenor and terms entitling the assignee(s) to purchase the appropriate number of shares. This Warrant and the rights evidenced hereby shall inure to the benefit of and be binding upon the successors and assigns of the Holder. The provisions of this Warrant are intended to be for the benefit of all Holders from time to time of this Warrant, and shall be enforceable by any such Holder. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company unless the Holder has assigned this Warrant in full, in which case, the Holder shall surrender this Warrant to the Company within three Trading Days of the date on which the Holder delivers an Assignment form to the Company assigning this Warrant in full. Notwithstanding anything herein to the contrary, this Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Exercise Shares immediately upon effectiveness of such assignment without having a new Warrant issued.

9. Noncircumvention.

The Company hereby covenants and agrees that the Company will not, by amendment of its constitutional documents or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, and will at all times in good faith carry out all the provisions of this Warrant and take all action as may be required to protect the rights of the Holder. Without limiting the generality of the foregoing, the Company (i) shall not increase the par value of any Ordinary Shares receivable upon the exercise of this Warrant above the Exercise Price then in effect, and (ii) shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid Ordinary Shares upon the exercise of this Warrant.

10. Benefits of this Warrant.

Nothing in this Warrant shall be construed to confer upon any person other than the Company and the Holder any legal or equitable right, remedy or claim under this Warrant, and this Warrant shall be for the sole and exclusive benefit of the Company and the Holder.

11. No Rights as a Shareholder.

Except as otherwise set forth in this Warrant, the Holder, solely in such Person's capacity as a holder of this Warrant, shall not be entitled to vote or be deemed the holder of share capital of the Company for any purpose, nor shall anything contained in this Warrant be construed to confer upon the Holder, solely in such Person's capacity as the Holder of this Warrant, any of the rights of a shareholder of the Company or any right to vote, give or withhold consent to any corporate action (whether any reorganization, issue of shares, reclassification of shares, consolidation, merger, amalgamation, conveyance or otherwise), receive notice of meetings, or otherwise, prior to the issuance to the Holder of the Exercise Shares which such Person is then entitled to receive upon the due exercise of this Warrant. In addition, nothing contained in this Warrant shall be construed as imposing any liabilities on the Holder to purchase any securities (upon exercise of this Warrant or otherwise) or as a shareholder of the Company, whether such liabilities are asserted by the Company or by creditors of the Company.

12. Governing Law; Process Agents.

This Agreement and all matters concerning the construction, validity, enforcement and interpretation hereof or otherwise relating hereto shall be governed by and construed in accordance with the internal laws of the State of New York. Each party agrees that all legal proceedings concerning the interpretation, enforcement or defense of the transactions contemplated by this Agreement or otherwise arising hereunder or relating hereto (whether brought against a party hereto or its respective affiliates, directors, officers, stockholders, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York, borough of Manhattan. Each party hereby irrevocably submits to the non-exclusive jurisdiction of the state and federal courts sitting in the City of New York, borough of Manhattan for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is improper or is an inconvenient venue for such proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. **THE PARTIES HEREBY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF, THIS AGREEMENT AND ANY TRANSACTIONS CONTEMPLATED. THIS WAIVER APPLIES TO ANY ACTION, SUIT OR PROCEEDING WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE.**

The Company hereby agrees to irrevocably designate and appoint Corporation Service Company, which currently maintains an office at 19 West 44th Street, Suite 200, New York, New York 10036, United States of America, as its agent for service of process (together with any successor appointment below, the "**Company Process Agent**") on or before the date of this Warrant in any suit, action or proceeding described in the preceding paragraph and agrees that service of process in any such suit, action or proceeding may be made upon it at the office of such then current Company Process Agent and such service shall be deemed in every respect effective service of process upon the Company in any such suit or proceeding. The Company waives, to the fullest extent permitted by law, any other requirements of or objections to personal jurisdiction with respect thereto. The Company represents and warrants that such agent has agreed to act as the Company's agent for service of process, and the Company agrees to take any and all action, including the filing of any and all documents and instruments, that may be necessary to continue such appointment in full force and effect.

13. Loss of Warrant.

Loss of this Warrant shall be governed by Section 6(b) of the Warrant Agency Agreement.

14. Notice or Demands.

Except as otherwise provided herein, notices or demands pursuant to this Warrant, including, without limitation, an Exercise Form, shall be given in writing, (i) if delivered (a) from within the domestic United States, by U.S. Postal Service priority registered or certified airmail, or nationally recognized overnight express courier, postage prepaid or electronic mail or (b) from outside the United States, by International Federal Express or electronic mail, and (ii) will be deemed given (a) if delivered by U.S. Postal Service priority registered or certified mail domestic, on the date so mailed, (b) if delivered by nationally recognized overnight carrier, on the date so mailed, (c) if delivered by International Federal Express, on the date so mailed, and (d) except in the case of the Warrant Agent, at the time of transmission, if delivered by electronic mail to the email address specified in this Section 14 prior to 5:00 p.m. (New York time) on a Trading Day, and will be delivered and addressed as follows:

If to the Company:

Maxeon Solar Technologies, Ltd.
8 Marina Boulevard #05-02
Marina Bay Financial Center, 018981
Singapore
Attention: Lindsey Wiedmann, Chief Legal Officer
Email: lindsey.wiedmann@maxeon.com
with copies (which shall not constitute notice) to:

White & Case
16th floor, York House, The Landmark
15 Queen's Road Central
Hong Kong
Attention: Jessica Zhou; Kaya Proudian
Email: jessica.zhou@whitecase.com; kproudian@whitecase.com

If to the Warrant Agent, to:

Computershare Trust Company, N.A.
Computershare Inc.
150 Royall Street
Canton, MA 02021
Attention: Client Services

Any and all notices or other communications or deliveries to be provided by the Company hereunder shall be in writing and delivered personally, by facsimile, by e-mail or sent by a nationally recognized overnight courier service addressed to the Holder at the facsimile number, email address or address of the Holder appearing in the books of the Warrant Agent. Notwithstanding any other provision of this Warrant, where this Warrant provides for notice of any event to the Holder, if this Warrant is held in global form by DTC (or any successor depositary), such notice shall be sufficiently given if given to DTC (or any successor depositary) pursuant to the procedures of DTC (or such successor depositary).

15. Amendment; Waiver.

Except as otherwise provided herein, the provisions of this Warrant Certificate may be amended only in accordance with Section 20 of the Warrant Agency Agreement. No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving party.

16. Warrant Register.

The Warrant Agent shall register this Warrant upon records to be maintained by the Warrant Agent (or, as applicable, the Company) for that purpose (the "**Warrant Register**"), in the name of the record Holder hereof from time to time. The Company and the Warrant Agent may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

17. Warrant Agency Agreement.

This Warrant is issued subject to the Warrant Agency Agreement. To the extent any provision of this Warrant conflicts with the express provisions of the Warrant Agency Agreement, the provisions of the Warrant Agency Agreement shall govern and be controlling.

18. Construction.

Unless the context otherwise requires, (a) all references to Articles, Sections, Schedules or Exhibits are to Articles, Sections, Schedules or Exhibits contained in or attached to this Warrant and not to the Warrant Agency Agreement, (b) words in the singular or plural include the singular and plural and pronouns stated in either the masculine, the feminine or neuter gender shall include the masculine, feminine and neuter and (c) the use of the word "including" in this Warrant shall be by way of example rather than limitation.

19. Signatures.

An electronic signature (including a ".pdf" or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) to this Warrant shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such electronic (including ".pdf") signature page were an original thereof. At the request of any party, each other party shall promptly re-execute an original form of this Warrant or any amendment hereto and deliver the same to the other party. No party hereto shall raise the use of an electronic signature to this Warrant or any amendment hereto or the fact that such signature was transmitted or communicated through the use of e-mail delivery as a defense to the formation or enforceability of a contract, and each party hereto forever waives any such defense.

EXHIBIT A

EXERCISE FORM FOR WARRANT

TO: [ ]

DTC Participant: _____
DTC Number: _____
Account Number: _____

CHECK THE APPLICABLE BOX:

Cash Exercise or Cashless Exercise

☐ The undersigned hereby irrevocably exercises Warrant Certificate Number _____(the "**Warrant**") with respect to [_____] Ordinary Shares (the "**Ordinary Shares**") of Maxeon Solar Technologies, Ltd., a company incorporated in Singapore with company registration number 201934268H (the "**Company**").

[IF APPLICABLE: The undersigned is delivering $_____as payment of the Exercise Price.]

☐ This undersigned is exercising the Warrant with respect to [_____] Ordinary Shares pursuant to a Cashless Exercise, and is deemed to have made payment of the Exercise Price with respect to such shares in full, all in accordance with the conditions and provisions of the Warrant applicable to such Cashless Exercise.

Delivery of Exercise Shares

The undersigned requests that the Ordinary Shares issued pursuant to the terms of Warrant and this Exercise Form to be:

☐ credited to the undersigned's, or its designee's, DTC account (account number: _____]); or

☐ in case of the certificates evidencing such Ordinary Shares, delivered to the undersigned's address at the address set forth below.

Securities Laws Representation. The Holder is not, nor has been at any time during the consecutive three (3) month period preceding the date hereof, an "affiliate" within the meaning of Rule 144 promulgated under the 1933 Act of the Company.

If requested by the undersigned, a warrant representing any unexercised portion hereof be issued, pursuant to the Warrant in the name of the undersigned and delivered to the undersigned at the address set forth below.

Capitalized terms used but not otherwise defined in this Exercise Form shall have the meaning ascribed thereto in the Warrant.

Dated:

_____
Signature

_____
Print Name

_____
Address

NOTICE

The signature to the foregoing Exercise Form must correspond to the name as written upon the face of the attached Warrant.

_____

EXHIBIT B

ASSIGNMENT

(To be executed by the registered holder
desiring to transfer the Warrant)

FOR VALUE RECEIVED, the undersigned holder of the attached warrant (the "**Warrant**") hereby sells, assigns and transfers unto the person or persons below named (the "**Transferee**") the right to purchase Ordinary Shares of Maxeon Solar Technologies, Ltd., a company incorporated in Singapore with company registration number 201934268H (the "**Company**"), evidenced by the attached Warrant and does hereby irrevocably constitute and appoint _____attorney to transfer the said Warrant on the books of the Company, with full power of substitution in the premises.

Dated: _____

_____
Signature

Fill in for new registration of Warrant:

_____
Name

_____
Address

_____
Please print name and address of assignee
(including zip code number)

NOTICE

The signature to the foregoing Assignment must correspond to the name as written upon the face of the attached Warrant.

Securities Laws Representation. The Holder is not, nor has been at any time during the consecutive three (3) month period preceding the date hereof, an "affiliate" within the meaning of Rule 144 promulgated under the 1933 Act of the Company.

Exhibit 99.3

Dated June 20, 2024

Supplemental Indenture No. 7

between

MAXEON SOLAR TECHNOLOGIES, LTD.,

THE GUARANTORS PARTY HERETO,

and

DEUTSCHE BANK TRUST COMPANY AMERICAS

as Trustee

and

DB TRUSTEES (HONG KONG) LIMITED

as Collateral Trustee

and

RCBC TRUST CORPORATION

as Philippine Supplemental Collateral Trustee

Table of Contents

This Supplemental Indenture No. 7 is made on June 20, 2024 (this "**Supplemental Indenture**") **among:**

(1) **Maxeon Solar Technologies, Ltd.** (Company Registration No: 201934268H), a company incorporated in Singapore (the "**Company**");

(2) **the guarantors** listed on the signature pages hereof (each, a "**Guarantor**" and collectively, the "**Guarantors**");

(3) **Deutsche Bank Trust Company Americas**, a New York Banking Corporation, as trustee (the "**Trustee**");

(4) **DB Trustees (Hong Kong) Limited** as the collateral trustee (the "**Collateral Trustee**"); and

(5) **RCBC Trust Corporation** as collateral trustee with respect to the Philippine Collateral (in such capacity and solely with respect to the Philippine Collateral, the "**Philippine Supplemental Collateral Trustee**")

Whereas:

(A) Whereas, the Company (or its successor) has heretofore executed and delivered to the Trustee and the Collateral Trustee an indenture dated as of August 17, 2022 (as amended by (a) that certain Supplemental Indenture No. 1, dated September 30, 2022, by and among the Company, the Trustee and the Collateral Trustee, (b) that certain Supplemental Indenture No. 2, dated October 14, 2022, by and among the Company, the New Guarantor (as defined therein), the Trustee and the Collateral Trustee, (c) that certain Supplemental Indenture No. 3, dated October 14, 2022, by and among the Company, SunPower Philippines Manufacturing Ltd., the Trustee, the Collateral Trustee and the Supplemental Collateral Trustee named therein, (d) that certain Supplemental Indenture No. 4, dated November 13, 2023, by and among the Company, the Trustee and the Collateral Trustee and as further amended, restated, amended and restated, supplemented or otherwise modified from time to time, (e) that certain Supplemental Indenture No. 5, dated January 30, 2024 by and among the Company and the Trustee, and (f) that certain Supplemental Indenture No. 6, dated May 31, 2024, by and among the Company, the Trustee, the Collateral Trustee and the Supplemental Collateral Trustee named therein and as may be further amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Indenture**"), providing for the issuance of the Company's 7.50% Convertible First Lien Senior Secured Notes (the "**Notes**");

(B) Whereas, on August 17, 2022, the Company issued $207,000,000 principal amount of Notes (the "**Initial Notes**") under the Indenture, which notes currently remain outstanding;

(C) Whereas, on May 31, 2024, the Company issued $25,000,000 principal amount of Notes (the "**Additional Notes**," and together with the Initial Notes, the "**Notes**") under the Indenture, which notes currently remain outstanding;

(D) Whereas, pursuant to Section 8.02 of the Indenture, the Company and the Trustee may, subject to Sections 8.01, 8.03, 7.05 and 7.08 of the Indenture and the proviso hereof, amend or supplement any provision of the Indenture with the consent of the Holders of a majority in aggregate principal amount of the Notes then outstanding, provided that any amendment or supplement to any provision referred to in clauses (i) to (x) of Section 8.02(A) of the Indenture shall require the consent of each affected Holder;

(E) Whereas, pursuant to a Letter of Consent dated June 20, 2024 (the "**Letter of Consent**"), from the Company to Zhonghuan Singapore Investment and Development Pte. Ltd., in its capacity as the Holder of US$232,000,000 principal amount of the Notes, representing 100% of the outstanding principal amount of the Notes, (the "**Investor**") and an Acknowledgement Letter with respect to the Letter of Consent by the Investor (the "**Acknowledgement Letter**," and together with the "**Letter of Consent**," the "**Consent**"), pursuant to which, among others, the Investor consents to the execution and delivery of this Supplemental Indenture;; and

(F) Whereas, pursuant to Section 8.02 of the Indenture, the Trustee, the Collateral Trustee, the Philippine Supplemental Collateral Trustee, the Guarantors and the Company are authorized to execute and deliver this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Company and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders (as defined in the Indenture) as follows:

1. Defined Terms

As used in this Supplemental Indenture, terms defined in the Indenture or in the preamble or recital hereto are used herein as therein defined. The words "herein," "hereof" and "hereby" and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular section hereof.

2. Amendments to the Indenture and the Notes

Pursuant to the Consent, the Company, the Guarantors, the Trustee, the Collateral Trustee and the Philippine Supplemental Collateral Trustee hereby agree to amend the Indenture as set forth in Annex 1 hereto, with additions shown in blue double-underline and deletions shown in ~~red strikethrough~~, such amendments to be operative at and from the date of this Supplemental Indenture (the "**Indenture Amendments**").

Pursuant to the Consent, the Company, the Guarantors, the Trustee, the Collateral Trustee and the Philippine Supplemental Collateral Trustee hereby agree to amend the certificated note no. 1 dated August 17, 2022, evidencing the Initial Notes (the "**Note No. 1**") and the certificated note no. 2 dated May 31, 2024, evidencing the Additional Notes (the "**Note No. 2**"), as set forth in Annex 2 hereto, with additions shown in double-underline and deletions shown in ~~strikethrough~~ such amendments to be operative at and from the date of this Supplemental Indenture (the "**Note Amendments**," and together with the Indenture Amendments, the "**Amendments**").

3. Ratification of Indenture, Subsidiary Guarantees; Supplemental Indentures Part of Indenture.

(a) Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect.

(b) By signing this Supplemental Indenture, each of the Guarantors fully and unconditionally grants or ratifies and confirms its Subsidiary Guarantee in respect, and in favour of, the Notes and provides such Subsidiary Guarantee on the terms and subject to the provisions, including the limitations and conditions, set forth in the Indenture, including but not limited to Article 12 thereof and in the Subsidiary Guarantees.

(c) This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder shall be bound hereby.

4. No Recourse against Others

No past, present or future director, officer, employee, incorporator or shareholder of the Company or any Guarantor, as such, will have any liability for any obligations of the Company or such Guarantor, as the case may be, under this Indenture, the Notes, the applicable Subsidiary Guarantee or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

5. Governing Law

THIS SUPPLEMENTAL INDENTURE AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS SUPPLEMENTAL INDENTURE, IS GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

6. The Trustee, the Collateral Trustee and the Philippine Supplemental Collateral Trustee Make No Representation

The Trustee, the Collateral Trustee and the Philippine Supplemental Collateral Trustee shall make no representation as to the validity or sufficiency of this Supplemental Indenture or with respect to the recitals contained herein, all of which recitals are made solely by the other parties hereto.

7. Counterparts

The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

8. Effect of Headings

The section headings herein are for convenience only and shall not affect the construction hereof.

9. Representations

Each of the Company and the Guarantors, jointly and severally, hereby represents and warrants, as of the date hereof, to the Trustee, the Collateral Trustee and the Philippine Collateral Trustee that:

(a) each of the Company and the Guarantors has been duly organized or incorporated and is validly existing and (if appliable) in good standing in under the law of its jurisdiction of organization or incorporation;

(b) each of the Company and the Guarantors has all requisite corporate power and authority, and has taken all requisite corporation action necessary, to execute and deliver this Supplemental Indenture and to perform its obligations under this Supplemental Indenture and the Indenture;

(c) this Supplemental Indenture is duly authorized and signed and, when duly executed and delivered by the Company, the Guarantors, the Trustee, the Collateral Trustee and the Philippine Supplemental Trustee, will constitute a valid and legally binding agreement of the Company and each Guarantor, enforceable against the Company and each Guarantor in accordance with its terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other laws of general application affecting enforcement of creditors' rights generally and (ii) as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies; and

(d) neither the execution and the delivery of this Supplemental Indenture, nor the performance by the Company or any Guarantor of its obligations hereunder, will (i) violate any provision of the organizational or constitutional documents of the Company, the Guarantors, or any of their respective subsidiaries or violate any constitution, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, or other restriction of any government, governmental entity or court to which the Company, the Guarantors, or their respective subsidiaries is subject, or (ii) conflict with, result in a breach of, constitute a default under, result in the acceleration of or creation of an encumbrance under, or create in any party the right to accelerate, terminate, modify, or cancel, any agreement, contract, lease, license, instrument, or other arrangement to which the Company, the Guarantors, or their respective subsidiaries is a party or by which the Company, the Guarantors, or their respective subsidiaries is bound or to which any of the Company's, the Guarantors' or their respective subsidiaries' assets are subject, in each case of the foregoing, except in such a manner that would not materially and adversely affect the Company's or the Guarantors' ability to consummate the transactions contemplated hereby or as would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the business, properties, financial condition, prospects or results of operations of the Company and the Guarantors, taken as a whole.

10. Entire Agreement

This Supplemental Indenture constitutes the entire agreement of the parties hereto with respect to the Amendments.

11. Effectiveness

This Supplemental Indenture will be effective on the date set forth above.

12. Successors

All covenants and agreements in this Supplemental Indenture by the parties hereto shall bind their successors.

Signature pages follow

In Witness Whereof, the parties hereto have caused this Supplemental Indenture to be duly executed as of the date first above written.

Company:

MAXEON SOLAR TECHNOLOGIES, LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

Guarantors:

SUNPOWER CORPORATION LIMITED

By: /s/ Peter Aschenbrenner
Name: Peter Aschenbrenner
Title: Director

SUNPOWER ENERGY CORPORATION LIMITED

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Director

SUNPOWER SYSTEMS INTERNATIONAL LIMITED

By: /s/ Peter Aschenbrenner
Name: Peter Aschenbrenner
Title: Director

[Signature Page to the Supplemental Indenture No. 7]

SUNPOWER MANUFACTURING CORPORATION LIMITED

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Director

MAXEON ROOSTER HOLDCO, LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Director

MAXEON SOLAR PTE. LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Director

SUNPOWER BERMUDA HOLDINGS

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Director

SUNPOWER TECHNOLOGY LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

[Signature Page to the Supplemental Indenture No. 7]

SUNPOWER PHILIPPINES MANUFACTURING LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

ROOSTER BERMUDA DRE, LLC

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

SUNPOWER SYSTEMS SÀRL

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

[Signature Page to the Supplemental Indenture No. 7]

Trustee:

DEUTSCHE BANK TRUST COMPANY AMERICAS,
AS TRUSTEE, REGISTRAR, PAYING AGENT,
CONVERSION AGENT

By: /s/ Carol Ng
Name: Carol Ng
Title: Vice President

By: /s/ Rodney Gaughan
Name: Rodney Gaughan
Title: Vice President

[Signature Page to the Supplemental Indenture No. 7]

Collateral Trustee:

DB TRUSTEES (HONG KONG) LIMITED, AS COLLATERAL TRUSTEE

By: /s/ Ka Ho Mak
Name: Ka Ho Mak
Title: Authorized Signatory

By: /s/ Christina Nip
Name: Christina Nip
Title: Authorized Signatory

[Signature Page to the Supplemental Indenture No. 7]

Philippine Supplemental Collateral Trustee:

RCBC TRUST CORPORATION, AS PHILIPPINE SUPPLEMENTAL COLLATERAL TRUSTEE

By: /s/ Ryan Roy W. Sinaon
Name: Ryan Roy W. Sinaon
Title: RCBC Trust Corporation

By: /s/ Bernice Maffi S. Arizapa
Name: Bernice Maffi S. Arizapa
Title: Sales Officer

[Signature Page to the Supplemental Indenture No. 7]

Annex 1

Amendments to the Indenture

EXECUTION VERSION

MAXEON SOLAR TECHNOLOGIES, LTD.,

THE GUARANTORS PARTY HERETO,

and

DEUTSCHE BANK TRUST COMPANY AMERICAS

as Trustee

and

DB TRUSTEES (HONG KONG) LIMITED

as Collateral Trustee

and

~~RIZAL COMMERCIAL BANKING~~RCBC TRUST CORPORATION~~ TRUST AND INVESTMENT GROUP~~

as Philippine Supplemental Collateral Trustee

INDENTURE

Dated as of August 17, 2022
as amended by
that certain Supplemental Indenture No. 1, dated September 30, 2022,
that certain Supplemental Indenture No. 2, dated October 14, 2022,
that certain Supplemental Indenture No. 3, dated October 14, 2022,
that certain Supplemental Indenture No. 4, dated November 13, 2023,
that certain Supplemental Indenture No. 5, dated January 30, 2024,
that certain Supplemental Indenture No. 6, dated May 31, 2024, and
that certain Supplemental Indenture No. 7, dated June 20, 2024

~~7.50%~~Variable-Rate Convertible First Lien Senior Secured Notes due ~~2027~~2029

THIS INDENTURE IS SUBJECT TO THE PROVISIONS OF THE 1L/2L INTERCREDITOR AGREEMENT AND THE PARI PASSU INTERCREDITOR AGREEMENT (EACH AS DEFINED HEREIN).

TABLE OF CONTENTS

Exhibits

CONVERTIBLE FIRST LIEN SENIOR SECURED NOTES INDENTURE, dated as of August 17, 2022, among Maxeon Solar Technologies, Ltd. (Company Registration No: 201934268H), a company incorporated in Singapore, as issuer (the "**Company**"), the guarantors listed on the signature pages hereof (each, a "**Guarantor**" and collectively, the "**Guarantors**"), Deutsche Bank Trust Company Americas, a New York Banking Corporation, as trustee (the "**Trustee**"), DB Trustees (Hong Kong) Limited as the collateral trustee (in such capacity, and including any successor collateral trustee or additional collateral trustee, the Philippine Supplemental Collateral Trustee (as defined below) or Supplemental Collateral Trustee (as defined herein) pursuant to the applicable provisions of this Indenture, and thereafter, the "**Collateral Trustee**") and ~~Rizal Commercial Banking~~RCBC Trust Corporation ~~Trust and Investment Group~~ as collateral trustee with respect to the Philippine Collateral (as defined below) (in such capacity and solely with respect to the Philippine Collateral, the "**Philippine Supplemental Collateral Trustee**").

Each party to this Indenture (as defined below) agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders (as defined below) of the Company's ~~7.50%~~Variable-Rate Convertible First Lien Senior Secured Notes due ~~2027~~2029 (the "**Notes**").

Article 1. DEFINITIONS; RULES OF CONSTRUCTION

Section 1.01. DEFINITIONS.

~~"**2020 Convertible Bonds Indenture**" means a indenture dated July 17, 2020 between the Company and Deutsche Bank Trust Company Americas, as trustee, in relation to $200.0 million aggregate principal amount of 6.50% Green Convertible Senior Notes due 2025.~~

"**1L/2L Intercreditor Agreement**" means the intercreditor agreement, dated on or about June 20, 2024, made between, among others, the Company, the Guarantors, the Trustee, the Collateral Trustee, the Philippine Supplemental Collateral Trustee, the New 2029 First Lien Notes Trustee, the New 2029 First Lien Notes Collateral Trustee, the New 2029 First Lien Notes Philippine Supplemental Collateral Trustee, the Second Lien Notes Trustee, the Second Lien Notes Collateral Trustee, and the Second Lien Notes Philippine Supplemental Collateral Trustee and the other parties named therein, as amended, restated or otherwise modified or varied from time to time.

"**2025 Notes**" means any 6.50% Green Convertible Senior Notes due 2025 of the Company outstanding as of the Rate Reset Date, after giving effect to the issuance of the Second Lien Notes and certain warrants in exchange for certain 2025 Notes, that were issued originally in $200.0 million aggregate principal amount under an indenture dated July 17, 2020 between the Company and Deutsche Bank Trust Company Americas, as trustee (the "**2025 Convertible Bonds Indenture**").

"Additional Collateral" means the collateral of the Company Indenture Parties located in the United States as specified in the Additional Security Documents.

"Additional Notes" means $25,000,000 principal amount of the Notes, to be issued in certificated form, which, for the avoidance of doubt, have the same terms and conditions as the Initial Notes (including the benefit of
the Subsidiary Guarantees and the Collateral) in all respects except for the issue date, issue price, the date of the first payment of interest.

"Additional Security Documents" means (i) the New York law governed Security Agreement ~~to be~~dated May 31, 2024 entered into among the Company Indenture Parties and the Collateral Trustee, as amended, restated and supplemented from time to time (the "**NYSA**"); and (ii) the New York law governed Intellectual Property Security Agreement ~~to be~~dated May 31, 2024 executed by Maxeon Solar Pte. Ltd. in favour of the Collateral Trustee, as amended, restated and supplemented from time to time.

"**Affiliate**" has the meaning set forth in Rule 144 as in effect on the Issue Date.

"Appropriated Instruments Holders" means the Secured Parties (or their Affiliates) in their capacity as holders of any ~~Charger~~Charged Property as a result of an Appropriation of such Charged Property.

"**Appropriation**" means the appropriation (or similar process) of the shares or financial securities issued by the Company or any of the Company's Subsidiaries by the Collateral Trustee (or any receiver or delegate) which is effected (to the extent permitted and subject to any requirements under the relevant Security Document and applicable law) by enforcement of the security interest created under any Security Document (including, in respect of French Security Documents, pursuant to a *pacte commissoire* or a foreclosure (*attribution judiciaire*)).

"**Authorized Denomination**" means, with respect to a Note, a principal amount thereof equal to $1,000 or any integral multiple of $1.00 in excess thereof.

"**Average Life**" means, at any date of determination with respect to any Indebtedness, the quotient obtained by dividing (1) the sum of the products of (a) the number of years from such date of determination to the dates of each successive scheduled principal payment of such Indebtedness and (b) the amount of such principal payment by (2) the sum of all such principal payments.

"**Bankruptcy Law**" means Title 11, United States Code, or any similar U.S. federal or state or non-U.S. law for the relief of debtors.

~~"**BNM**" means Bank Negara Malaysia, the Central Bank of Malaysia.~~

~~"**BNM Approval**" means the prior written approval of BNM for a Guarantor incorporated in Malaysia to provide a financial guarantee constituted by a Malaysian law governed all-asset debenture and land charge (within the meaning of such term as defined in pursuant to the FEP Policy Notices issued by BNM read together with Section 214 of the Financial Services Act 2013 of Malaysia) and to perform its obligations thereunder.~~

~~"**BNM Approval Date**" means the date on which BNM Approval is obtained.~~

"**Board of Directors**" means the board of directors of the Company or a committee of such board duly authorized to act on behalf of such board.

"**Business Day**" means any day other than a Saturday, a Sunday, ~~a legal holiday~~ or any ~~other~~ day on which banking institutions in The City of New York, Hong Kong or Singapore (or in any other place in which payments on the Notes are to be made) are authorized by law or governmental regulation to close.

"**Capital Expenditures**" means with respect to the Company and the Subsidiaries for any period, the aggregate amount, without duplication, of (a) all expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized as a capital lease) that would, in accordance with U.S. GAAP, be included as additions to property, plant and equipment, (b) other capital expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized as capital leases) that are reported in the Company's consolidated statement of cash flows for such period and (c) other capital expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized as capital leases, including, without limitation, any capitalized bonus payment).

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

"**Change in Tax Law**" means any change or amendment in the laws, rules or regulations of a Relevant Taxing Jurisdiction, or any change in an official written interpretation, administration or application of such laws, rules or regulations by any legislative body, court, governmental taxing authority or regulatory or administrative authority of such Relevant Taxing Jurisdiction (including the enactment of any legislation and the publication of any judicial decision or regulatory or administrative interpretation or determination) affecting taxation, which change or amendment (A) had not been publicly announced before; and (B) becomes effective on or after ~~August 17, 2022~~the Issue Date (or, if the Relevant Taxing Jurisdiction was not a Relevant Taxing Jurisdiction on such date, the date on which such Relevant Taxing Jurisdiction became a Relevant Taxing Jurisdiction).

"**Charged Property**" means all of the assets which from time to time are, or are expressed to be, the subject of any security interest created under a French Security Document.

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

"**Closing Security Documents**" means the Security Documents set forth in Schedule III hereto.

"**Collateral**" means, other than the Excluded Assets, all of the property and assets now owned or at any time hereafter acquired by the Company and Restricted Subsidiaries or in which the Company or any Restricted Subsidiary now has or at any time in the future may acquire any

right, title or interest wherever located, upon which a Lien is granted or purported to be granted by the Company or the relevant Restricted Subsidiary as security for all or any part of the Obligations in accordance with the terms of this Indenture ~~and~~, the relevant Security Documents and the Intercreditor Agreement.

"**Collections**" means (i) all cash net proceeds (including all cash net proceeds received in the form of checks, credit card slips or receipts, notes, instruments, and other items of payment) from Sales Contracts of the Company Indenture Parties (including cash net proceeds from any Receivable Financing permitted under **Section 3.12(X)** to the extent such Receivable Financing is entered into with respect to any Sales Contract) but not including any revenue from any Sales Contract which constitutes Receivable Financing Assets) and (ii) all net cash proceeds from Dispositions permitted under **Sections 3.15(A)**, **Section 3.15(B)**, **Section 3.15(E)**, **Section 3.15(O)** and **Section 3.15(S)** to the extent such Dispositions are by any of the Company Indenture Parties.

"**Company**" means the Person named as such in the first paragraph of this Indenture and, subject to **Article 6**, its successors and assigns.

"**Company Indenture Parties**" means, collectively, the Company and each Guarantor and each of them is a "**Company Indenture Party**".

"**Company Order**" means a written request or order signed on behalf of the Company by one (1) of its Officers and delivered to the Trustee.

"**Conversion Date**" means, with respect to a Note, the first Business Day on which the requirements set forth in **Section 5.02(A)** to convert such Note are satisfied.

"**Conversion Price**" means, as of any time, an amount equal to (A) one thousand dollars ($1,000) *divided by* (B) the Conversion Rate in effect at such time.

"**Conversion Rate**" ~~initially 43.2301 shares~~means (A) the number of Ordinary Shares ~~per $1,000 principal amount of Notes~~equal to (i) one thousand dollars ($1,000) *divided by* (ii) the Initial Pricing VWAP, or (B) upon the occurrence of Forward Purchase Adjustment Event, the number of Ordinary Shares equal to (i) one thousand dollars ($1,000) *divided by* (ii) the FPA VWAP, whichever is greater; *provided*, *however*, that the Conversion Rate is subject to adjustment pursuant to **Article 5**; *provided*, *further*, that whenever this Indenture refers to the Conversion Rate as of a particular date without setting forth a particular time on such date, such reference will be deemed to be to the Conversion Rate immediately after the Close of Business on such date.

"**Conversion Share**" means any Ordinary Share issued or issuable upon conversion of any Note.

"**Daily Cash Amount**" means, with respect to any VWAP Trading Day, the lesser of (A) the applicable Daily Maximum Cash Amount; and (B) the Daily Conversion Value for such VWAP Trading Day.

"**Daily Conversion Value**" means, with respect to any VWAP Trading Day, ~~one-sixtieth~~one-thirtieth (1/~~60th~~30th) of the product of (A) the Conversion Rate on such VWAP Trading Day; and (B) the Daily VWAP per Ordinary Share on such VWAP Trading Day.

"**Daily Maximum Cash Amount**" means, with respect to the conversion of any Note, the quotient obtained by dividing (A) the Specified Dollar Amount applicable to such conversion by (B) ~~sixty~~thirty (~~60~~30).

"**Daily Share Amount**" means, with respect to any VWAP Trading Day, the quotient obtained by dividing (A) the excess, if any, of the Daily Conversion Value for such VWAP Trading Day over the applicable Daily Maximum Cash Amount by (B) the Daily VWAP for such VWAP Trading Day. For the avoidance of doubt, the Daily Share Amount will be zero for such VWAP Trading Day if such Daily Conversion Value does not exceed such Daily Maximum Cash Amount.

"**Daily VWAP**" means, for any VWAP Trading Day, the per share volume-weighted average price of the Ordinary Shares as displayed under the heading "Bloomberg VWAP" on Bloomberg page identified by "MAXN" (or such other ticker symbol for such Ordinary Shares) appended by the suffix "<EQUITY> AQR" (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such VWAP Trading Day (or, if such volume- weighted average price is unavailable, the market value of one Ordinary Share on such VWAP Trading Day, reasonably determined, using a volume-weighted average price method, by a nationally recognized independent investment banking firm selected by the Company. The Daily VWAP will be determined without regard to after-hours trading or any other trading outside of the regular trading session.

"**Default**" means any event that is (or, after notice, passage of time or both, would be) an Event of Default.

"**Default Settlement Method**" means Combination Settlement with a Specified Dollar Amount of $1,000 per $1,000 principal amount of Notes; *provided*, *however*, that subject to **Section 5.03(A)(ii)**, the Company may, from time to time, change the Default Settlement Method by sending notice of the new Default Settlement Method to the Holders, the Trustee and the Conversion Agent.

"**Depositary**" means The Depository Trust Company or its successor.

"**Depositary Participant**" means any member of, or participant in, the Depositary.

"**Depositary Procedures**" means, with respect to any conversion, transfer, exchange or transaction involving a Global Note or any beneficial interest therein, the rules and procedures of the Depositary applicable to such conversion, transfer, exchange or transaction.

"**Disposition**" with respect to any Person, any sale, transfer, exclusive license, exclusive sub-license, lease, sale and leaseback, contribution conveyance or other disposition (including by way of merger, consolidation, Sale/Leaseback Transaction, condemnation, casualty event or

division of a limited liability company) of any of such Person's or any of such Person's Subsidiaries' assets or properties, or the issuance of equity interest by any Subsidiary of the Company, in each case, to any other Person in a single transaction or series of transactions. "**Dispose**" shall have a correlative meaning consistent with the foregoing.

"**Enforcement Action**" means any action or decision taken in connection with the exercise of remedial rights of the Holders of the Notes and the Trustee and/or Collateral Trustee, representing the interests of the Holders of the Notes (including in respect of the Collateral pursuant to the Security Documents) following the occurrence and during the continuation of an Event of Default in accordance with the terms of this Indenture, the Intercreditor Agreement and/or the relevant Security Documents, as the case may be.

"**Environmental Law**" means any applicable law in any jurisdiction in which the Company or any Restricted Subsidiary conducts its business, which relates to the pollution or protection of the environment or harm to or the protection of human health or the health of animals or plants.

"**Equity Payment Conditions**" means, at the time of the relevant payment to a Holder, any necessary approval of the Company's shareholders shall have been obtained for such issuance of Ordinary Shares.

"**Ex-Dividend Date**" means, with respect to an issuance, dividend or distribution on the Ordinary Shares, the first date on which Ordinary Shares trade on the applicable exchange or in the applicable market, regular way, without the right to receive such issuance, dividend or distribution (including pursuant to due bills or similar arrangements required by the relevant stock exchange). For the avoidance of doubt, any alternative trading convention on the applicable exchange or market in respect of the Ordinary Shares under a separate ticker symbol or CUSIP number will not be considered "regular way" for this purpose.

"**Exchange Act**" means the U.S. Securities Exchange Act of 1934, as amended.

"**Excluded Accounts**" means a deposit or securities account (i) which is used for the sole purpose of (x) making payroll and other employee wage and benefit payments and accrued and unpaid employee compensation (including salaries, wages, benefits and expense reimbursements) and/or (y) making payments to applicable government authorities or bodies, including with respect to withholding, sales and other taxes or duties and utilities, (ii) is a zero balance account, (iii) constituting a custodian, trust, fiduciary or other escrow account established for the benefit of third parties in the ordinary course of business in connection with transactions permitted hereunder, (iv) the incurrence of a Lien in favor the Collateral Trustee over which is prohibited under applicable laws, rules or regulations; (v) the creation of any Lien on which would restrict the use of funds in the ordinary course of business any time prior to the time when such Lien becomes enforceable, or have a material adverse effect on the normal operations of the relevant Company Indenture Party in its ordinary course of business; (vi) which constitutes Receivable Financing Assets; (vii) the Company's account that is pledged to secure the Indebtedness under the SCB Agreement or any refinancing thereof in accordance with **Section 3.12(F)**; and (viii) which, together with other accounts (other than those identified in

clauses (i) through (vii)), collectively has average daily closing balances for any fiscal quarter of less than the equivalent of $5,000,000 in the aggregate.

"**Excluded Assets**" means:

(A) shares in SunPower Corporation Mexico, S. de R.L. de C.V. and dividends and other related rights in respect of such shares; and

(B) solely in respect to any property in the United States, the property and assets described in the definition of "Excluded Property," as such term is defined in the NYSA.

"**Fair Market Value**" means the price that would be paid in an arm's-length transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy, as determined in good faith by the Board of Directors.

"**Final Discharge Date**" means the first date on which all Obligations have been fully and finally discharged in accordance with the terms of this Indenture, whether or not as the result of an enforcement, and the Secured Parties (in that capacity) are under no further obligation to provide financial accommodation to the ~~Issuer~~Company or any of the Guarantors under the Indenture Documents.

"**First Lien Notes**" means, collectively, the Notes and the New 2029 First Lien Notes.

"**First Lien Notes Collateral Trustees**" means, collectively, the Collateral Trustee and the New 2029 First Lien Notes Collateral Trustee.

"**First Lien Notes Indentures**" means, collectively, this Indenture and the New 2029 First Lien Notes Indenture.

"**First Lien Notes Philippine Supplemental Collateral Trustee**" means, collectively, the Philippine Supplemental Collateral Trustee and the New 2029 First Lien Notes Philippine Supplemental Collateral Trustee.

"**Forward Purchase Adjustment Event**" occurs, as soon as practicable after the FPA VWAP is known to the Company, if the Company has determined, in good faith, that the FPA VWAP is less than the Initial Pricing VWAP.

"**Forward Purchase Agreement**" means that certain forward purchase agreement, dated June 14, 2024, by and between the Company and Zhonghuan Singapore Investment and Development Pte. Ltd. (in such capacity, the "**Forward Purchaser**"), pursuant to which the Forward Purchaser agrees to purchase certain Ordinary Shares for an aggregate purchase price of $100,000,000 (the "**FPA Shares**"), subject to the terms and conditions therein (the "**Forward Purchase Investment**"). The closing of the issuance, sale and purchase of the FPA Shares pursuant to the terms and conditions of the Forward Purchase Agreement is hereinafter referred to as "**Forward Purchase Closing**."

"**FPA VWAP**" means the average of the Daily VWAP for 10 consecutive Trading Days used in calculating the per share price that the Forward Purchaser will pay for each FPA Share at the Forward Purchase Closing, as determined pursuant to the terms and conditions of the Forward Purchase Agreement.

"**French Civil Code**" means the French *Code civil*.

"**French Security Documents**" means any Security Document governed by the laws of France.

"**Fundamental Change**" means any of the following events:

(A) a "person" or "group" (within the meaning of Section 13(d)(3) of the Exchange Act), other than the Company or its Wholly Owned Subsidiaries, or their respective employee benefit plans), files a Schedule TO (or any successor schedule, form or report) or any report under the Exchange Act disclosing that such person or group has become the direct or indirect "beneficial owner" (as defined below) of Ordinary Shares representing more than fifty percent (50%) of the voting power of all of the Ordinary Shares; *provided*, *however*, that, for purposes of this **clause (A)**, no person or group will be deemed to be a beneficial owner of any securities tendered pursuant to a tender offer or exchange offer made by or on behalf of such person or group until such tendered securities are accepted for purchase or exchange in such offer;

(B) the consummation of (i) any sale, lease or other transfer, in one transaction or a series of transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person, other than solely to one or more of the Company's Wholly Owned Subsidiaries; or (ii) any transaction or series of related transactions in connection with which (whether by means of merger, consolidation, share exchange, combination, reclassification, recapitalization, acquisition, liquidation or otherwise) (other than changes solely resulting from a subdivision or combination of the Ordinary Shares or solely a change in the par value or nominal value of the Ordinary Shares) all of the Ordinary Shares are exchanged for, converted into, acquired for, or constitute solely the right to receive, other securities, cash or other property; *provided*, *however*, that any transaction described in **clause (B)(ii)** above pursuant to which the Persons that directly or indirectly "beneficially owned" (as defined below) all classes of the Company's common equity immediately before such transaction directly or indirectly "beneficially own," immediately after such transaction, more than fifty percent (50%) of all classes of common equity of the surviving, continuing or acquiring company or other transferee, as applicable, or the parent thereof, in substantially the same proportions vis-à-vis each other as immediately before such transaction will be deemed not to be a Fundamental Change pursuant to this **clause (B)** ;

(C) the Company's shareholders approve any plan or proposal for the liquidation or dissolution of the Company; or

(D) at any time after Issue Date, the Ordinary Shares are not listed on any of The New York Stock Exchange, The NASDAQ Global Market or The NASDAQ Global Select Market (or any of their respective successors) (each, a "**Stock Exchange**");

provided, *however*, that a transaction or event described in **clause (A)** or **(B)** above will not constitute a Fundamental Change if (i) at least ninety percent (90%) of the consideration received or to be received by the holders of Ordinary Shares (excluding cash payments for fractional shares or pursuant to dissenters rights), in connection with such transaction or event, consists of ordinary shares or shares of common stock or other corporate common equity listed on any of ~~The New York Stock Exchange, The NASDAQ Global Market or The NASDAQ Global Select Market (or any of their respective successors)~~the Stock Exchanges, or that will be so listed when issued or exchanged in connection with such transaction or event, and such transaction or event constitutes an Ordinary Share Change Event whose Reference Property consists of such consideration; or (ii) such a transaction or event occurs as a result of (w) ~~the Investor's~~TZE's beneficial ownership of any First Lien Notes or any of the Second Lien Notes or the Ordinary Shares such First Lien Notes or Second Lien Notes are convertible into, (x) ~~the Investor's~~TZE's exercise of its right to convert ~~the~~any First Lien Notes or Second Lien Notes beneficially owned by it pursuant to the terms of ~~this~~the First Lien Notes Indentures or the Second Lien Notes Indenture, ~~or~~ (y) the receipt by ~~the Investor~~TZE of any Ordinary Shares issued by the Company in payment of interest due and payable on any First Lien Notes or the Second Lien Notes pursuant to the terms of ~~this Indenture,~~the First Lien Notes Indentures or the Second Lien Notes Indenture, as the case may be, (z) the receipt by TZE of FPA Shares at the Forward Purchase Closing, (aa) the receipt by TZE of any Ordinary Shares in connection with any exercise under the TZE Warrant and/or (~~z~~bb) any other transaction entered into or action taken by ~~the Investor~~TZE, to the extent the ~~Investor~~TZE is a ~~Holder~~holder or a beneficial owner of any ~~Notes,~~First Lien Notes or any of the Second Lien Notes, or pursuant to other agreements and/instruments existing on the Issue Date, through which ~~the Investor~~TZE acquires Capital Stock of the Company or options, warrants, convertible notes or other securities convertible or exercisable into Capital Stock of the Company.

For the purposes of this definition, (x) any transaction or event described in both **clause (A)** and in **clause (B)** above (without regard to the proviso in **clause (B)**) will be deemed to occur solely pursuant to **clause (B)** above (subject to such proviso); and (y) whether a Person is a "**beneficial owner**" and whether shares are "**beneficially owned**" will be determined in accordance with Rule 13d-3 under the Exchange Act.

"**Fundamental Change Repurchase Date**" means the date fixed for the repurchase of any Notes by the Company pursuant to a Repurchase Upon Fundamental Change.

"**Fundamental Change Repurchase Notice**" means a notice (including a notice substantially in the form of the "Fundamental Change Repurchase Notice" set forth in **Exhibit A**) containing the information, or otherwise complying with the requirements, set forth in **Section 4.02(F)(i)** and **Section 4.02(F)(ii)**.

"**Fundamental Change Repurchase Price**" means the cash price payable by the Company to repurchase any Note upon its Repurchase Upon Fundamental Change, calculated pursuant to **Section 4.02(D)**.

"**German Security Documents**" means any Security Document governed by the laws of Germany.

"**Global Note**" means a Note that is represented by a certificate substantially in the form set forth in **Exhibit A**, registered in the name of the Depositary or its nominee, duly executed by the Company and authenticated by the Trustee, and deposited with the Trustee, as custodian for the Depositary.

"**Global Note Legend**" means a legend substantially in the form set forth in **Exhibit B-2**.

"**Guaranteed Obligations**" shall have the meaning specified in **Section 12.01(A)(ii).**

"**Guarantors**" means SunPower Corporation Limited, SunPower Energy Corporation Limited, SunPower Systems International Limited, SunPower Manufacturing Corporation Limited, Maxeon Rooster HoldCo, Ltd., Maxeon Solar Pte. Ltd., SunPower Bermuda Holdings, SunPower Technology Ltd., SunPower Philippines Manufacturing Ltd., Rooster Bermuda DRE, LLC, SunPower Systems Sàrl and any Person that hereafter provides a ~~Guarantee~~guarantee hereunder pursuant to a joinder (or supplemental indenture) to this Indenture, and each of them is a "**Guarantor**."

"**Hedging Agreement**" means any rate protection agreement, foreign currency exchange agreement, commodity price protection agreement or other interest or currency exchange rate or commodity price hedging agreement or agreement designed to protect a Person against fluctuations in interest rates, current exchange or commodity prices.

"**Holder**" means a person in whose name a Note is registered on the Registrar's books.

"**Indebtedness**" means as to any Person, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments and all reimbursement or other obligations in respect of letters of credit, bankers acceptances or other financial products, (c) all obligations or liabilities of such Person to pay the deferred purchase price of assets (other than trade payables incurred in the ordinary course of business and repayable in accordance with customary trade practices), (d) all obligations of such Person owing under Hedging Agreements (which amount shall be calculated based on the amount that would be payable by such Person if the Hedging Agreement were terminated on the date of determination), (e) all obligations or liabilities of others secured by a Lien on the assets of such Person, irrespective of whether such obligation or liability is assumed; *provided* that the amount of such Indebtedness shall be the lesser of the (y) the fair market value of such asset at such date of determination and (z) the amount of such Indebtedness, (f) all finance leases that appear as a liability on such Person's consolidated balance sheet (excluding the footnotes thereto), and any obligation of such Person guarantying or intended to guaranty (whether directly or indirectly) any obligation of any other Person that constitutes Indebtedness under clauses (a) through (f) above.

The amount of Indebtedness of any Person at any date shall be the outstanding balance at such date of all unconditional obligations as described above and, with respect to contingent obligations, the maximum liability upon the occurrence of the contingency giving rise to the obligation; provided that:

(A) the amount outstanding at any time of any Indebtedness issued with original issue discount is the face amount of such Indebtedness less the remaining unamortized portion of the original issue discount of such Indebtedness at such time as determined in conformity with the applicable accounting principles; and

(B) money borrowed and set aside at the time of the incurrence of any Indebtedness in order to prefund the payment of the interest on such Indebtedness shall not be deemed to be "Indebtedness" so long as such money is held to secure the payment of such interest.

"**Indenture**" means this Indenture, as amended or supplemented from time to time.

"**Indenture Documents**" means this Indenture, the Notes, the Intercreditor Agreement, the Security Documents, the Registration Rights Agreement, the Subsidiary Guarantees, and any other instrument or agreement entered into, now or in the future, by any Company Indenture Party or any of its Subsidiaries or the Collateral Trustee and/or Trustee in connection with the Indenture.

"**Initial Pricing VWAP**" means $1.6422.

"**Intellectual Property**" means any patents, trademarks, service marks, designs, business and trade names, copyrights, database rights, design rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered, and the benefit of all applications and rights to use such assets, of the Company and/or its Subsidiaries.

"**Intercreditor Agreement**" means the 1L/2L Intercreditor Agreement, the Pari Passu Intercreditor Agreement, and any Additional Intercreditor Agreement that may be entered into at any time or from time to time after the Rate Reset Date in respect of the Obligations.

"**Interest Payment Date**" means, with respect to a Note, each February 17 and August 17 of each year, commencing on February 17, 2023 ~~(or commencing on such other date specified in the certificate representing such Note)~~; *provided* that, prior to the Rate Reset Date, to the extent the Company elects to pay any portion of the interest due and payable on an Interest Payment Date (such Interest Payment Date, a "**Relevant Interest Payment Date**") in Ordinary Shares pursuant to **Section ~~2.05~~2.04(~~D~~E)** hereof, with respect to any Holder, and with respect to the portion of interest to be paid in Ordinary Shares only, (x) to the extent no notification in writing is received from such Holder on its ability or inability to accept the delivery of the relevant Ordinary Shares, or the Company has received notification in writing from such Holder confirming its ability to accept the delivery of the relevant Ordinary Shares, each pursuant to terms set forth in the immediately following paragraph, the Relevant Interest Payment Date, or (y) to the extent the Company has received notification in writing from such Holder of its inability to accept the delivery of the relevant Ordinary Shares, pursuant to terms set forth in the immediately following paragraph, such date that falls seven (7) Business Days following the Company's receipt of a written notice from such Holder confirming that it is able to accept the delivery of such Ordinary Shares in the manner contemplated under the Indenture (such date as provided in the sub-clause (x) or (y), the "**Share Interest Payment Date**").

Each Holder shall, as soon as practicable and in any case within five (5) Business Days following the Company's delivery of the notice pursuant to **Section 2.04 (~~D~~E)** hereof indicating its election to pay a portion of the interest due in Ordinary Shares, notify the Company in writing of such Holder's ability or inability to accept the delivery of the relevant Ordinary Shares. To the extent the Company does not receive such notification from any Holder within five (5) Business Days following the Company's delivery of the notice pursuant to **Section 2.04(~~D~~E)**, the Company is entitled to deem such Holder to be able to accept the delivery of the relevant Ordinary Share.

In the event that the Company is unable to deliver the relevant Ordinary Shares on the relevant Share Interest Payment Date due to the Holder's inability to accept such delivery, the Company shall be deemed to have fulfilled its payment obligations with respect to the relevant portion of the interest and shall not be held liable for any loss, whether direct or indirect or actual or potential, that the Holder may suffer, or claim to have suffered, as a result.

For the avoidance of doubt, the amount of interest due on any Interest Payment Date and/or the value of Ordinary Shares issued to pay any interest due shall be calculated without giving effect to the proviso set forth in the first paragraph of this definition.

For the avoidance of doubt, the Maturity Date is an Interest Payment Date.

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

"**Inventory**" means, with respect to any Person, any and all "goods" (as defined in the UCC) which shall at any time constitute "inventory" (as defined in the UCC) of such Person, wherever located (including without limitation, goods in transit and goods in the possession of third parties), or which from time to time are held for sale, lease or consumption in such Person's business, furnished under any contract of service or held as raw materials, work in process, finished inventory or supplies (including without limitation, packaging and/or shipping materials).

"**Investment**" means, relative to any Person, (a) any loan, advance or extension of credit made by such Person to any other Person, including the purchase by such first Person of any bonds, notes, debentures or other debt securities of any such other Person; (b) the incurrence of contingent liabilities or guarantees in favor of any other Person and (c)(i) the acquisition of, or capital contribution in respect of, any equity interest held by such Person in any other Person and (ii) the acquisition of other assets for consideration from such other Person. The amount of any Investment at any time shall be the original principal or capital amount thereof less all returns of principal or equity or capital thereon received (in cash or in the same form as the Investment) on or before such time and shall, if made by the transfer or exchange of property other than cash, be deemed to have been made in an original principal or capital amount equal to the Fair Market Value of such property at the time of such Investment.

~~"**Investor**" means Zhonghuan Singapore Investment and Development Pte. Ltd., and/or its Affiliates.~~

"**Issue Date**" means August 17, 2022.

"**Last Reported Sale Price**" of the Ordinary Shares for any Trading Day means the closing sale price per Ordinary Share (or, if no closing sale price is reported, the average of the last bid price and the last ask price per Ordinary Share or, if more than one in either case, the average of the average last bid prices and the average last ask prices per Ordinary Share) on such Trading Day as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed. If the Ordinary Shares are not listed on a U.S. national or regional securities exchange on such Trading Day, then the Last Reported Sale Price will be the last quoted bid price per Ordinary Share on such Trading Day in the over-the-counter market as reported by OTC Markets Group Inc. or a similar organization. If the Ordinary Shares are not so quoted on such Trading Day, then the Last Reported Sale Price will be the average of the mid-point of the last bid price and the last ask price per Ordinary Share on such Trading Day from each of at least three (3) nationally recognized independent investment banking firms selected by the Company. Neither the Trustee nor the Conversion Agent will have any duty to determine the Last Reported Sale Price.

"**Lien**" means any statutory or other lien, security interest, mortgage, pledge, charge, hypothecation, assignment for collateral purposes, encumbrance, option, purchase right, call right, easement, right-of-way, restriction (including zoning restrictions), defect, preferential arrangement, preference, priority, exception or material irregularity in title or similar charge or encumbrance, including any agreement to give any of the foregoing, any conditional sale or other title retention agreement or any lease in the nature thereof; *provided* that in no event shall an operating lease be deemed to constitute a Lien.

"**Majority Holders**" means, at any applicable time, Holders owning more than 50.0% of the aggregate principal amount of the Notes then outstanding.

"**Make-Whole Event**" means (A) a Fundamental Change (determined after giving effect to the proviso immediately after **clause (D)** of the definition thereof, but without regard to the proviso to **clause (B)(ii)** of such definition) (an event referred to in this **clause (A)**, a "**Make-Whole Fundamental Change**"); or (B) the sending of a Redemption Notice pursuant to **Section 4.03(G)** in respect of a Provisional Redemption or a Tax Redemption; *provided*, *however*, that the sending of a Redemption Notice for a Provisional Redemption of less than all of the outstanding Notes will constitute a Make-Whole Event only with respect to the Notes called (or deemed to be called pursuant to **Section 4.03(K)**) for Provisional Redemption pursuant to such Redemption Notice and not with respect to any other Notes. For the avoidance of doubt, the sending of any Redemption Notice for a Tax Redemption will constitute a Make-Whole Event with respect to all outstanding Notes.

"**Make-Whole Event Conversion Period**" has the following meaning:

(A) in the case of a Make-Whole Event pursuant to **clause (A)** of the definition thereof, the period from, and including, the Make-Whole Event Effective Date of such Make-Whole Event to, and including, the thirty fifth (35th) Trading Day after such Make-Whole

Event Effective Date (or, if such Make-Whole Event also constitutes a Fundamental Change, to, but excluding, the related Fundamental Change Repurchase Date); and

(B) in the case of a Make-Whole Event pursuant to **clause (B)** of the definition thereof, the period from, and including, the Redemption Notice Date for the related Redemption to, and including, the second (2nd) Business Day immediately before the related Redemption Date;

provided, *however*, that if the Conversion Date for the conversion of a Note that has been called (or deemed, pursuant to **Section 4.03(K)**, to be called) for Redemption occurs during the Make-Whole Event Conversion Period for both a Make-Whole Fundamental Change occurring pursuant to **clause (A)** of the definition of "Make-Whole Event" and a Make-Whole Event resulting from such Redemption pursuant to **clause (B)** of such definition, then, notwithstanding anything to the contrary in **Section 5.07**, solely for purposes of such conversion, (x) such Conversion Date will be deemed to occur solely during the Make-Whole Event Conversion Period for the Make-Whole Event with the earlier Make-Whole Event Effective Date; and (y) the Make-Whole Event with the later Make-Whole Event Effective Date will be deemed not to have occurred.

"**Make-Whole Event Effective Date**" means (A) with respect to a Make-Whole Event pursuant to **clause (A)** of the definition thereof, the date on which such Make-Whole Event occurs or becomes effective; and (B) with respect to a Make-Whole Event pursuant to **clause (B)** of the definition thereof, the applicable Redemption Notice Date.

"**Make-Whole Fundamental Change**" has the meaning set forth in the definition of Make-Whole Event.

"**Make-Whole Table**" means the table set forth in Section 5.07(B), as amended from time to time, pursuant to the terms of this Indenture.

"**Market Disruption Event**" means, with respect to any date, the occurrence or existence, during the one-half hour period ending at the scheduled close of trading on such date on the principal U.S. national or regional securities exchange or other market on which the Ordinary Shares are listed for trading or trades, of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Ordinary Shares or in any options contracts or futures contracts relating to the Ordinary Shares.

"**Material Adverse Effect**" means a material adverse effect on the business, properties, financial condition, prospects or results of operations of the Company and the Guarantors, taken as a whole.

"**Maturity Date**" means August 17, ~~2027~~2029.

"**New 2029 First Lien Notes**" means $97.5 million 9.00% Convertible First Lien Senior Secured Notes due 2029 issued by the Company pursuant to the New 2029 First Lien Notes Indenture, and any additional notes which may be issued pursuant to and in accordance with the terms of

the New 2029 First Lien Notes Indenture, as may be further amended and supplemented from time to time.

"**New 2029 First Lien Notes Collateral Trustee**" means DB Trustees (Hong Kong) Limited, as the collateral trustee for the New 2029 First Lien Notes, and/or any successor collateral trustee, additional collateral trustee, New 2029 First Lien Notes Philippine Supplemental Collateral Trustee, or any other supplemental collateral trustee appointed pursuant to the terms of New 2029 First Lien Notes Indenture.

"**New 2029 First Lien Notes Indenture**" means an indenture dated June 20, 2024 by and among the Company, the guarantors named therein, the New 2029 First Lien Notes Trustee, the New 2029 Notes First Lien Notes Collateral Trustee and the New 2029 First Lien Notes Philippine Supplemental Collateral Trustee, as may be amended and supplemented from time to time.

"**New 2029 First Lien Notes Philippine Supplemental Collateral Trustee**" means RCBC Trust Corporation as collateral trustee with respect to the Philippine Collateral (as defined in the New 2029 First Lien Notes Indenture), in such capacity and solely with respect to such collateral.

"**New 2029 First Lien Notes Trustee**" means Deutsche Bank Trust Company Americas, a New York Banking Corporation, as trustee for New 2029 First Lien Notes or its successors or assignees appointed pursuant to the terms of New 2029 First Lien Notes Indenture.

"**Non-recourse Receivable Financing**" means Receivable Financing (i) under which none of the Company nor the Restricted Subsidiaries (other than pursuant to Standard Non-recourse Receivable Financing Undertakings) provides guarantee or recourse with respect to the Receivable Financing Assets, undertakes to repurchase any Receivable Financing Assets, subjects any of its properties or assets, directly or indirectly, contingently or otherwise, to the satisfaction of any obligation related to the Receivable Financing Assets or undertakes to maintain or preserve the financial condition or operating results of the entity that purchases or otherwise receives the Receivable Financing Assets and (ii) is not reflected as liability on the consolidated balance sheet of the Company.

"**Note Agent**" means any Registrar, Paying Agent or Conversion Agent.

"**Notes**" means ~~(i)~~ the Initial Notes, ~~(ii)~~ following the issuance of ~~the~~any Additional Notes pursuant to the terms of this Indenture, ~~the~~such Additional Notes, and ~~(iii)~~ the PIK Notes, treated as a single class.

"**Obligations**" means (a) obligations of the Company and the other Company Indenture Parties from time to time to pay (and otherwise arising under or in respect of the due and punctual payment of) (i) principal, interest (including interest accruing during the pendency of any insolvency proceeding, regardless of whether allowed or allowable in such proceeding) and all other obligations under the Indenture Documents (including, without limitation, any applicable premium) of the Company and the other Company Indenture Parties under this Indenture, the Notes issued hereunder and the other Indenture Documents when and as due, whether at maturity, by acceleration, upon one or more dates set for redemption or otherwise (including, for the avoidance of doubt, the "Parallel Debt", the "Collateral Trustee Claim" and any similar

defined term as defined in this Indenture (or the equivalent provision thereof), including all Parallel Debt and the Collateral Trustee Claim described in Section 11 of this Indenture), and (ii) all other monetary obligations, including fees, costs, expenses and indemnities, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any insolvency proceeding, regardless of whether allowed or allowable in such proceeding), of the Company and the other Company Indenture Parties under this Indenture and the other Indenture Documents ~~and the Notes Purchase Agreement~~, and (b) the due and punctual performance of all covenants, agreements, obligations and liabilities of the Company and the other Company Indenture Parties under or pursuant to this Indenture and the other Indenture Documents.

"**Observation Period**" means, with respect to any Note to be converted, (A) subject to **clause (B)** below, if the Conversion Date for such Note occurs on or before the ~~sixty~~thirty fifth (~~65th~~35th) Scheduled Trading Day immediately before the Maturity Date, the ~~sixty~~thirty (~~60~~30) consecutive VWAP Trading Days beginning on, and including, the third (3rd) VWAP Trading Day immediately after such Conversion Date; (B) if such Conversion Date occurs on or after the date the Company has sent a Redemption Notice calling all or any Notes for Provisional Redemption or Tax Redemption pursuant to **Section 4.03(G)** and before the related Redemption Date, the ~~sixty~~thirty (~~60~~30) consecutive VWAP Trading Days beginning on, and including, the ~~sixty~~thirty first (~~61st~~31st) Scheduled Trading Day immediately before such Redemption Date; and (C) subject to **clause (B)** above, if such Conversion Date occurs after the ~~sixty~~thirty fifth (~~65th~~35th) Scheduled Trading Day immediately before the Maturity Date, the ~~sixty~~thirty (~~60~~30) consecutive VWAP Trading Days beginning on, and including, the ~~sixty~~thirty first (~~61st~~31st) Scheduled Trading Day immediately before the Maturity Date.

"**Officer**" means ~~the~~ any member of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Group Treasurer, any ~~Assistant Treasurer~~Treasury Director, the Controller, the Secretary or any Vice-President of the Company.

"**Officer's Certificate**" means a certificate that is signed on behalf of the Company by one (1) of its Officers and that meets the requirements of **Section 13.03**.

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

"**Opinion of Counsel**" means an opinion, from legal counsel (including an employee of, or counsel to, the Company or any of its Subsidiaries) reasonably acceptable to the Trustee, and, when applicable, the Collateral Trustee, that meets the requirements of **Section 13.03**, subject to customary qualifications and exclusions.

"**Ordinary Shares**" means the ordinary shares of the Company, subject to **Section 5.09**.

"**Pari Passu Intercreditor Agreement**" means the intercreditor agreement, dated on or about June 20, 2024, made between, among others, the Company, the Guarantors, the Collateral Trustee, the Philippine Supplemental Collateral Trustee, the New 2029 First Lien Notes Collateral Trustee and the New 2029 First Lien Notes Philippine Supplemental Collateral

Trustee and the other parties named therein, as amended, restated or otherwise modified or varied from time to time.

"**Person**" or "**person**" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or other agency or political subdivision thereof. Any division or series of a limited liability company, limited partnership or trust will constitute a separate "person" under this Indenture.

"**Philippine Collateral**" means the Collateral governed by a Philippine law governed all-asset omnibus security agreement dated October 14, 2022, as may be amended or supplemented from time to time (the "**Philippine Security Document**").

"**Physical Note**" means a Note (other than a Global Note) that is represented by a certificate substantially in the form set forth in **Exhibit A**, registered in the name of the Holder of such Note and duly executed by the Company and authenticated by the Trustee.

"**Post-Closing Security Documents**" means the security documents and all other security and/or other collateral documents to be entered into in connection with the Indenture and the Notes listed on **Schedule 1.01** and each of the other agreements, instruments or documents entered into or to be entered into in connection with such security documents that create or purport to create a Lien in favor of the Collateral Trustee, on behalf of and for the benefit of the Secured Parties, which shall include, among others, the Holders, the Trustee and the Collateral Trustee~~, in connection with the Indenture and the Notes~~.

"**PP&E**" means, as of any date, the total consolidated property, plant and equipment of the Company and its Subsidiaries measured in accordance with U.S. GAAP as of the last date of the most recent fiscal quarter for which consolidated financial statements of the Company (which the Company will use its reasonable best efforts to compile in a timely manner) are available (which may be internal consolidated financial statements).

~~"**Notes Purchase Agreement**" means that certain convertible notes purchase agreement, dated August 12, 2022, between the Company, the Guarantors and the Investor, as may be amended from time to time.~~

"**Post-reset Cash Interest Rate**" means 1.00% per annum.

"**Post-reset PIK Interest Rate**" means 7.50% per annum.

"**Pre-reset Cash Interest Rate**" means 3.50% per annum.

"**Pre-reset PIK Interest Rate**" means 4.00% per annum.

"**Rate Reset Date**" means June 20, 2024.

"**Receivable Financing**" means any financing transaction or series of financing transactions that have been or may be entered into by any of the Company and the Restricted Subsidiaries pursuant to which the Company or such Restricted Subsidiary, as the case may be, may sell,

convey or otherwise transfer to another Person, or may grant a security interest in, any receivables, royalty, other revenue streams or interests therein (including without limitation, all security interests in goods financed thereby (including equipment and property), the proceeds of such receivables, and other assets which are customarily sold or in respect of which security interests are customarily granted in connection with securitization or factoring transactions involving such assets) for credit or liquidity management purposes (including discounting, securitization or factoring transactions) either (i) in the ordinary course of business or (ii) by way of selling securities that are, or are capable of being, listed on any stock exchange or in any securities market and are offered using an offering memorandum or similar offering document.

"**Receivable Financing Assets**" means assets that are underlying and are sold, conveyed or otherwise transferred or pledged in a Receivable Financing.

"**Redemption**" means a Provisional Redemption or a Tax Redemption.

"**Redemption Date**" means the date fixed, pursuant to **Section 4.03(E)**, for the settlement of the repurchase of any Notes by the Company pursuant to a Provisional Redemption or a Tax Redemption.

"**Redemption Notice Date**" means, with respect to a Provisional Redemption or a Tax Redemption, the date on which the Company sends the Redemption Notice for such Redemption pursuant to **Section 4.03(G)**.

"**Redemption Price**" means in the case of a Provisional Redemption or Tax Redemption, the cash price determined and payable by the Company to redeem any Note upon its Redemption, calculated pursuant to **Section 4.03(F)**.

"**Registration Rights Agreement**" means the Amended and Restated Registration Rights Agreement, dated as of ~~August 17~~June 20, ~~2022~~2024, among the Company and ~~the Investor~~TZE, as amended from time to time in accordance with its terms.

"**Regular Record Date**" has the following meaning with respect to an Interest Payment Date: (A) if such Interest Payment Date occurs on February 17, the immediately preceding February 2; and (B) if such Interest Payment Date occurs on August 17, the immediately preceding August 2.

"**Relevant Interest Period**" means, with respect to any Interest Payment Date, such period starting from (and including) the immediately preceding Interest Payment Date to (but excluding) such Interest Payment Date.

"**Repurchase Upon Fundamental Change**" means the repurchase of any Note by the Company pursuant to **Section 4.02**.

"**Responsible Officer**" means (A) any officer within the Corporate Trust Administration of the Trustee (or any successor group of the Trustee) having direct responsibility for the administration of this Indenture; and (B) with respect to a particular corporate trust matter, any other officer to

whom such matter is referred because of his or her knowledge of, and familiarity with, the particular subject.

"**Restricted Collateral Subsidiary**" means ~~Huansheng Photovoltaic (Jiangsu) Co., Ltd~~, SunPower Systems ~~Sarl~~Sàrl, SunPower Philippines Manufacturing Ltd., SunPower Energy Solutions France SAS, or to the extent it is not a Guarantor, SunPower Malaysia Manufacturing Sdn Bhd, or any successor thereof.

"**Restricted Note Legend**" means a legend substantially in the form set forth in **Exhibit B-1**.

"**Restricted Payment**" means, with respect to any Person, the voluntary or optional payment of principal of, or premium or interest on, any Indebtedness contractually subordinated in right of payment to the Obligations prior to the scheduled repayment or scheduled maturity thereof, as the case may be, unless such payment is permitted under the terms of the subordination agreement applicable thereto.

"**Restricted Share Legend**" means, with respect to any Conversion Share, a legend substantially to the effect that the offer and sale of such Conversion Share have not been registered under the Securities Act and that such Conversion Share cannot be sold or otherwise transferred except pursuant to a transaction that is registered under the Securities Act or that is exempt from, or not subject to, the registration requirements of the Securities Act.

"**Restricted Subsidiary**" means any Subsidiary of the Company other than an Unrestricted Subsidiary.

"**Right of First Offer**" means the right, but not the obligations, of TZE to acquire all of the Permitted Pari Passu Secured Indebtedness issued, offered or sold by the Company, pursuant to the terms and conditions of that certain securities purchase agreement, dated May 30, 2024, by and among the Company, the guarantors named therein and TZE.

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

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

"**Sale/Leaseback Transaction**" means an arrangement relating to property now owned or acquired after the Issue Date by the Company or any Restricted Subsidiary whereby the Company or such Restricted Subsidiary transfers such property to a Person and the Company or such Restricted Subsidiary contemporaneously lease it from such Person pursuant to a lease on reasonable market terms.

"**Sales Contract**" means contracts or agreements pursuant to which any Company Indenture Party provides services or goods to their respective customers.

"**SCB Agreement**" means the revolving credit agreement dated February 15, 2018 between SunPower Malaysia Manufacturing Sdn. Bhd. and Standard Chartered Bank Malaysia Berhad, as amended or supplemented from time to time.

"**Scheduled Trading Day**" means any day that is scheduled to be a Trading Day on the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed or, if the Ordinary Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Ordinary Shares are then traded. If the Ordinary Shares are not so listed or traded, then "Scheduled Trading Day" means a Business Day.

"**SDA**" means that certain Separation and Distribution Agreement dated November 8, 2019 by and between SunPower Corporation, a Delaware corporation, and the Company, as amended, restated, modified and/or supplemented from time to time.

"**SEC**" means the U.S. Securities and Exchange Commission. ~~"**Securities Act**" means the U.S. Securities Act of 1933, as amended. "**Security**" means any Note or Conversion Share.~~

"**Second Lien Notes**" $204,019,403 Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028 issued by the Company.

"**Second Lien Notes Collateral Trustee**" means DB Trustees (Hong Kong) Limited, as the collateral trustee for the Second Lien Notes, and/or any successor collateral trustee, additional collateral trustee, the Second Lien Notes Philippine Supplemental Collateral Trustee or supplemental collateral trustee appointed pursuant to the terms of Second Lien Notes Indenture.

"**Second Lien Notes Indenture**" means an indenture dated June 20, 2024 by and among the Company, the guarantors named therein, the Second Lien Notes Trustee, the Second Lien Notes Collateral Trustee and the Second Lien Notes Philippine Supplemental Collateral Trustee, in relation to the Second Lien Notes, as may be amended and supplemented from time to time.

"**Second Lien Notes Philippine Supplemental Collateral Trustee**" means RCBC Trust Corporation as collateral trustee with respect to the Philippine Collateral (as defined in the Second Lien Notes Indenture), in such capacity and solely with respect to such collateral.

"**Second Lien Notes Trustee**" means Deutsche Bank Trust Company Americas, a New York Banking Corporation, as trustee for Second Lien Notes or its successors or assignees appointed pursuant to the terms of Second Lien Notes Indenture.

"**Secured Parties**" means, collectively, the Collateral Trustee (or any receiver and delegate appointed by the Collateral Trustee on any Security Document), the Trustee and the Holders.

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

"**Security**" means any Note or Conversion Share.

"**Security Documents**" means all security and/or other collateral documents that create or purport to create a Lien in favor of the Collateral Trustee for the benefit of ~~Holders, the Trustee~~

~~and the Collateral Trustee~~itself and of the Secured Parties and entered into in connection with the Indenture and the Notes (including the Closing Security Documents, Post-Closing Security Documents and the Additional Security Documents), as amended, restated, modified and/or supplemented in accordance with the provisions hereof.

"**Security Property**" means:

(A) the security interest over the Collateral expressed to be granted in ~~favour~~favor of the Collateral Trustee ~~as agent or trustee for the other~~for the benefit of itself and of the Secured Parties, which shall include Holders, the Trustee and the Collateral Trustee;

(B) all obligations expressed to be undertaken by any grantor of the security interest over the Collateral to pay amounts in respect of the Obligations to the Collateral Trustee ~~as agent or trustee~~ for the benefit of itself and of the Secured Parties, which shall include Holders, the Trustee and the Collateral Trustee; or

(C) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Collateral Trustee is required by the terms of the Indenture Documents to hold as trustee on trust for the Secured Parties or as agent in ~~favour~~favor of the Secured Parties.

"**Settlement Method**" means Cash Settlement, Physical Settlement or Combination Settlement.

"**Share Price**" has the following meaning for any Make-Whole Event: (A) if the holders of the Ordinary Shares receive only cash in consideration for their Ordinary Shares in such Make-Whole Event and such Make-Whole Event is pursuant to **clause (B)** of the definition of "Fundamental Change," then the Share Price is the amount of cash paid per Ordinary Share in such Make-Whole Event; and (B) in all other cases, the Share Price is the average of the Last Reported Sale Prices per Ordinary Share for the five consecutive Trading Days ending on, and including, the Trading Day immediately before the Make-Whole Event Effective Date of such Make-Whole Event.

"**Significant Subsidiary**" has the meaning set forth in Article I, Rule 1-02(w) of Regulation S-X promulgated by the SEC (or any successor rule); *provided*, *however*, that if a Subsidiary that meets the criteria of clause (3) of such rule but not clause (1) or (2) thereof, in each case as such rule is in effect on the Issue Date, then such Subsidiary will not be deemed to be a Significant Subsidiary unless such Subsidiary's income (or loss) from continuing operations before income taxes, exclusive of amounts attributable to any non-controlling interests, for the last completed fiscal year prior to the date of determination exceeds twenty five million dollars ($25,000,000) (with such amount calculated pursuant to Rule 1-02(w) as in effect on the Issue Date). For the avoidance of doubt, a Subsidiary that satisfies the condition set forth in the proviso to the preceding sentence will not be deemed to be a "Significant Subsidiary" unless such Subsidiary also constitutes a "Significant Subsidiary" within the meaning set forth in Article I, Rule 1-02(w) of Regulation S-X promulgated by the SEC (or any successor rule).

"**Soulte**" means, in relation to any enforcement of any Security Document occurring by way of Appropriation (including pursuant to a pacte commissoire or a foreclosure (attribution judiciaire)

or any similar enforcement mechanism) or judicial foreclosure of any French Security Document, the amount by which the value of the Charged Property (as determined on the date of the relevant Appropriation by a valuation expert in accordance with the provisions of the relevant Security Document) appropriated or foreclosed pursuant to that enforcement exceeds the amount of obligations secured by that security interest which is discharged as a result of that enforcement being carried out.

"**Special Interest**" means any interest that accrues on any Note pursuant to **Section 7.03**.

"**Specified Disposition Entity**" means Maxeon Power Inc., a Delaware corporation.

"**Specified Dollar Amount**" means, with respect to the conversion of a Note to which Combination Settlement applies, the maximum cash amount per $1,000 principal amount of such Note deliverable upon such conversion (excluding cash in lieu of any fractional Ordinary Share).

"**Standard Non-recourse Receivable Financing Undertakings**" means representations, warranties, undertakings, covenants and indemnities entered into by the Company or any Restricted Subsidiary which the Company or such Restricted Subsidiary has determined in good faith to be customary for a seller or servicer of assets in Non-recourse Receivable Financings.

"**Stated Interest**" means (1) prior to the Rate Reset Date, 7.50% per annum; and (2) on and after the Rate Reset Date, 7.50% per annum if the Company elects to pay the interest payable on an Interest Payment Date in cash in accordance with **Section 2.04(C),** or 8.50% per annum if the Company elects to pay the interest payable on an Interest Payment Date in a combination of cash and PIK Notes in accordance with **Section 2.04(C)**.

"**Stated Maturity**" means, (1) with respect to any Indebtedness, the date specified in such debt security as the fixed date on which the final ~~instalment~~installment of principal of such Indebtedness is due and payable as set forth in the documentation governing such Indebtedness and (2) with respect to any scheduled ~~instalment~~installment of principal of or interest on any Indebtedness, the date specified as the fixed date on which such ~~instalment~~installment is due and payable as set forth in the documentation governing such Indebtedness, and shall not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

"**Stock Transfer Agent**" means Computershare Trust Company, N.A.

"**Subsidiary**" means, with respect to any Person, (A) any corporation, association or other business entity (other than a partnership or limited liability company) of which more than fifty percent (50%) of the total voting power of the Capital Stock entitled (without regard to the occurrence of any contingency, but after giving effect to any voting agreement or shareholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees, as applicable, of such corporation, association or other business entity is owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person; and (B) any partnership or limited liability company where (i) more than fifty percent (50%) of the capital accounts, distribution rights, equity and voting interests, or of the general and limited partnership interests, as applicable, of such partnership or limited liability company

are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person, whether in the form of membership, general, special or limited partnership or limited liability company interests or otherwise; and (ii) such Person or any one or more of the other Subsidiaries of such Person is a controlling general partner of, or otherwise controls, such partnership or limited liability company.

"**Subsidiary Guarantee**" means the joint and several guarantee pursuant to **Article 12** hereof by a Guarantor of its Guaranteed Obligations.

"**Supermajority Holders**" means, at any applicable time, Holders owning more than 66 ⅔ % of the aggregate ~~outstanding~~ principal amount of the Notes then outstanding.

"**Swiss Federal Tax Administration**" means the tax authorities referred to in article 34 of the Swiss Federal Act on Withholding Tax of 13 October 1965 (*Bundesgesetz über die Verrechnungssteuer*).

~~"**Swiss Guarantee Condition**" means the receipt of a written confirmation (e.g., a countersigned tax ruling) from the Swiss Federal Tax Administration to SunPower Systems Sàrl (or its legal advisor) confirming that the use of proceeds of the Additional Notes is permitted, in each case without payments in respect of the Additional Notes becoming subject to withholding or deduction for Swiss withholding tax as a consequence of such use of proceeds in Switzerland.~~

"**Swiss Withholding Tax**" means any taxes imposed under the Swiss Federal Act on Withholding Tax of 13 October 1965 (*Bundesgesetz über die Verrechnungssteuer*).

"**Tax**" means any tax, duty, levy, impost, assessment or other governmental charge (including penalties and interest and other similar liabilities related thereto).

"**Tax Redemption**" means the Redemption of any Note pursuant to **Section 4.03(C)(i)**.

"**Total Revenue"** means the aggregate amount of consolidated revenue, determined in conformity with U.S. GAAP, for the then most recent four fiscal quarters for which consolidated financial statements of the Company (which the Company shall use its reasonable best efforts to compile in a timely manner) are available (which may be internal consolidated financial statements).

"**Total Solarization Agreement**" means the Second Amended and Restated Initial Implementing Agreement, dated February 22, 2021, between the Company and TotalEnergies SE in relation to the supply of certain PV modules to TotalEnergies SE.

"**Trading Day**" means any day on which (A) trading in the Ordinary Shares generally occurs on the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed or, if the Ordinary Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Ordinary Shares are then traded; and (B) there is no Market Disruption Event. If the Ordinary Shares are not so listed or traded, then "Trading Day" means a Business Day.

"**Transfer-Restricted Security**" means any Security that constitutes a "restricted security" (as defined in Rule 144); *provided*, *however*, that such Security will cease to be a Transfer-Restricted Security upon the earliest to occur of the following events:

(A) such Security is sold or otherwise transferred to a Person (other than the Company or an Affiliate of the Company) pursuant to a registration statement that was effective under the Securities Act at the time of such sale or transfer;

(B) such Security is sold or otherwise transferred to a Person (other than the Company or an Affiliate of the Company) pursuant to an available exemption (including Rule 144) from the registration and prospectus-delivery requirements of, or in a transaction not subject to, the Securities Act and, immediately after such sale or transfer, such Security ceases to constitute a "restricted security" (as defined in Rule 144); and

(C) such Security is eligible for resale, by a Person that is not an Affiliate of the Company and that has not been an Affiliate of the Company during the immediately preceding three (3) months, pursuant to Rule 144 without any limitations thereunder as to volume, manner of sale, availability of current public information or notice.

The Trustee is under no obligation to determine whether any Security is a Transfer- Restricted Security and may conclusively rely on an Officer's Certificate with respect thereto.

"**Trust Indenture Act**" means the U.S. Trust Indenture Act of 1939, as amended.

"**Trustee**" means the Person named as such in the first paragraph of this Indenture until a successor replaces it in accordance with the provisions of this Indenture and, thereafter, means such successor.

"**TZE**" means Zhonghuan Singapore Investment and Development Pte. Ltd., and/or its Affiliates.

"**TZE Warrant**" means a warrant of the Company, dated June 20, 2024, issued to TZE.

"**U.S. GAAP**" means the generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time.

"**Unrestricted Subsidiary**" means each of Specified Disposition Entity, SunPower Energy Systems Southern Africa (Pty) Ltd, SunPower Technologies France SAS, SunPower Manufacturing de Vernejoul SAS, Maxeon Americas, Inc, any future Subsidiaries of the Company which is primarily engaged in projects and/or business which are initially primarily funded by Capital Expenditures duly approved by the Board of Directors, as designated from time to time by the Company through delivery of written notices to the Trustee and the Holders, and their respective Subsidiaries.

~~"**Use of Proceeds Plan**" means the Use of Proceeds Plan attached as Exhibit C to the Notes Purchase Agreement.~~

~~"**Use of Proceeds Report**" means a report providing itemized details and information with respect to the Company's adherence to the Use of Proceeds Plan.~~

"**VWAP Market Disruption Event**" means, with respect to any date, (A) the failure by the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed, or, if the Ordinary Shares are not then listed on a U.S. national or regional securities exchange, the principal other market on which the Ordinary Shares are then traded, to open for trading during its regular trading session on such date; or (B) the occurrence or existence, for more than one half hour period in the aggregate, of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Ordinary Shares or in any options contracts or futures contracts relating to the Ordinary Shares, and such suspension or limitation occurs or exists at any time before 1:00 p.m., New York City time, on such date.

"**VWAP Trading Day**" means a day on which (A) there is no VWAP Market Disruption Event; and (B) trading in the Ordinary Shares generally occurs on the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed or, if the Ordinary Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Ordinary Shares are then traded. If the Ordinary Shares are not so listed or traded, then "VWAP Trading Day" means a Business Day.

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

Section 1.02. OTHER DEFINITIONS.

Term	Defined in Section
"Additional Amounts"	**3.05(A)**
"Additional Intercreditor Agreement"	**14.02(A)**
"Additional Shares"	**5.07(A)**
"Applicable Terrorism Law"	**13.11**
"Averaging Period"	**2.05(D)(i)**
"Bank Account Perfection Actions"	**3.18(A)**
"Business Combination Event"	**6.01(B)**
"Cash Settlement"	**5.03(A)**
"Combination Settlement"	**5.03(A)**
"Company Business Combination Event"	**6.01(A)**
~~**"Combination Settlement"**~~	~~**5.03(A)**~~
"Confidential Information"	**3.02(A)**
"Conversion Agent"	**2.06(A)**
"Conversion Consideration"	**5.03(B)(i)**
~~**"Cash Settlement"**~~	~~**5.03(A)**~~

"Tax Redemption Opt-Out Election Notice"	**4.03(C)(ii)(1)**
"Tender/Exchange Offer Valuation Period"	**5.05(A)(v)**
"Transfer Taxes"	**3.05(B)**
"Underlying Issuer"	**5.09(A)**

Section 1.03. RULES OF CONSTRUCTION.

For purposes of this Indenture:

(A) "or" is not exclusive;

(B) "including" means "including without limitation";

(C) "will" expresses a command;

(D) the "average" of a set of numerical values refers to the arithmetic average of such numerical values;

(E) a merger involving, or a transfer of assets by, a limited liability company, limited partnership or trust will be deemed to include any division of or by, or an allocation of assets to a series of, such limited liability company, limited partnership or trust, or any unwinding of any such division or allocation;

(F) words in the singular include the plural and in the plural include the singular, unless the context requires otherwise;

(G) "herein," "hereof" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision of this Indenture, unless the context requires otherwise;

(H) references to currency mean the lawful currency of the United States of America, unless the context requires otherwise;

(I) the exhibits, schedules and other attachments to this Indenture are deemed to form part of this Indenture; and

(J) the term "**interest**," when used with respect to a Note, includes any Special Interest, unless the context requires otherwise.

Article 2. THE NOTES

Section 2.01. FORM, DATING AND DENOMINATIONS.

The Notes and the Trustee's certificate of authentication and any PIK Notes will be substantially in the form set forth in **Exhibit A**. The Notes will bear the legends required by **Section 2.09** and may bear notations, legends or endorsements required by law, stock exchange rule or usage or the Depositary. Each Note will be dated as of the date of its authentication.

Except to the extent otherwise provided in a Company Order delivered to the Trustee in connection with the issuance and authentication thereof, the Notes will be issued initially in the form of one or more Physical Notes. Physical Notes may be exchanged for Global Notes, and Global Notes may be exchanged for Physical Notes, only as provided in **Section 2.10**.

The Notes will be issuable only in registered form without interest coupons and only in Authorized Denominations.

Each certificate representing a Note will bear a unique registration number that is not affixed to any other certificate representing another outstanding Note.

The terms contained in the Notes constitute part of this Indenture, and, to the extent applicable, the Company and the Trustee, by their execution and delivery of this Indenture, agree to such terms and to be bound thereby; *provided*, *however*, that, to the extent that any provision of any Note conflicts with the provisions of this Indenture, the provisions of this Indenture will control for purposes of this Indenture and such Note.

Section 2.02. EXECUTION, AUTHENTICATION AND DELIVERY.

(A) *Due Execution by the Company*. At least one (1) duly authorized Officer will sign the Notes on behalf of the Company by manual, electronically or facsimile signature. A Note's validity will not be affected by the failure of any Officer whose signature is on any Note to hold, at the time such Note is authenticated, the same or any other office at the Company.

(B) Authentication by the Trustee and Delivery.

(i) No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually or electronically signs the certificate of authentication of such Note.

(ii) The Trustee will cause an authorized signatory of the Trustee (or a duly appointed authenticating agent) to manually or electronically sign the certificate of authentication of a Note only if (1) the Company delivers such Note to the Trustee; (2) such Note is executed by the Company in accordance with **Section 2.02(A)**; and (3) the Company delivers a Company Order to the Trustee that (a) requests the Trustee to authenticate such Note; and (b) sets forth the name of the Holder of such Note and the date as of which such Note is to be authenticated. If such Company Order also requests the Trustee to deliver such Physical Note to any Holder, then the Trustee will promptly electronically deliver such Note in accordance with such Company Order.

(iii) The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. A duly appointed authenticating agent may authenticate Notes whenever the Trustee may do so under this Indenture, and a Note authenticated as provided in this Indenture by such an agent will be deemed, for purposes of this Indenture, to be authenticated by the Trustee. Each duly appointed authenticating agent

will have the same rights to deal with the Company as the Trustee would have if it were performing the duties that the authentication agent was validly appointed to undertake.

Section 2.03. Initial Notes, Additional Notes and PIK Notes

(A) *Initial Notes*. On the Issue Date, there will be originally issued two hundred and seven million dollars ($207,000,000) aggregate principal amount of Notes, subject to the provisions of this Indenture (including **Section 2.02**). Notes issued pursuant to this **Section 2.03(A)**, and any Notes issued in exchange therefor or in substitution thereof, are referred to in this Indenture as the "**Initial Notes**."

(B) At any time and from time to time after the execution and delivery of this Indenture and in accordance with the terms of this Indenture, the Company may (a) deliver the Additional Notes executed by the Company to the Trustee for authentication, or (b) deliver PIK Notes executed by the Company to the Trustee for authentication, together with a written order of the Company in the form of an ~~Officers'~~Officer's Certificate for the authentication and delivery of such Additional Notes or PIK Notes, as the case may be, and the Trustee in accordance with such written order of the Company shall authenticate and deliver such Notes. The Additional Notes shall have the same terms and conditions ~~as~~of the ~~Initial~~ Notes (including the benefit of the Subsidiary Guarantees~~, except for the Subsidiary Guarantee of SunPower Systems Sàrl with respect to the Additional Notes shall not become effective until the date that Swiss Guarantee Condition is satisfied, or waived by the Collateral Trustee,~~ and the Collateral) in all respects except for the issue date, issue price and the date of the first payment of interest, and upon issuance, the Additional Notes shall be consolidated with and form a single class with the previously outstanding Notes and vote together as one class on all matters with respect to the Notes.

Section 2.04. Method of Payment.

(A) *Global Notes*. The Company will pay, or cause the Paying Agent to pay, the principal (whether due upon maturity on the Maturity Date, Redemption on a Redemption Date or repurchase on a Fundamental Change Repurchase Date or otherwise) of, cash, interest on, and any cash Conversion Consideration for, any Global Note to the Depositary by wire transfer of immediately available funds no later than the time the same is due as provided in this Indenture.

(B) *Physical Notes*. The Company will pay, or cause the Paying Agent to pay, the principal (whether due upon maturity on the Maturity Date, Redemption on a Redemption Date or repurchase on a Fundamental Change Repurchase Date or otherwise) of, cash, interest on, and any cash Conversion Consideration for, any Physical Note no later than the time the same is due as provided in this Indenture by wire transfer of immediately available funds to an account of the Holder, as specified by the Holder.

(C) *Election of PIK Interest*. On and after the Rate Reset Date, the Company may elect to pay interest payable on an Interest Payment Date (the "**Relevant Interest Payment Date**") in cash by notifying the Holders, the Trustee and the Paying Agent in writing that it will pay interest payment in cash on such Relevant Interest Payment Date at least five (5) Business Days before the Relevant Interest Payment Date. If, after the Rate Reset Date, the Company does

not provide a written notice to the Holders, the Trustee and the Paying Agent by the applicable date specified in the preceding sentence electing to pay interest payable in cash on the Relevant Interest Payment Date, the Company is deemed to have elected to pay interest payable on the Relevant Interest Payment Date in a combination of cash and PIK Interest pursuant to **Section 2.05(D).**

(D) ~~(C)~~ *PIK Notes*. At all times, PIK Interest on the Notes shall be payable: (i) with respect to Notes represented by one or more Global Notes registered in the name of, or held by, the Depositary (or any successor depository) or its nominee on the relevant record date, by increasing the principal amount of the outstanding Global Notes, effective as of the applicable Interest Payment Date, by an amount equal to the amount of PIK Interest for the applicable interest period (rounded up to the nearest whole dollar) at the request of the Company to increase the principal amount of the outstanding Global Note and (ii) with respect to Physical Notes, if any, by issuing PIK Notes in certificated form, dated as of the applicable Interest Payment Date, in an aggregate principal amount equal to the amount of the PIK Interest for the applicable interest period (rounded up to the nearest whole dollar), and the Trustee will, upon receipt of a Company Order, authenticate and deliver such PIK Notes in certificated form for original issuance to the Holders on the relevant record date, as shown by the records of the register of holders. Following an increase in the principal amount of the outstanding Global Notes as a result of a PIK Payment, the Global Notes will bear interest on such increased principal amount from and after the Interest Payment Date in respect of which such PIK Payment was made. Any PIK Notes issued in certificated form will be dated as of the applicable Interest Payment Date and will bear interest from and after such date. All Notes issued pursuant to a PIK Payment will mature on the same maturity date as the Notes issued on the Issue Date and will be governed by, and subject to the terms, provisions and conditions of, the Indenture and shall have the same rights and benefits as the Notes issued on the Issue Date. Any certificated PIK Notes will be issued with the description "PIK" on the face of such PIK Note.

(E) ~~(D)~~ *Payment of Interest in Ordinary Shares*. ~~If~~Prior to the Rate Reset Date, if the Company elects to pay interest on the Notes in Ordinary Shares in accordance with the terms of this Indenture, the Company shall notify the Holders, the Trustee and the Stock Transfer Agent in writing of whether it will make such interest payment in Ordinary Shares at least two Trading Days before the start of the applicable Averaging Period. If the Company chooses to make such payment in Ordinary Shares, on the applicable Interest Payment Date, the Company shall either (x) if the Stock Transfer Agent is participating in The Depository Trust Company's Fast Automated Securities Transfer Program, credit the number of Ordinary Shares payable as an interest payment to such Holder's or its designee's balance account with the Depositary through its Deposit/Withdrawal at Custodian system, or (y) if the Stock Transfer Agent is not participating in The Depository Trust Company's Fast Automated Securities Transfer Program, issue and dispatch by overnight courier to each Holder, a certificate, or a statement evidencing the Ordinary Shares in book-entry format, registered in the Company's share register in the name of such Holder or its designee for the number of Ordinary Shares to which such Holder is entitled in connection with such payment. If, after providing notice that it will pay an interest payment in Ordinary Shares, the Company becomes unable to deliver such Ordinary Shares on the relevant Interest Payment Date, the Company shall pay such interest payment in cash.

Section 2.05. ACCRUAL OF INTEREST; DEFAULTED AMOUNTS; WHEN PAYMENT DATE IS NOT A BUSINESS DAY.

(A) *Accrual of Interest*. Each Note will accrue interest at a rate ~~per annum~~ equal to ~~7.50% (~~the "~~"~~Stated Interest~~")~~, plus any Special Interest that may accrue pursuant to **Section 7.03**. Stated Interest on each Note will (i) accrue from, and including, the most recent date to which Stated Interest has been paid or duly provided for (or, if no Stated Interest has theretofore been paid or duly provided for, the date set forth in the certificate representing such Note as the date from, and including, which Stated Interest will begin to accrue in such circumstance) to, but excluding, the date of payment of such Stated Interest; and (ii) be, subject to **Sections 4.02(D)**, **4.03(F)** and **5.02(D)** (but without duplication of any payment of interest), payable semi-annually in arrears on each Interest Payment Date, beginning on the first Interest Payment Date set forth in the certificate representing such ~~Note~~Notes, to the Holder of such Note as of the Close of Business on the immediately preceding Regular Record Date. Stated Interest, and, if applicable, Special Interest, on the Notes will be computed on the basis of a 360-day year comprised of twelve 30-day months.

(B) *Defaulted Amounts*. If the Company fails to pay any amount (a "**Defaulted Amount**") payable on a Note on or before the due date therefor as provided in this Indenture, then, regardless of whether such failure constitutes an Event of Default, (i) such Defaulted Amount will forthwith cease to be payable to the Holder of such Note otherwise entitled to such payment; (ii) to the extent lawful, interest ("**Default Interest**") will accrue on such Defaulted Amount at a rate per annum equal to the rate per annum at which Stated Interest accrues, from, and including, such due date to, but excluding, the date of payment of such Defaulted Amount and Default Interest; (iii) such Defaulted Amount and Default Interest will be paid on a payment date selected by the Company to the Holder of such Note as of the Close of Business on a special record date selected by the Company, *provided* that such special record date must be no more than fifteen (15), nor less than ten (10), calendar days before such payment date; and (iv) at least fifteen (15) calendar days before such special record date, the Company will send notice to the Trustee and the Holders that states such special record date, such payment date and the amount of such Defaulted Amount and Default Interest to be paid on such payment date.

(C) *Delay of Payment when Payment Date is Not a Business Day*. If the due date for a payment on a Note as provided in this Indenture is not a Business Day, then, notwithstanding anything to the contrary in this Indenture or the Notes, such payment may be made on the immediately following Business Day and no interest will accrue on such payment as a result of the related delay. Solely for purposes of the immediately preceding sentence, a day on which the applicable place of payment is authorized or required by law or executive order to close or be closed will be deemed not to be a "**Business Day**."

(D) *Issuance of PIK Notes, Notice of PIK Interest; and Interest Payable in Ordinary Shares*.

(i) ~~For the initial 3.5% of the total 7.5% interest payable on an~~Prior to the Rate Reset Date, on each Interest Payment Date, (x) an amount equal to the interest ~~will be payable~~payable at the Pre-reset Cash Interest Rate as of such Interest Payment Date

will be paid solely in cash~~. The remaining 4.0% of~~, and (y) without duplication, an amount equal to the interest payable ~~on~~at the Pre-reset PIK Interest Rate as of such Interest Payment Date may be paid, at the Company's election, (a) in cash, (b) by ~~increasing the principal amount of the outstanding Notes or if, and in the limited circumstances where, the Notes are no longer held in global form, by~~ issuing Notes ("**PIK Notes**") (rounded up to the nearest $1.00) under this Indenture, having the same terms and conditions as the Notes ("**PIK Interest**") (in each case, a "**PIK Payment**") at a rate of 7.5% per annum, or; (c) if the Equity Payment Conditions are met, in Ordinary Shares, or (d) a combination of any two or more of the forms of payment set forth in sub-clauses (a), (b) and (c) above. The value of Ordinary Shares issued to pay any interest on Physical Notes and Global Notes, if the Company elects to make payment of such interest in Ordinary Shares, will be the simple average of the Daily VWAP for the 10 consecutive Trading Days ending on, and including, the Trading Day immediately preceding the relevant Interest Payment Date (the "**Averaging Period**") as set forth in an ~~Officers'~~Officer's Certificate and delivered to the Trustee and Paying Agent. The Company may only elect to make payment of interest in Ordinary Shares if such Ordinary Shares are not subject to restrictions on transfer under the Securities Act, whether based on an effective registration statement covering such shares or on an applicable exemption from such registration requirement for resale thereof.

(ii) On and after the Rate Reset Date, with respect to any Interest Payment Date on which the Company elects, or is deemed to elect, to pay PIK Interest in accordance with **Section 2.04(C)**, (x) an amount equal to the interest payable at the Post-reset Cash Interest Rate as of such Interest Payment Date will be paid solely in cash, and (y) without duplication, an amount equal to the interest payable at the Post-reset PIK Interest Rate as of such Interest Payment Date will be paid by increasing the principal amount of the outstanding Notes or if, and in the limited circumstances where, the Notes are no longer held in global form, by issuing PIK Notes (rounded up to the nearest $1.00) under this Indenture, having the same terms and conditions as the Notes. With respect to any Interest Payment Date on which the Company elects to pay the interest payable in cash, the total 7.50% per annum interest payable on an Interest Payment Date will be payable solely in cash.

(iii) ~~(ii)~~ PIK Interest on the Notes, if elected to be paid, will be payable (x) with respect to Notes represented by one or more global notes registered in the name of, or held by, the Depositary or its nominee on the relevant record date, by increasing the principal amount of the outstanding global Note by an amount equal to the amount of PIK Interest for the applicable interest period (rounded up to the nearest whole dollar) and (y) with respect to Notes represented by certificated notes, by issuing PIK Notes in certificated form in an aggregate principal amount equal to the amount of PIK Interest for the applicable period (rounded up to the nearest whole dollar), and the Trustee will, at the request of the Company, authenticate and deliver such PIK Notes for original issuance to the Holders on the relevant record date, as shown by the records of the register of Holders. Following an increase in the principal amount of the outstanding global notes as a result of a PIK Payment, the global Notes will bear interest on such increased principal amount from and after the date of such PIK Payment. Any PIK Notes issued in

certificated form will be dated as of the applicable Interest Payment Date and will bear interest from and after such date. All Notes issued pursuant to a PIK Payment will mature on the Maturity Date and will be governed by, and subject to the terms, provisions and conditions of this Indenture and shall have the same rights and benefits as the Notes issued on the Issue Date. Any certificated PIK Notes will be issued with the description "PIK" on the face of such PIK Note, and references to the "principal" or "principal amount" of the PIK Notes shall include any increase in the principal amount of the outstanding Notes as a result of any PIK Payment.

(iv) ~~(iii)~~ PIK Interest will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the Issue Date. The calculation of PIK Interest will be made by the Company or on behalf of the Company by such Person as the Company shall designate, and such calculation and the correctness thereof shall not be a duty or obligation of the Trustee. Notwithstanding anything in this Indenture to the contrary, the payment of accrued interest (including interest that would be PIK Interest when paid) in connection with any redemption of Notes as described in **Sections 4.02** or **4.03** shall be made solely in cash. PIK Interest on the Notes will be paid in denominations of $1.00 and integral multiples of $1.00 in excess thereof.

(v) For the avoidance doubt, for the first Interest Payment Date after the Rate Reset Date, to the extent the provisions set forth in both **Section 2.05(D)(i)** and **Section 2.05(D)(ii)** apply to a portion of the relevant Interest Payment Period, the amount of interest payable on such Interest Payment Date shall be calculated, and the forms of payment shall be determined in accordance with (x) with respect to the portion of the Relevant Interest Period on or prior the Rate Reset Date, **Section 2.05(D)(i)**, and (y) with respect to the portion of the Relevant Interest Period after the Rate Reset Date, **Section 2.05(D)(ii)**.

Section 2.06. Registrar, Paying Agent and Conversion Agent.

(A) *Generally*. The Company will maintain (i) an office or agency in the continental United States where Notes may be presented for registration of transfer or for exchange (the "**Registrar**"); (ii) an office or agency in the continental United States where Notes may be presented for payment (the "**Paying Agent**"); and (iii) an office or agency in the continental United States where Notes may be presented for conversion (the "**Conversion Agent**"). If the Company fails to maintain a Registrar, Paying Agent or Conversion Agent, then the Trustee will act as such. For the avoidance of doubt, the Company or any of its Subsidiaries may act as Registrar, Paying Agent or Conversion Agent.

(B) *Duties of the Registrar*. The Registrar will keep a record (the "**Register**") of the names and addresses of the Holders, the Notes held by each Holder and the transfer, exchange, repurchase, Redemption and conversion of Notes. Absent manifest error, the entries in the Register will be conclusive and the Company and the Trustee may treat each Person whose name is recorded as a Holder in the Register as a Holder for all purposes. The Register will be in written form or in any form capable of being converted into written form reasonably promptly.

(C) *Co-Agents; Company's Right to Appoint Successor Registrars, Paying Agents and Conversion Agents*. The Company may appoint one or more co-Registrars, co-Paying Agents and co-Conversion Agents, each of whom will be deemed to be a Registrar, Paying Agent or Conversion Agent, as applicable, under this Indenture. Subject to **Section 2.06(A)**, the Company may change any Registrar, Paying Agent or Conversion Agent (including appointing itself or any of its Subsidiaries to act in such capacity) without notice to any Holder. The Company will notify the Trustee (and, upon request, any Holder) of the name and address of each Note Agent, if any, not a party to this Indenture and will enter into an appropriate agency agreement with each such Note Agent, which agreement will implement the provisions of this Indenture that relate to such Note Agent.

(D) *Initial Appointments*. The Company appoints the Trustee as the initial Paying Agent, the initial Registrar and the initial Conversion Agent.

Section 2.07. Paying Agent and Conversion Agent to Hold Property in Trust.

The Company will require each Paying Agent or Conversion Agent that is not the Trustee to agree in writing that such Note Agent will (A) hold in trust for the benefit of Holders or the Trustee all money and other property held by such Note Agent for payment or delivery due on the Notes; and (B) notify the Trustee of any default by the Company in making any such payment or delivery. The Company, at any time, may, and the Trustee, while any Default continues, may, require a Paying Agent or Conversion Agent to pay or deliver, as applicable, all money and other property held by it to the Trustee, after which payment or delivery, as applicable, such Note Agent (if not the Company or any of its Subsidiaries) will have no further liability for such money or property. If the Company or any of its Subsidiaries acts as Paying Agent or Conversion Agent, then (A) it will segregate and hold in a separate trust fund for the benefit of the Holders or the Trustee all money and other property held by it as Paying Agent or Conversion Agent; and (B) references in this Indenture or the Notes to the Paying Agent or Conversion Agent holding cash or other property, or to the delivery of cash or other property to the Paying Agent or Conversion Agent, in each case for payment or delivery to any Holders or the Trustee or with respect to the Notes, will be deemed to refer to cash or other property so segregated and held separately, or to the segregation and separate holding of such cash or other property, respectively. Upon the occurrence of any event pursuant to **Section 7.01(A)(x)** or **7.01(A)(xi)** with respect to the Company (or with respect to any Subsidiary of the Company acting as Paying Agent or Conversion Agent), the Trustee will serve as the Paying Agent or Conversion Agent, as applicable, for the Notes.

Section 2.08. Holder Lists.

If the Trustee is not the Registrar, the Company will furnish to the Trustee, no later than seven (7) Business Days before each Interest Payment Date, and at such other times as the Trustee may request, a list, in such form and as of such date or time as the Trustee may reasonably require, of the names and addresses of the Holders.

Section 2.09. LEGENDS.

(A) *Global Note Legend*. Each Global Note will bear the Global Note Legend (or any similar legend, not inconsistent with this Indenture, required by the Depositary for such Global Note).

(B) [Reserved.]

(C) *Restricted Note Legend*. Subject to **Section 2.12**,

(i) each Note that is a Transfer-Restricted Security will bear the Restricted Note Legend; and

(ii) if a Note is issued in exchange for, in substitution of, or to effect a partial conversion of, another Note (such other Note being referred to as the "old Note" for purposes of this **Section 2.09(C)(ii)**), including pursuant to **Section 2.10(B)**, **2.10(C)**, **2.11** or **2.13**, then such Note will bear the Restricted Note Legend if such old Note bore the Restricted Note Legend at the time of such exchange or substitution, or on the related Conversion Date with respect to such conversion, as applicable; *provided*, *however*, that such Note need not bear the Restricted Note Legend if such Note does not constitute a Transfer-Restricted Security immediately after such exchange or substitution, or as of such Conversion Date, as applicable.

(D) *Other Legends*. A Note may bear any other legend or text, not inconsistent with this Indenture, as may be required by applicable law or by any securities exchange or automated quotation system on which such Note is traded or quoted.

(E) *Acknowledgment and Agreement by the Holders*. A Holder's acceptance of any Note bearing any legend required by this **Section 2.09** will constitute such Holder's acknowledgment of, and agreement to comply with, the restrictions set forth in such legend.

(F) Restricted Share Legend.

(i) Each Conversion Share will bear the Restricted Share Legend if the Note upon the conversion of which such Conversion Share was issued was (or would have been had it not been converted) a Transfer-Restricted Security at the time such Conversion Share was issued; *provided*, *however*, that such Conversion Share need not bear the Restricted Share Legend if the Company determines, in its reasonable discretion, that such Conversion Share need not bear the Restricted Share Legend.

(ii) Notwithstanding anything to the contrary in this **Section 2.09(F)**, a Conversion Share need not bear a Restricted Share Legend if such Conversion Share is issued in an uncertificated form that does not permit affixing legends thereto, *provided* the Company takes measures (including the assignment thereto of a "restricted" CUSIP number) that it reasonably deems appropriate to enforce the transfer restrictions referred to in the Restricted Share Legend.

Section 2.10. TRANSFERS AND EXCHANGES; CERTAIN TRANSFER RESTRICTIONS.

(A) *Provisions Applicable to All Transfers and Exchanges.*

(i) Subject to this **Section 2.10**, Physical Notes and beneficial interests in Global Notes may be transferred or exchanged from time to time and the Registrar will record each such transfer or exchange in the Register.

(ii) Each Note issued upon transfer or exchange of any other Note (such other Note being referred to as the "old Note" for purposes of this **Section 2.10(A)(ii)**) or portion thereof in accordance with this Indenture will be the valid obligation of the Company, evidencing the same indebtedness, and entitled to the same benefits under this Indenture, as such old Note or portion thereof, as applicable.

(iii) The Company, the Trustee and the Note Agents will not impose any service charge on any Holder for any transfer, exchange or conversion of Notes, but the Company, the Trustee, the Registrar and the Conversion Agent may require payment of a sum sufficient to cover any transfer tax or similar governmental charge that may be imposed in connection with any transfer, exchange or conversion of Notes, other than exchanges pursuant to **Section 2.11**, **2.17** or **8.05** not involving any transfer.

(iv) Notwithstanding anything to the contrary in this Indenture or the Notes, a Note may not be transferred or exchanged in part unless the portion to be so transferred or exchanged is in an Authorized Denomination.

(v) The Trustee will have no obligation or duty to monitor, determine or inquire as to compliance with any transfer restrictions imposed under this Indenture or applicable law with respect to any Security, other than to require the delivery of such certificates or other documentation or evidence as expressly required by this Indenture and to examine the same to determine substantial compliance as to form with the requirements of this Indenture.

(vi) Each Note issued upon transfer of, or in exchange for, another Note will bear each legend, if any, required by **Section 2.09**.

(vii) Upon satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Note, the Company will cause such transfer or exchange to be effected as soon as reasonably practicable but in no event later than the second (2nd) Business Day after the date of such satisfaction.

(viii) For the avoidance of doubt, and subject to the terms of this Indenture, as used in this **Section 2.10**, an "exchange" of a Global Note or a Physical Note includes (x) an exchange effected for the sole purpose of removing any Restricted Note Legend affixed to such Global Note or Physical Note; and (y) if such Global Note or Physical Note is identified by a "restricted" CUSIP number, an exchange effected for the sole

purpose of causing such Global Note or Physical Note to be identified by an "unrestricted" CUSIP number.

(B) *Transfers and Exchanges of Global Notes.*

(i) Subject to the immediately following sentence, no Global Note may be transferred or exchanged in whole except (x) by the Depositary to a nominee of the Depositary; (y) by a nominee of the Depositary to the Depositary or to another nominee of the Depositary; or (z) by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. No Global Note (or any portion thereof) may be transferred to, or exchanged for, a Physical Note; *provided*, *however*, that a Global Note will be exchanged, pursuant to customary procedures, for one or more Physical Notes if:

(1) (x) the Depositary notifies the Company or the Trustee that the Depositary is unwilling or unable to continue as depositary for such Global Note or (y) the Depositary ceases to be a "clearing agency" registered under Section 17A of the Exchange Act and, in each case, the Company fails to appoint a successor Depositary within ninety (90) days of such notice or cessation;

(2) an Event of Default has occurred and is continuing and the Company, the Trustee or the Registrar has received a written request from the Depositary, or from a holder of a beneficial interest in such Global Note, to exchange such Global Note or beneficial interest, as applicable, for one or more Physical Notes; or

(3) the Company, in its sole discretion, permits the exchange of any beneficial interest in such Global Note for one or more Physical Notes at the request of the owner of such beneficial interest.

(ii) Upon satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Global Note (or any portion thereof):

(1) the Trustee will reflect any resulting decrease of the principal amount of such Global Note by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such Global Note (and, if such notation results in such Global Note having a principal amount of zero, the Company may (but is not required to) instruct the Trustee to cancel such Global Note pursuant to Section 2.15);

(2) if required to effect such transfer or exchange, then the Trustee will reflect any resulting increase of the principal amount of any other Global Note by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such other Global Note;

(3) if required to effect such transfer or exchange, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in

accordance with Section 2.02, a new Global Note bearing each legend, if any, required by Section 2.09; and

(4) if such Global Note (or such portion thereof), or any beneficial interest therein, is to be exchanged for one or more Physical Notes, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with Section 2.02, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Global Note to be so exchanged; (y) are registered in such name(s) as the Depositary specifies (or as otherwise determined pursuant to customary procedures); and (z) bear each legend, if any, required by Section 2.09.

(iii) Each transfer or exchange of a beneficial interest in any Global Note will be made in accordance with the Depositary Procedures.

(C) *Transfers and Exchanges of Physical Notes.*

(i) Subject to this **Section 2.10**, a Holder of a Physical Note may (x) transfer such Physical Note (or any portion thereof in an Authorized Denomination) to one or more other Person(s); (y) exchange such Physical Note (or any portion thereof in an Authorized Denomination) for one or more other Physical Notes in Authorized Denominations having an aggregate principal amount equal to the aggregate principal amount of the Physical Note (or portion thereof) to be so exchanged; and (z) if then permitted by the Depositary Procedures and in any event no earlier than 90 days following the Issue Date, transfer such Physical Note (or any portion thereof in an Authorized Denomination) in exchange for a beneficial interest in one or more Global Notes; *provided*, *however*, that, to effect any such transfer or exchange, such Holder must:

(1) surrender such Physical Note to be transferred or exchanged to the office of the Registrar, together with any endorsements or transfer instruments reasonably required by the Company, the Trustee or the Registrar; and

(2) deliver such certificates, documentation or evidence as may be required pursuant to Section 2.10(D).

(ii) Upon the satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Physical Note (such Physical Note being referred to as the "old Physical Note" for purposes of this **Section 2.10(C)(ii)**) of a Holder (or any portion of such old Physical Note in an Authorized Denomination):

(1) such old Physical Note will be promptly cancelled pursuant to Section 2.15;

(2) if such old Physical Note is to be so transferred or exchanged only in part, then the Company will issue, execute and deliver, and the Trustee will

authenticate, in each case in accordance with Section 2.02, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such old Physical Note not to be so transferred or exchanged; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by Section 2.09;

(3) in the case of a transfer:

(a) to the Depositary or a nominee thereof that will hold its interest in such old Physical Note (or such portion thereof) to be so transferred in the form of one or more Global Notes, the Trustee will reflect an increase of the principal amount of one or more existing Global Notes by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such Global Note(s), which increase(s) are in Authorized Denominations and aggregate to the principal amount to be so transferred, and which Global Note(s) bear each legend, if any, required by **Section 2.09**; *provided*, *however*, that if such transfer cannot be so effected by notation on one or more existing Global Notes (whether because no Global Notes bearing each legend, if any, required by **Section 2.09** then exist, because any such increase will result in any Global Note having an aggregate principal amount exceeding the maximum aggregate principal amount permitted by the Depositary or otherwise), then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Global Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so transferred; and (y) bear each legend, if any, required by **Section 2.09**; and

(b) to a transferee that will hold its interest in such old Physical Note (or such portion thereof) to be so transferred in the form of one or more Physical Notes, the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so transferred; (y) are registered in the name of such transferee; and (z) bear each legend, if any, required by **Section 2.09**; and

(4) in the case of an exchange, the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so exchanged; (y) are registered in the name of the Person to whom such old Physical Note was registered; and (z) bear each legend, if any, required by **Section 2.09**.

(D) *Requirement to Deliver Documentation and Other Evidence.* If a Holder of any Note that is identified by a "restricted" CUSIP number or that bears a Restricted Note Legend or is a Transfer-Restricted Security requests to:

(i) cause such Note to be identified by an "unrestricted" CUSIP number;

(ii) remove such Restricted Note Legend; or

(iii) register the transfer of such Note to the name of another Person,

then the Company, the Trustee and the Registrar may refuse to effect such identification, removal or transfer, as applicable, unless there is delivered to the Company, the Trustee and the Registrar such certificates or other documentation or evidence as the Company, the Trustee and the Registrar may reasonably require to determine that such identification, removal or transfer, as applicable, complies with the Securities Act and other applicable securities laws.

(E) *Transfers of Notes Subject to Redemption, Repurchase or Conversion.* Notwithstanding anything to the contrary in this Indenture or the Notes, the Company, the Trustee and the Registrar will not be required to register the transfer of or exchange any Note that (i) has been surrendered for conversion, except to the extent that any portion of such Note is not subject to conversion; (ii) is subject to a Fundamental Change Repurchase Notice validly delivered, and not withdrawn, pursuant to **Section 4.02(F)**, except to the extent that any portion of such Note is not subject to such notice or the Company fails to pay the applicable Fundamental Change Repurchase Price when due; or (iii) has been selected for Redemption pursuant to a Redemption Notice, except to the extent that any portion of such Note is not subject to Redemption or the Company fails to pay the applicable Redemption Price when due.

Section 2.11. Exchange and Cancellation of Notes to be Converted or to be Repurchased Pursuant to a Repurchase Upon Fundamental Change or Redemption.

(A) *Partial Conversions of Physical Notes and Partial Repurchases of Physical Notes Pursuant to a Repurchase Upon Fundamental Change or Redemption*. If only a portion of a Physical Note of a Holder is to be converted pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, as soon as reasonably practicable after such Physical Note is surrendered for such conversion or repurchase, as applicable, the Company will cause such Physical Note to be exchanged, pursuant and subject to **Section 2.10(C)**, for (i) one or more Physical Notes that are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be so converted or repurchased, as applicable, and deliver such Physical Note(s) to such Holder; and (ii) a Physical Note having a principal amount equal to the principal amount to be so converted or repurchased, as applicable, which Physical Note will be converted or repurchased, as applicable, pursuant to the terms of this Indenture; *provided*, *however*, that the Physical Note referred to in this **clause (ii)** need not be issued at any time after which such principal amount subject to such conversion or repurchase, as applicable, is deemed to cease to be outstanding pursuant to **Section 2.18**.

(B) *Cancellation of Notes that Are Converted and Notes that Are Repurchased Pursuant to a Repurchase Upon Fundamental Change or Redemption*.

(i) *Physical Notes*. If a Physical Note (or any portion thereof that has not theretofore been exchanged pursuant to **Section 2.11(A)**) of a Holder is to be converted

pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, promptly after the later of the time such Physical Note (or such portion) is deemed to cease to be outstanding pursuant to **Section 2.18** and the time such Physical Note is surrendered for such conversion or repurchase, as applicable, (1) such Physical Note will be cancelled pursuant to **Section 2.15**; and (2) in the case of a partial conversion or repurchase, as applicable, the Company will issue, execute and deliver to such Holder, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be so converted or repurchased, as applicable; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by **Section 2.09**.

(ii) *Global Notes*. If a Global Note (or any portion thereof) is to be converted pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, promptly after the time such Note (or such portion) is deemed to cease to be outstanding pursuant to **Section 2.18**, the Trustee will reflect a decrease of the principal amount of such Global Note in an amount equal to the principal amount of such Global Note to be so converted or repurchased, as applicable, by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such Global Note (and, if the principal amount of such Global Note is zero following such notation, cancel such Global Note pursuant to **Section 2.15**).

Section 2.12. Removal of Transfer Restrictions.

Without limiting the generality of any other provision of this Indenture (including **Section 3.04**), the Restricted Note Legend affixed to any Note will be deemed, pursuant to this **Section 2.12** and the footnote to such Restricted Note Legend, to be removed therefrom upon the Company's delivery to the Trustee of notice, signed on behalf of the Company by one (1) of its Officers, to such effect (and, for the avoidance of doubt, such notice need not be accompanied by an Officer's Certificate or an Opinion of Counsel in order to be effective to cause such Restricted Note Legend to be deemed to be removed from such Note). If such Note bears a "restricted" CUSIP or ISIN number at the time of such delivery, then, upon such delivery, such Note will be deemed, pursuant to this **Section 2.12** and the footnotes to the CUSIP and ISIN numbers set forth on the face of the certificate representing such Note, to thereafter bear the "unrestricted" CUSIP and ISIN numbers identified in such footnotes; *provided*, *however*, that if such Note is a Global Note and the Depositary thereof requires a mandatory exchange or other procedure to cause such Global Note to be identified by "unrestricted" CUSIP and ISIN numbers in the facilities of such Depositary, then (i) the Company will effect such exchange or procedure as soon as reasonably practicable; and (ii) for purposes of **Section 3.04**, such Global Note will not be deemed to be identified by "unrestricted" CUSIP and ISIN numbers until such time as such exchange or procedure is effected.

Section 2.13. Replacement Notes.

If a Holder of any Note claims that such Note has been mutilated, lost, destroyed or wrongfully taken, then the Company will issue, execute and deliver, and the Trustee will

authenticate, in each case in accordance with **Section 2.02**, a replacement Note upon surrender to the Trustee of such mutilated Note, or upon delivery to the Trustee of evidence of such loss, destruction or wrongful taking reasonably satisfactory to the Trustee and the Company. In the case of a lost, destroyed or wrongfully taken Note, the Company and the Trustee may require the Holder thereof to provide such security or indemnity that is reasonably satisfactory to the Company and the Trustee to protect the Company and the Trustee from any loss that any of them may suffer if such Note is replaced.

Every replacement Note issued pursuant to this **Section 2.13** will be an additional obligation of the Company and will be entitled to all of the benefits of this Indenture equally and ratably with all other Notes issued under this Indenture.

Section 2.14. Registered Holders; Certain Rights with Respect to Global Notes.

Only the Holder of a Note will have rights under this Indenture as the owner of such Note. Without limiting the generality of the foregoing, Depositary Participants will have no rights as such under this Indenture with respect to any Global Note held on their behalf by the Depositary or its nominee, or by the Trustee as its custodian, and the Company, the Trustee and the Note Agents, and their respective agents, may treat the Depositary as the absolute owner of such Global Note for all purposes whatsoever; *provided*, *however*, that (A) the Holder of any Global Note may grant proxies and otherwise authorize any Person, including Depositary Participants and Persons that hold interests in Notes through Depositary Participants, to take any action that such Holder is entitled to take with respect to such Global Note under this Indenture or the Notes; and (B) the Company and the Trustee, and their respective agents, may give effect to any written certification, proxy or other authorization furnished by the Depositary.

Section 2.15. Cancellation.

The Company may at any time deliver Notes to the Trustee for cancellation. The Registrar, the Paying Agent and the Conversion Agent will forward to the Trustee each Note duly surrendered to them for transfer, exchange, payment or conversion. The Trustee will promptly cancel all Notes so surrendered to it in accordance with its customary procedures. Without limiting the generality of **Section 2.03(B)**, the Company may not originally issue new Notes to replace Notes that it has paid or that have been cancelled upon transfer, exchange, payment or conversion.

Section 2.16. Notes Held by the Company or its Affiliates.

Without limiting the generality of **Section 2.18**, in determining whether the Holders of the required aggregate principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or any of its Affiliates (other than ~~the Investor~~TZE and its Affiliates) will be deemed not to be outstanding; *provided*, *however*, that, for purposes of determining whether the Trustee is protected in relying on any such direction, waiver or consent, only Notes that the Trustee knows are so owned will be so disregarded.

Section 2.17. TEMPORARY NOTES.

Until definitive Notes are ready for delivery, the Company may issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, temporary Notes. Temporary Notes will be substantially in the form of definitive Notes but may have variations that the Company considers appropriate for temporary Notes. The Company will promptly prepare, issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, definitive Notes in exchange for temporary Notes. Until so exchanged, each temporary Note will in all respects be entitled to the same benefits under this Indenture as definitive Notes.

Section 2.18. OUTSTANDING NOTES.

(A) *Generally*. The Notes that are outstanding at any time will be deemed to be those Notes that, at such time, have been duly executed and authenticated, excluding those Notes (or portions thereof) that have theretofore been (i) cancelled by the Trustee or delivered to the Trustee for cancellation in accordance with **Section 2.15**; (ii) assigned a principal amount of zero by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of any a Global Note representing such Note; (iii) paid in full (including upon conversion) in accordance with this Indenture; or (iv) deemed to cease to be outstanding to the extent provided in, and subject to, **clause (B)**, **(C)** or **(D)** of this **Section 2.18**.

(B) *Replaced Notes*. If a Note is replaced pursuant to **Section 2.13**, then such Note will cease to be outstanding at the time of its replacement, unless the Trustee and the Company receive proof reasonably satisfactory to them that such Note is held by a "protected purchaser" under applicable law.

(C) *Maturing Notes and Notes Called for Redemption or Subject to Repurchase*. If, on a Redemption Date, a Fundamental Change Repurchase Date or the Maturity Date, the Paying Agent holds money sufficient to pay the aggregate Redemption Price, Fundamental Change Repurchase Price or principal amount, respectively, together, in each case, with the aggregate interest, in each case due on such date, then (unless there occurs a Default in the payment of any such amount) (i) the Notes (or portions thereof) to be redeemed or repurchased, or that mature, on such date will be deemed, as of such date, to cease to be outstanding, except to the extent provided in **Section 4.02(D)**, **4.03(F)** or **5.02(D)**; and (ii) the rights of the Holders of such Notes (or such portions thereof), as such, will terminate with respect to such Notes (or such portions thereof), other than the right to receive the Redemption Price, Fundamental Change Repurchase Price or principal amount, as applicable, of, and accrued and unpaid interest on, such Notes (or such portions thereof), in each case as provided in this Indenture.

(D) *Notes to Be Converted*. At the Close of Business on the Conversion Date for any Note (or any portion thereof) to be converted, such Note (or such portion) will (unless there occurs a Default in the delivery of the Conversion Consideration or interest due, pursuant to **Section 5.03(B)** or **Section 5.02(D)**, upon such conversion) be deemed to cease to be outstanding, except to the extent provided in **Section 5.02(D)** or **Section 5.08**.

(E) *Cessation of Accrual of Interest*. Except as provided in **Section 4.02(D)**, **4.03(F)** or **5.02(D)**, interest will cease to accrue on each Note from, and including, the date that such Note is deemed, pursuant to this **Section 2.18**, to cease to be outstanding, unless there occurs a default in the payment or delivery of any cash or other property due on such Note.

Section 2.19. REPURCHASES BY THE COMPANY.

Without limiting the generality of **Section 2.15**, the Company may, from time to time, repurchase Notes in open market purchases or in negotiated transactions without delivering prior notice to Holders. The Company may, to the extent permitted by applicable law, and directly or indirectly (regardless of whether such Notes are surrendered to the Company), repurchase Notes in the open market or otherwise, whether by the Company or the Company's Subsidiaries or through a private or public tender or exchange offer or through counterparties pursuant to private agreements, including cash-settled swaps or other derivatives, in each case, without prior notice to, or consent of, the Holders. The Company may, at its option and to the extent permitted by applicable law, reissue, resell or surrender to the Trustee for cancellation any Notes that the Company may repurchase, *provided* that, in the case of any reissuance or resale, the Notes do not constitute "restricted securities" (as defined in Rule 144) and are fungible for U.S. federal income tax purposes with the other Notes issued under this Indenture upon such reissuance or resale, as applicable. Any Notes that the Company may repurchase will be considered "outstanding" under this Indenture (except as provided in **Section 2.16**) unless and until such time the Company causes them to be surrendered to the Trustee for cancellation, and, upon receipt of a written order from the Company, the Trustee will cancel all Notes so surrendered.

Section 2.20. CUSIP AND ISIN NUMBERS.

Subject to **Section 2.12**, the Company may use one or more CUSIP or ISIN numbers to identify any of the Notes, and, if so, the Company and the Trustee will use such CUSIP or ISIN number(s) in notices to Holders; *provided*, *however*, that (i) the Trustee makes no representation as to the correctness or accuracy of any such CUSIP or ISIN number; and (ii) the effectiveness of any such notice will not be affected by any defect in, or omission of, any such CUSIP or ISIN number. The Company will promptly notify the Trustee, in writing, of any change in the CUSIP or ISIN number(s) identifying any Notes.

Article 3. COVENANTS

Section 3.01. PAYMENT ON NOTES.

(A) *Generally*. The Company will pay or cause to be paid (or as applicable by increasing the principal amount of the Notes or issuing PIK Notes, or, only prior to the Rate Reset Date, issuing Ordinary Shares) all the principal of, the Fundamental Change Repurchase Price and Redemption Price for, interest on, and other amounts due with respect to, the Notes on the dates and in the manner set forth in this Indenture.

(B) *Deposit of Funds*. Before 10:00 A.M., New York City time, on each Redemption Date, Fundamental Change Repurchase Date or Interest Payment Date, and on the Maturity Date or any other date on which any cash amount is due on the Notes, the Company will deposit, or

will cause there to be deposited, with the Paying Agent cash, in funds immediately available on such date, sufficient to pay the cash amount due on the applicable Notes on such date. All the funds provided to the Paying Agent must be in U.S. dollars. The Paying Agent will return to the Company, as soon as practicable, any money not required for such purpose. PIK Interest shall be considered paid on the date due if on such date, the Trustee has received delivery of a Company Order on or prior to the date the payment is due of any PIK Notes to be authenticated and delivered or written direction as provided in **Section 2.05(D)** for any increased principal amount of the applicable Global Notes in amount equal to all PIK Interest then due.

Section 3.02. EXCHANGE ACT REPORTS.

(A) *Generally*. The Company will send to the Trustee and the Collateral Trustee copies of all reports that the Company is required to file with the SEC pursuant to Section 13(a) or 15(d) of the Exchange Act within fifteen (15) calendar days after the date that the Company is required to file the same (after giving effect to all applicable grace periods under the Exchange Act); *provided*, *however*, that the Company need not send to the Trustee and the Collateral Trustee any material or information for which the Company has received, or is seeking in good faith and has not been denied, confidential treatment by the SEC or which the Company has redacted in accordance with the applicable rules and regulations of the SEC, or any correspondence with the SEC (such material or information, "**Confidential Information**"). Any report that the Company files with the SEC through the EDGAR system (or any successor thereto) will be deemed to be sent to the Trustee and the Collateral Trustee at the time such report is so filed via the EDGAR system (or such successor) and notice thereof has been provided to the Trustee and the Collateral Trustee. Upon the request of any Holder, the Trustee and the Collateral Trustee will provide to such Holder a copy of any report that the Company has sent the Trustee and the Collateral Trustee pursuant to this **Section 3.02(A)**, other than a report that is deemed to be sent to the Trustee and the Collateral Trustee pursuant to the preceding sentence.

(B) *Confidential Information*. To the extent any Holder requests in writing from the Company any document or material which contains Confidential Information and such document or material is, in the Company's reasonable judgment, of the type that such Holder is entitled to receive under the terms of this Indenture, the Company shall make such document or material available to such Holder; *provided* that such Holder shall have executed and delivered to the Company a confidentiality agreement in form and substance satisfactory to the Company, acting reasonably. The Company shall not be obligated to deliver any Confidential Information to any Holder which has not executed and delivered to the Company a confidentiality agreement in form and substance satisfactory to the Company, acting reasonably.

(C) *Trustee's Disclaimer*. The Trustee and the Collateral Trustee need not determine whether the Company has filed any material via the EDGAR system (or such successor). The sending or filing of reports pursuant to **Section 3.02(A)** will not be deemed to constitute constructive notice to the Trustee and/or Collateral Trustee of any information contained, or determinable from information contained, therein, including the Company's compliance with any of its covenants under this Indenture. Any such reports delivered or filed by the Company with the Trustee and Collateral Trustee shall be considered for informational purposes only and the

Trustee's and Collateral Trustee's receipt of such reports shall not constitute notice or actual knowledge of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on an Officer's Certificate).

Section 3.03. RULE 144A INFORMATION.

If the Company is not subject to Section 13 or 15(d) of the Exchange Act at any time when any Notes or Ordinary Shares issuable upon conversion of the Notes are outstanding and constitute "restricted securities" (as defined in Rule 144), then the Company (or its successor) will promptly provide, to the Trustee and, upon written request, to any Holder, beneficial owner or prospective purchaser of such Notes or shares, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act to facilitate the resale of such Notes or shares pursuant to Rule 144A.

Section 3.04. RULE 144 INFORMATION.

The Company shall timely file any report that is required in order for the Company to satisfy the requirements set forth in Rule 144(c)(1) (after giving effect to all grace periods permitted thereunder).

Section 3.05. ADDITIONAL AMOUNTS.

(A) *Requirement to Pay Additional Amounts*. All payments and deliveries made by, or on behalf of, the Company or any successor to the Company under or with respect to the Notes (including payment of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any premium or interest (including any Special Interest) on, or the delivery of any Conversion Consideration due upon conversion of, any Note (together with payments of cash for any fractional share)) will be made without withholding or deduction for, or on account of, any present or future Taxes, unless such withholding or deduction is required by law or regulation or by governmental policy having the force of law. The Company or any successor to the Company and any applicable withholding agent is authorized to (a) liquidate a portion of any non-cash payment to be made under the Notes to generate sufficient funds to pay applicable withholding Taxes or (b) take such other actions as are reasonably appropriate to make the Company or any successor to the Company or any applicable withholding agent whole for any previously-paid "cashless" withholding Tax in respect of the Notes. If any Taxes imposed or levied by or on behalf of Singapore, or any other jurisdiction (or any political subdivision or taxing authority thereof or therein) in which the Company or any successor to the Company is, for tax purposes, organized or resident or doing business or through which payment or delivery is made or deemed to be made (each such jurisdiction, subdivision or authority, as applicable, a "**Relevant Taxing Jurisdiction**") are required to be withheld or deducted from any payments or deliveries made under or with respect to the Notes, then, subject to **Section 4.03(C)(ii)**, the Company or any successor to the Company, as applicable, will (i) make such withholding or deduction, (ii) remit the full amount deducted or withheld to the relevant authority in accordance with applicable law, and (iii) pay or deliver to the Holder of each Note such additional amounts (the "**Additional Amounts**") as may be necessary to ensure that the net amount received by the beneficial owner of such Note after such withholding or deduction (and

after withholding or deducting any Taxes on the Additional Amounts) will equal the amounts that would have been received by such beneficial owner had no such withholding or deduction been required; *provided*, *however*, that such obligation to pay Additional Amounts will not apply to:

(i) any Tax that would not have been imposed but for:

(1) the existence of any present or former connection between the Holder or beneficial owner of such Note (or between a fiduciary, settlor, beneficiary, member or shareholder of, or possessor of power over, the relevant holder or beneficial owner, if the relevant holder or beneficial owner (or such fiduciary, settlor, beneficiary, member or shareholder) is an estate, nominee, trust, partnership, limited liability company or corporation) and the Relevant Taxing Jurisdiction (other than merely holding or being a beneficial owner of such Note or the receipt of payments or enforcement of rights thereunder), including such Holder or beneficial owner being or having been a national, domiciliary or resident, or treated as a resident, of, or being or having been physically present or engaged in a trade or business, or having had a permanent establishment, in, such Relevant Taxing Jurisdiction;

(2) in cases where presentation of such Note is required to receive such payment or delivery, the presentation of such Note after a period of thirty (30) days after the later of (x) the date on which such payment or delivery became due and payable or deliverable, as applicable, pursuant to the terms of this Indenture and (y) the date such payment or delivery was made or duly provided for, except, in each case, to the extent that such Holder or beneficial owner would have been entitled to Additional Amounts if it presented such Note for payment or delivery, as applicable, at the end of such thirty (30) day period; or

(3) the failure of such Holder or beneficial owner to comply with a timely written request from the Company or the Successor Corporation, addressed to such Holder or beneficial owner, to (x) provide certification, information, documentation or other evidence concerning such Holder's or beneficial owner's nationality, residence, identity or connection with such Relevant Taxing Jurisdiction; or (y) make any declaration or satisfy any other reporting requirement relating to such matters, in each case if and to the extent that such Holder or beneficial owner is legally entitled and due and timely compliance with such request is required by statute, regulation or government policy of such Relevant Taxing Jurisdiction in order to reduce or eliminate such withholding or deduction;

(ii) any estate, inheritance, gift, use, sale, transfer, personal property or similar Tax or excise tax imposed on transfer of the Notes;

(iii) any Tax that is payable other than by withholding or deduction from payments or deliveries under or with respect to the Notes;

(iv) any withholding or deduction required by (x) sections 1471 through 1474 of the Internal Revenue Code, as of the date of this Indenture (or any amended or successor version that is substantively comparable and not materially more burdensome to comply with) and any current or future U.S. Treasury Regulations or rulings promulgated thereunder ("**FATCA**"); (y) any inter-governmental agreement between the United States and any other non-U.S. jurisdiction to implement FATCA or any law enacted by such other jurisdiction to give effect to such agreement; or (z) any agreement with the U.S. Internal Revenue Service pursuant to Section 1471(b)(1) of the Internal Revenue Code;

(v) any taxes imposed on or with respect to any payment by the Company to such Holder if such Holder is a fiduciary, partnership or person other than the sole beneficial owner of such payment, to the extent that such payment would be required, under the laws of such Relevant Taxing Jurisdiction, to be included for tax purposes in the income of a beneficiary or settlor with respect to such fiduciary, a partner or member of such partnership, or a beneficial owner, who would not have been entitled to such Additional Amounts had such beneficiary, settlor, partner, member or beneficial owner been the Holder thereof; or

(vi) any combination of items referred to in the preceding **clauses (i)** through **(v)**, inclusive, above.

(B) *Indemnification for Transfer Taxes*. The Company or any successor to the Company will, jointly and severally, pay and indemnify each Holder and beneficial owner of Notes for any present or future stamp, issue, registration, value added, transfer, court or documentary Taxes, or any other excise, property or similar Taxes (including penalties, interest and any other reasonable expenses related thereto) ("**Transfer Taxes**") levied by any Relevant Taxing Jurisdiction (and in the case of enforcement, any jurisdiction) on or in connection with the execution, delivery, registration, issuance or enforcement of any of the Notes, this Indenture or any other document or instrument referred to herein or the receipt of any payments or deliveries with respect to the Notes (including the receipt of shares (together with payment of cash for any fractional Share) or other Conversion Consideration).

(C) *Special Provision Regarding Interest*. For the avoidance of doubt, if any Note is called for a Tax Redemption and the Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, then the Company's obligation to pay Additional Amounts will apply to the interest payment due on such Note on such Interest Payment Date unless such Note is subject to a Tax Redemption Opt-Out Election Notice (as defined below).

(D) *Tax Receipts*. If the Company or any successor to the Company is required to make any deduction or withholding from any payments or deliveries with respect to the Notes, then the (i) Company or such successor to the Company will deliver to the Trustee official tax receipts (or, if, after expending reasonable efforts, the Company is unable to obtain such receipts, an Officer's Certificate reasonably satisfactory to each Holder evidencing the payment of any applicable Taxes so deducted or withheld) evidencing the remittance to the relevant tax authorities of the amounts so withheld or deducted; and (ii) the Trustee or the Company or such

successor to the Company will provide a copy of such receipts or evidence, as applicable, to any Holder or beneficial owner of any Notes upon request.

(E) *Interpretation of Indenture and Notes.* All references in this Indenture or the Notes to any payment on, or delivery with respect to, the Notes (including payment of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any premium or interest (including Special Interest) on, or the delivery of any Conversion Consideration due upon conversion of, any Note (together with payments of cash for any fractional share)) will, to the extent that Additional Amounts are payable in respect thereof, be deemed to include the payment of such Additional Amounts.

(F) *Survival of Obligations*. The obligations set forth in this **Section 3.05** will survive any termination, defeasance or discharge of this Indenture and any transfer of Notes by a Holder (or, in the case of a Global Note, a holder of a beneficial interest therein).

Section 3.06. Compliance and Default Certificates.

(A) *Annual Compliance Certificate.* Within one hundred twenty (120) days after the earlier of (x) the end of the fiscal year of ~~2022~~2024 and each fiscal year of the Company thereafter, and (y) ~~Jan~~January 5 of the following year, the Company will deliver an Officer's Certificate to the Trustee and the Collateral Trustee stating (i) that the signatory thereto has supervised a review of the activities of the Company Indenture Parties during such fiscal year with a view towards determining whether any Default or Event of Default has occurred; and (ii) whether, to such signatory's knowledge, a Default or Event of Default has occurred or is continuing (and, if so, describing all such Defaults or Events of Default and what action any Company Indenture Party is taking or proposes to take with respect thereto).

(B) *Default Certificate.* If a Default or Event of Default occurs, then the Company will, within thirty (30) days after its occurrence, deliver an Officer's Certificate to the Trustee and the Collateral Trustee describing the same and what action the Company or any Company Indenture Party is taking or proposes to take with respect thereto; *provided, however*, that such notice will not be required if such Default or Event of Default has been cured or waived before the date the Company is required to deliver such notice.

Section 3.07. Stay, Extension and Usury Laws.

To the extent that it may lawfully do so, each of the Company Indenture Party (A) agrees that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law (wherever or whenever enacted or in force) that may affect the covenants or the performance of this Indenture; and (B) expressly waives all benefits or advantages of any such law and agrees that it will not, by resort to any such law, hinder, delay or impede the execution of any power granted to the Trustee by this Indenture, but will suffer and permit the execution of every such power as though no such law has been enacted.

Section 3.08. Corporate Existence.

Subject to **Article 6**, each Company Indenture Party will cause to preserve and keep in full force and effect:

(A) its corporate existence in accordance with the organizational documents of the Company; and

(B) the material rights (charter and statutory), licenses and franchises of ~~the~~ each Company Indenture Party and their respective Subsidiaries;

provided, *however*, that each Company Indenture Party need not preserve or keep in full force and effect any such license or franchise if the Board of Directors determines that (x) the preservation thereof is no longer desirable in the conduct of the business of the Company Indenture Parties, taken as a whole; and (y) the loss thereof is not, individually or in the aggregate, materially adverse to the Holders or the Collateral Trustee.

Section 3.09. Acquisition of Notes by the Company and its Affiliates.

Without limiting the generality of **Section 2.18**, Notes that the Company or any of its Subsidiaries have purchased or otherwise acquired will be deemed to remain outstanding (except to the extent provided in **Section 2.16**) until such time as such Notes are delivered to the Trustee for cancellation. The Company will use commercially reasonable efforts to prevent any of its controlled Affiliates (other than ~~the Investor~~TZE) from acquiring any Note (or any beneficial interest therein).

Section 3.10. Further Instruments and Acts.

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

Section 3.11. ~~Use of Proceeds Reports~~[Reserved].

~~Beginning on August 17, 2022, and thereafter as soon as practicable and in any event within 14 calendar days after the end of each subsequent calendar month, so long as (i) the proceeds from the sale of the Notes have yet to be deployed in full in accordance with the Use of Proceeds Plan, and (ii) the Investor beneficially owns not less than 50.1% of the then outstanding principal amount of the Notes, the Company will deliver an Use of Proceeds Report to the Investor.~~

Section 3.12. Limitation on Indebtedness.

The Company will not, and will cause the Restricted Subsidiaries not to, directly or indirectly, create, incur, issue, assume, guarantee, suffer to exist or otherwise become directly or

indirectly liable, contingently or otherwise with respect to any Indebtedness, except for the following Indebtedness (collectively, "**Permitted Indebtedness**"):

(A) Indebtedness in respect of the Obligations;

(B) Indebtedness existing as of the Issue Date (other than the Indebtedness described in the **clauses (C) and (D)** below);

(C) (i) Indebtedness incurred pursuant to the ~~2020~~2025 Convertible Bonds Indenture; ~~and~~ (ii) Indebtedness incurred pursuant to the SCB Agreement; (iii) Indebtedness incurred pursuant to the New 2029 First Lien Notes Indenture; and (iv) Indebtedness incurred pursuant to the Second Lien Notes Indenture (including any additional Second Lien Notes issued pursuant to the Second Lien Notes Indenture as Indebtedness incurred to refinance (as defined below) the 2025 Notes (including any premium, interest accrued and unpaid and/or any other amount payable thereon);

(D) Indebtedness incurred pursuant to repayment obligations under the Total Solarization Agreement~~;~~ and any Indebtedness of the Company or any Restricted Subsidiary issued in exchange for, or the net proceeds of which are used to refinance or refund, replace, exchange, renew, repay, redeem, defease, discharge or extend, in full or in part, such repayment obligations (including premiums, accrued interest, fees and expenses), in an amount not to exceed the amount so refinanced or refunded;

(E) Indebtedness of the Company or any Restricted Subsidiary owed to the Company or any Restricted Subsidiary; *provided* that (i) any event which results in (x) any Restricted Subsidiary to which such Indebtedness is owed ceasing to be a Restricted Subsidiary or (y) any subsequent transfer of such Indebtedness (other than to the Company or any other Restricted Subsidiary) shall be deemed, in each case, to constitute an incurrence of such Indebtedness not permitted by this **Section 3.12(E)**; and (ii) if the Company or any Guarantor is the obligor on such Indebtedness, such Indebtedness must be unsecured and be expressly subordinated in right of payment to the Notes or the Subsidiary Guarantee, as the case may be;

(F) Indebtedness of the Company or any Restricted Subsidiary issued in exchange for, or the net proceeds of which are used to refinance or refund, replace, exchange, renew, repay, redeem, defease, discharge or extend (collectively, "refinance," "refinances," "refinancing" and "refinanced" shall have a correlative meaning) ("**Permitted Refinancing Indebtedness**"), then outstanding Indebtedness (or Indebtedness repaid substantially concurrently with, but in any case before, the incurrence of such Permitted Refinancing Indebtedness) incurred under **Sections 3.12(A), 3.12(B), 3.12(C), 3.12(~~D~~G), 3.12(H), 3.12(I), 3.12(X)** and **3.12(W)** of this covenant and any refinancing thereof in an amount not to exceed the amount so refinanced or refunded (plus premiums, accrued interest, fees and expenses); *provided* that (i) Indebtedness the proceeds of which are used to refinance or refund the Notes or Indebtedness that is *pari passu* with, or subordinated in right of payment to, the Notes shall only be permitted under this Section 3.12(F) if (y) in case the Notes are refinanced in part or the Indebtedness to be refinanced is *pari passu* with the Notes, such new Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which such new Indebtedness is outstanding, is expressly made *pari passu* with, or subordinate in right of payment to, the remaining Notes, if any, as applicable, or

(z) in case the Indebtedness to be refinanced is subordinated in right of payment to the Notes, such new Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which such new Indebtedness is issued or remains outstanding, is expressly made subordinate in right of payment to the Notes at least to the extent and in the same manner that the Indebtedness to be refinanced is subordinated to the Notes, (ii) such new Indebtedness, determined as of the date of incurrence of such new Indebtedness, does not mature prior to the Stated Maturity of the Indebtedness to be refinanced, and the Average Life of such new Indebtedness is at least equal to the remaining Average Life of the Indebtedness to be refinanced~~; and~~, (iii) such new Indebtedness will not have additional obligors or greater (including higher ranking priority) guarantees; and (iv) in no event may unsecured Indebtedness of the Company be refinanced pursuant to this clause with secured Indebtedness (other than for the purposes of repaying the Notes in full);

(G) ~~[Reserved];~~Indebtedness of the Company or any Company Indenture Party not to exceed US$50,000,000; *provided* that such Indebtedness shall not constitute refinancing Indebtedness ;

(H) Indebtedness incurred (i) in connection with the acquisition, lease, construction, repair, replacement or improvement of property (real or personal) or equipment (whether through the direct purchase of assets or the Capital Stock of any Person owning such assets) or (ii) in respect of Sale/Leaseback Transactions of equipment and property of the Company or any Restricted Subsidiary, in an aggregate amount in the case of (i) and (ii), at any time outstanding (together with refinancing thereof) not to exceed an amount equal to 25.0% of PP&E;

(I) Indebtedness incurred by the Company or any Restricted Subsidiary with a maturity of one year or less for working capital in an aggregate principal amount at any one time outstanding (together with any refinancings thereof, including any Permitted Refinancing Indebtedness under **Section 3.12(F)** (which must for such purposes have a maturity of one year or less and be for working capital)) of all Indebtedness incurred under this **Section 3.12(I)**, together with the aggregate principal amount at such time outstanding of any Indebtedness incurred (i) pursuant to the SCB Agreement and (ii) pursuant to any Receivable Financing (other than Non-recourse Receivable Financing) under **Section 3.12(X)**, not to exceed 15.0% of Total Revenue (or the Dollar ~~Equivalent~~equivalent thereof);

(J) the guarantee by the Company or any Restricted Subsidiary of Indebtedness of the Company or any Restricted Subsidiary that is permitted to be incurred by another provision of this **Section 3.12**;

(K) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently, except in the case of daylight overdrafts, drawn against insufficient funds in the ordinary course of business; *provided*, however, that this Indebtedness is extinguished within five Business Days;

(L) Indebtedness arising from agreements of the Company or any of its Subsidiaries providing for indemnification, adjustment of purchase price, or other similar obligations, in each case incurred or assumed in connection with the disposition of any business or assets of the Company or such Subsidiary, other than guarantees of Indebtedness incurred by any Person

acquiring all or any portion of any of such business or assets for the purpose of financing such acquisition; *provided*, *however*, that the maximum assumable liability in respect of all this Indebtedness shall at no time exceed the gross proceeds actually received by Company or the relevant Subsidiary in connection with the disposition;;

(M) Indebtedness (i) owed to any Person providing worker's compensation, health, disability or other employee benefits or property, casualty or liability insurance to the Company or any of its Subsidiaries incurred in connection with such Person providing such benefits or insurance pursuant to customary reimbursement or indemnification obligations to such Person and (ii) appeal or similar bonds, or bonds with respect to worker's compensation claims

(N) Indebtedness incurred in the ordinary course of business by the Company or any Restricted Subsidiary to finance the payment of insurance premiums of the Company or any of its Subsidiaries, so long as the amount of such Indebtedness is not in excess of the amount of the unpaid cost of, and shall be incurred only to defer the cost of, such insurance premiums;

(O) obligations with respect to trade letters of credit, bank guarantee, performance and surety bonds and completion or performance guarantees provided by the Company or any Restricted Subsidiary securing obligations, entered into in the ordinary course of business, to the extent the letters of credit, bank guarantee, bonds or guarantees are not drawn upon or, if and to the extent drawn upon is honored in accordance with its terms and, if to be reimbursed, is reimbursed in accordance with the terms of demand following receipt of a demand for reimbursement following payment on the letter of credit, bond or guarantee;

(P) to the extent constituting Indebtedness, contingent obligations arising under indemnity agreements to title insurance companies to cause such title insurers to issue title insurance policies in the ordinary course of business with respect to the real property of the Company or any of its Subsidiaries;

(Q) to the extent constituting Indebtedness, unfunded pension fund and other employee benefit plan obligations and liabilities to the extent they are permitted to remain unfunded under applicable law;

(R) cash management obligations and Indebtedness incurred by the Company or any Restricted Subsidiary in respect of netting services, treasury management services, check drawing services, automated payment services (including depository, overdraft, controlled disbursement, ACH transactions, return items and interstate depository network services), employee credit card programs (to the extent used for corporate purposes) and cash pooling services and any similar arrangements, in each case entered into in the ordinary course of business in connection with cash management, including among the Company and its Subsidiaries, and deposit accounts;

(S) to the extent constituting Indebtedness, guarantees in the ordinary course of business of the obligations of suppliers, customers, franchisees and licensees of the Company or any of its Subsidiaries;

(T) capital commitments, deposits and advance payments received from customers in connection with manufacturing capacity reservation or in the ordinary course of business or any contingent obligations to refund payments (including deposits) to customers in connection with manufacturing capacity reservation or for goods and services purchased in the ordinary course of business;

(U) Indebtedness arising in connection with Hedging Agreements entered into in the ordinary course of business (and not for speculative purposes) (a) to hedge or mitigate risks to which the Company or any of its Subsidiaries has actual or potential exposure (other than those in respect of equity interest of the Company or any of its Subsidiaries), including to hedge or mitigate foreign currency and commodity price risks and (b) to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability of the Company or any of its Subsidiaries;

(V) to the extent constituting Indebtedness take or pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(W) other unsecured Indebtedness of the Company or any Restricted Subsidiary in an aggregate principal amount at any time outstanding (together with any refinancing thereof, including any Permitted Refinancing Indebtedness under **Section 3.12(F)**) not to exceed $50,000,000;

(X) Indebtedness of the Company or any Restricted Subsidiary in respect of (i) Receivable Financing (other than Non-recourse Receivable Financing) in an aggregate principal amount any time outstanding (together with any refinancing thereof, including any Permitted Refinancing Indebtedness under Section 3.12(F) not to exceed $15,000,000 and (ii) Non-recourse Receivable Financing;

(Y) [Reserved];

(Z) Indebtedness incurred to finance Capital Expenditures duly approved by the Board of Directors, so long as such Capital Expenditures are not funded by proceeds of the Notes; and

(AA) Indebtedness incurred as (i) obligations in respect of taxes, workers' compensation claims, early retirement or termination obligations or social security or wage taxes or contributions or similar claims, obligations or contributions, (ii) obligations arising from the endorsement of negotiable instruments in the ordinary course of business, (iii) obligations recorded as warranty reserves accrued in the ordinary course of business, (iv) any earn-out obligations, purchase price adjustments, deferred purchase money amounts, milestone and/or bonus payments (whether performance or time-based), and royalty, licensing, revenue and/or profit sharing arrangements, in each case, characterized as such and arising expressly out of purchase and sale contracts, development arrangements or, in each case only if such transaction as conducted on an arm's length basis consistent with customary industry practices, (v) to the extent it constitutes Indebtedness, deposit securing Sale/Leaseback Transactions, or (vi) any lease of property which would be considered an operating lease under U.S. GAAP and any

guarantee given by such Person in the ordinary course of business solely in connection with, or in respect of, the obligations of such Person under any operating lease.

For purposes of determining compliance with this **Section 3.12**, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Indebtedness described in clauses (A) through (AA) above, the Company will be permitted to classify such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this Section 3.12. The accrual of interest, the accretion or amortization of original issue discount and the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms will not be deemed to be an incurrence of Indebtedness for purposes of this **Section 3.12**. Notwithstanding any other provision of this **Section 3.12**, the maximum amount of Indebtedness that the Company Indenture Parties or any of its Restricted Subsidiaries may incur pursuant to this **Section 3.12** shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

Further, for purposes of determining compliance with this covenant, to the extent the Company or any of its Restricted Subsidiaries guarantees Indebtedness of a direct or indirect parent entity to the extent otherwise permitted by this covenant, the on-loan by such direct or indirect parent entity to the Company or such Restricted Subsidiary of all or a portion of the principal amount of such Indebtedness will not be double counted.

Section 3.13. LIMITATION ON LIENS.

The Company will not, and will cause the Restricted Subsidiaries not to, directly or indirectly, create, incur, assume or suffer to exist any Lien upon any property or assets of any kind (real or personal, tangible or intangible) of any such Person (including its equity interest), whether now owned or hereafter acquired, except for the following Liens (collectively, "**Permitted Liens**"):

(A) Liens securing payment of the Obligations;

(B) (i) Liens securing pension obligations that arise in the ordinary course of business and (ii) pledges and deposits made in the ordinary course of business (A) in connection with workers' compensation, health, disability or other employee benefits, unemployment insurance and other social security laws or regulations (excluding Liens arising under ERISA), property, casualty or liability insurance or premiums related thereto or self-insurance obligations or (B) to secure letters of credit, bank guarantees or similar instruments posted to support payment of items set forth in the foregoing **clause (i)**; *provided* that such letters of credit, bank guarantees or instruments are issued in compliance with **Section 3.12**;

(C) Liens existing as of the Issue Date; *provided*, that no such Lien shall encumber any additional property not encumbered as of the Issue Date;

(D) Liens in favor of the Company or any Restricted Subsidiary;

(E) Liens arising from the rendering of a final judgment or order against the Company or any Restricted Subsidiary that do not give rise to an Event of Default;

(F) Liens securing Indebtedness incurred under ~~Section~~**Sections 3.12(C)(iii), 3.12(C)(iv), 3.12(D)** and **3.12(G)**, subject, in the case of 3.12(D) and 3.12(G), to Section 3.20;

(G) Liens securing Indebtedness incurred under **Section 3.12(F)**; *provided*, that such Liens (i) do not extend to or cover any property or assets of the Company or any Restricted Subsidiary other than the property or assets securing the Indebtedness being refinanced, (ii) do not rank higher in priority than the Liens on such property or assets securing the secured Indebtedness being refinanced, whether by priority of such Lien or the priority of payment on enforcement of such Lien and (iii) secure Indebtedness that is otherwise permitted to be secured by a Lien pursuant to another provision of this Section 3.13;

(H) Liens securing Indebtedness incurred under **Section 3.12(H)**; *provided*, that no such Lien shall be permitted to exist on any portion of the Collateral; *provided further*, that such Lien secures only the assets that are the subject of the Indebtedness referred to in Section 3.12(H)

(I) Liens securing Indebtedness incurred under **Section 3.12(I)**;

(J) Liens securing Indebtedness incurred under **Section 3.12(U)**; *provided* that such Liens are encumbering customary initial deposits or margin deposits or are otherwise within the general parameters customary in the industry and incurred in the ordinary course of business;

(K) Liens incurred with respect to obligations that do not exceed $10,000,000 at any one time outstanding; *provided* that no such Lien shall be permitted to exist on any portion of the Collateral or the assets of any Restricted Collateral Subsidiary;

(L) Liens securing Indebtedness incurred under **Section 3.12(Z)**; *provided*, that no such Lien shall be permitted to exist on any portion of the Collateral and such Lien secures only the assets that are the subject of the Indebtedness referred to in Section 3.12(Z).

(M) Liens arising by operation of law in favor of carriers, warehousemen, mechanics, materialmen and landlords incurred in the ordinary course of business for amounts not yet overdue by more than sixty (60) days or being properly contested in good faith by appropriate proceedings and for which adequate reserves shall have been established on its books, which reserves shall be in conformity with U.S. GAAP, consistently applied;

(N) Liens incurred or deposits made to secure (i) worker's compensation, unemployment insurance or other form of governmental insurance or benefit, the performance of tenders, bids, leases, statutory or regulatory obligations, bankers' acceptances, completion guarantees, surety and appeal bonds, government contracts, performance and return-of-money bonds; (ii) reimbursement obligations with respect to letters of credit, performance and surety bonds and completion guarantees and other obligations of a similar nature; (iii) liability for premiums to insurance carriers; and (iv) posted cash as collateral for guarantees, (in each case in

this **Section 3.13(N)** incurred in the ordinary course of business and exclusive of obligations for the payment of borrowed money, as applicable);

(O) Liens on property of, or on shares of Capital Stock or Indebtedness of, any Person existing at the time such Person is merged with or into or consolidated with the Company or any Restricted Subsidiary; *provided* that such merger or consolidation is permitted hereunder and such Liens do not extend to or cover any then-existing property or assets of the Company or any Restricted Subsidiary other than the property or assets of such Person or the property or assets acquired by the Company or any Restricted Subsidiary in connection with such merger or consolidation;

(P) recorded or unrecorded easements, rights-of-way, covenants, conditions, restrictions, non-exclusive licenses, reservations, zoning restrictions, and other charges, encumbrances, defects, imperfections or irregularities in title of any kind and other similar encumbrances that do not interfere in any material respect with the value or current use of the property to which such Lien is attached, all Liens, encumbrances and other matters disclosed in any title policy with respect to real property issued as of the Issue Date;

(Q) security provided, or caused to be provided in the ordinary course of business (and not in connection with the borrowing of money or the obtaining of credit) to a public utility or any municipality or governmental or other public authority when required by such utility or municipality or governmental or other authority in connection with the operations the Company or any of its Subsidiaries;

(R) Liens for taxes, customs, assessments or other governmental charges or levies not yet due and payable, or that are being properly contested in good faith by appropriate proceedings where the execution or enforcement of such Lien has been stayed and for which adequate reserves shall have been established on its books, which reserves shall be in conformity with U.S. GAAP, consistently applied;

(S) ~~[Reserved]~~Liens on the assets or Capital Stock of the Specified Disposition Entity;

(T) leases, licenses, subleases or sublicenses (~~other than with respect to~~including, for the avoidance of doubt, licenses or sublicenses of any technology or other Intellectual Property made on an exclusive basis), (i) existing on the date hereof, (ii) entered into by, or assigned to, the Company or any of its Restricted Subsidiaries ~~in the ordinary course of business and not interfering in any material respect with the business of the Company and in its Restricted Subsidiaries~~, or (iii) between or among the Company and its Restricted Subsidiaries;

(U) any interest or title of a lessor, licensor, sublessor or sublicensor under any lease, non-exclusive license or sublease entered into by the Company or any of its Subsidiaries (i) prior to the date hereof, or (ii) in the ordinary course of business, in each case, covering only the assets so leased, subleased, licensed or sublicensed;

(V) Liens of sellers of goods to such Person arising under applicable law in the ordinary course of business, covering only the goods sold or securing only the unpaid purchase

price of such goods and related expenses to the extent such Indebtedness is permitted under this Indenture;

(W) Liens relating to purchase orders and other agreements entered into with customers or supplier of the Company or any of its Subsidiaries in the ordinary course of business;

(X) Liens securing the performance of, or granted in lieu of, contracts with trade creditors, contracts (other than in respect of debt for borrowed money), leases, bids, statutory obligations, customs, surety, stay, appeal and performance bonds, performance and completion guarantees and other obligations of a like nature (including those to secure health, safety and environmental obligations), in each case, incurred in the ordinary course of business or consistent with industry practice and deposits securing letters of credit, bank guarantees or similar instruments posted to support payment of the items set forth in this **clause (X)**; *provided* that such letters of credit, bank guarantees or similar instruments are issued in compliance with **Section 3.12**;

(Y) Liens (i) in favor of a banking institution arising as a matter of law encumbering deposits or other funds maintained with financial institutions (including the right of set–off) and (ii) arising in connection with pooled deposit or sweep accounts, cash netting, deposit accounts or similar arrangements of the Company or any of its Subsidiaries and consisting of the right to apply the funds held therein to satisfy overdraft or similar obligations incurred in the ordinary course of business of such Person, in each case, which are within the general parameters customary in the banking industry;

(Z) Liens on accounts receivables and other assets of the type specified in the definition of "Receivable Financing" to the extent the Indebtedness under such Receivable Financing is permitted under **Section 3.12(X) and Section 3.12(I)**;

(AA) Liens on assets or securities deemed to arise in connection with and solely as a result of the execution, delivery or performance or contracts to sell or otherwise dispose of such assets or securities if such sale or disposition is otherwise permitted under this Indenture;

(BB) ~~[Reserved]~~Liens on any Excluded Assets; and

(CC) Liens (i) in favor of customs and revenue authorities arising as a matter of law in the ordinary course of business to secure payment of customs duties that (a) are not overdue by more than sixty (60) days or, if more than sixty (60) days overdue, are being contested in good faith or (b) with respect to which the failure to make payment could not reasonably be expected to have a Material Adverse Effect and (ii) on specific items of Inventory or other goods and proceeds thereof of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such Inventory or such other goods in the ordinary course of business.

Section 3.14. [RESERVED].

Section 3.15. LIMITATION ON DISPOSITIONS.

The Company will not, and will cause the Restricted Subsidiaries not to, make any Disposition, except for a Disposition that (each, a "**Permitted Disposition**"):

(A) is of obsolete, worn out or surplus property or property (other than equity interest or the business of any Person) not used or useful in such Person's business at the time of such Disposition, is Disposed of for Fair Market Value and to the extent the Disposition is by a Company Indenture Party, the relevant Company Indenture Party causes any proceeds arising therefrom to be deposited into a deposit account that is subject to Bank Account Perfection Actions;

(B) is for Fair Market Value and meets the following conditions:

(i) the aggregate Fair Market Value of Dispositions made in reliance on this **clause (B)** during any fiscal year of the Company and the Restricted Subsidiaries taken as a whole does not exceed 2.0% of PP&E;

(ii) immediately prior to and immediately after giving effect to such Disposition, no Default or Event of Default shall have occurred and be continuing or would result therefrom;

(iii) to the extent the Disposition is by a Company Indenture Party, the relevant Company Indenture Party causes any cash proceeds arising therefrom to be deposited into a deposit account that is subject to Bank Account Perfection Actions;

(iv) no less than seventy-five percent (75%) of the consideration received for such sale, transfer, lease, contribution or conveyance is received in cash; and

(i) the Disposition is not made to an Unrestricted Subsidiary.

(C) is a sale of Inventory in the ordinary course of business;

(D) is the leasing, assignment or sublease of real or personal property not used or useful in such Person's business or is otherwise in the ordinary course of business;

(E) is a sale, transfer, license, sub-license, grant, assignment, lease and sub-lease (as seller, transferor, lessee, sublessee, lessor, sublessor, licensee, sublicensee, licensor, sublicensor or grantee) of software, patents, trademarks, know-how or any other intellectual property, general intangibles or other property (including real or tangible property) ~~on a non-exclusive basis in the ordinary course of business and~~ for Fair Market Value; *provided* that, to the extent the Disposition is by a Company Indenture Party, the relevant Company Indenture Party causes any cash proceeds arising therefrom to be deposited into a deposit account that is subject to Bank Account Perfection Actions;

(F) is a sale or disposition of equipment or other assets, to the extent that such equipment is exchanged for credit against the purchase price of similar replacement equipment or assets or the proceeds of such Dispositions are reasonably promptly applied to the purchase price of similar replacement equipment, all in the ordinary course of business;

(G) is an abandonment, allowing to lapse, failure to renew, or other Disposition of any Intellectual Property that are not material to the conduct of the business of the Company and Guarantors or are otherwise not economically practicable to maintain;

(H) is by the Company to a Restricted Subsidiary, or by a Restricted Subsidiary to the Company or another Restricted Subsidiary;

(I) is a (i) Disposition of all or substantially all of the assets of the Company or any Restricted Subsidiary in the manner permitted under **Article 6** and in the case of any Restricted Subsidiary, the Disposition of all or substantially all of its assets to the holders of its Capital Stock on a *pro rata* basis or on a basis that is more favorable to the Company or any other Restricted Subsidiary, or (ii) any Disposition that constitutes a Fundamental Change;

(J) is a transfer of accounts receivable and related assets in the ordinary course of business and of the type specified in the definition of "Receivables Financing" (or a fractional undivided interest therein) in a Receivables Financing;

(K) is an exchange of assets for assets of comparable or greater market value or usefulness to the business of the Company and its subsidiaries as a whole, as determined in good faith by the Company, and, to the extent such assets are Collateral, the assets received by the Company pursuant to an exchange permissible under this **Section 3.15(K)** shall continue to be Collateral;

(L) is a Disposition of any Excluded Asset to the Specified Disposition Entity; *provided* that such Disposition is for Fair Market Value and meets the following conditions:

(i) such Disposition is duly approved by the Board of Directors;

(ii) immediately prior to and immediately after giving effect to such Disposition, no Default or Event of Default shall have occurred and be continuing or would result therefrom; and

(iii) to the extent the Disposition is by a Company Indenture Party, the relevant Company Indenture Party causes any cash proceeds arising therefrom to be deposited into a deposit account that is subject to Bank Account Perfection Actions; and

(iv) is made on an arm's length basis consistent with customary industry practices.

(M) is a Disposition of any asset or Capital Stock of the Specified Disposition Entity; *provided* that such Disposition is for Fair Market Value and meets the following conditions:

(i) such Disposition is duly approved by the Board of Directors;

(ii) immediately prior to and immediately after giving effect to such Disposition, no Default or Event of Default shall have occurred and be continuing or would result therefrom;

(iii) to the extent the Disposition is by a Company Indenture Party, the relevant Company Indenture Party causes any cash proceeds arising therefrom to be deposited into a deposit account that is subject to Bank Account Perfection Actions;

(iv) no less than seventy-five percent (75%) of the consideration received for such sale, transfer, lease, contribution or conveyance is received in cash;

(v) the Disposition is not made to the Company or any of its Subsidiaries; and

(vi) is made on an arm's length basis consistent with customary industry practices.

(N) ~~(L)~~ is any financing transaction with respect to property built or acquired by the Company or any Restricted Subsidiary after the Issue Date in the ordinary course of business, including any Sale/Leaseback Transaction or asset securitization, permitted by this Indenture;

(O) ~~(M)~~ is a Disposition constituting Permitted Liens;

(P) ~~(N)~~ is a Disposition of Capital Stock of a subsidiary of any Company Indenture Party pursuant to an agreement or other obligation with or to a Person (other than any Company Indenture Party) from whom such subsidiary was acquired or from whom such subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), made as part of such acquisition and in each case comprising all or a portion of the consideration in respect of such sale or acquisition;

(Q) ~~(O)~~ is a Disposition of assets in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements, *provided that*, to the extent the Disposition is by a Company Indenture Party, the relevant Company Indenture Party causes any cash proceeds arising therefrom to be deposited into a deposit account that is subject to Bank Account Perfection Actions;

(R) ~~(P)~~ a Disposition that constitutes a Permitted Investment or a Restricted Payment that is permitted under this Indenture;

(S) ~~(Q)~~ is a transfer, termination, unwinding or other disposition in accordance with the terms of Hedging Agreements;

(T) ~~(R)~~ is a surrender, expiration or waiver of contract rights or settlement, release, recovery on or surrender of contract, tort or other claims in the ordinary course of business;

(U) ~~(S)~~ is a transfer resulting from any casualty or condemnation of property, *provided that*, to the extent such transfer is by a Company Indenture Party, the relevant Company Indenture Party causes any cash proceeds arising therefrom to be deposited into a deposit account that is subject to Bank Account Perfection Actions.

Section 3.16. LIMITATION ON INVESTMENTS.

The Company Indenture Parties will not purchase, make, incur, assume or permit to exist any Investment in any Restricted Subsidiary that is not a Company Indenture Party, and the Company and its Restricted Subsidiaries will not purchase, make, incur, assume or permit to exist any Investment in any Unrestricted Subsidiary, except for the following Investments (each, a "**Permitted Investment**"):

(A) any Investment in a Person which is, will be, or will be merged or consolidated with or into, or transfer or convey all or substantially all its assets to, any Company Indenture Party or any Restricted Subsidiary;

(B) to the extent it constitutes an Investment, provision of corporate and management services, including but not limited to any shared services arrangements, payroll or other compensations or benefits for employees of any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary, or of the Company and its Restricted Subsidiaries which provide services to such Restricted Subsidiary or Unrestricted Subsidiary and operating expenses in the ordinary course of business;

(C) to the extent it constitutes an Investment, provision of treasury management services, payroll payment services, employee credit card programs (to the extent used for corporate purposes), cash pooling services and other services of a similar nature, in each case, in the ordinary course of business.

(D) any existing Investment in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary in existence on the Issue Date, and any Investment consisting of an extension of the term, renewal or replacement of any Investment in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary existing on, or made pursuant to a binding commitment existing on the Issue Date.

(E) any Indebtedness owed to the Company or any Restricted Subsidiary by any Restricted Subsidiary that is not a Company Indenture Party to the extent such Indebtedness is permitted under **Section 3.12** and the repayment, retirement or redemption thereof to the extent such repayment, retirement or redemption is permitted under this Indenture;

(F) any Investment in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary in connection with the incurrence of Indebtedness permitted under **Sections 3.12(F), 3.12(M), 3.12(N), 3.12(O), 3.12(P), 3.12(Q), 3.12(R), 3.12(S), 3.12(T), 3.12(U),** 3.12(V), **3.12(X) and 3.12(AA)**.

(G) to the extent it constitutes and Investment, any guarantee permitted under **Section 3.12(J)**;

(H) Investments in any Restricted Subsidiary that is not a Company Indenture Party with the proceeds of Indebtedness incurred by any Company Indenture Party or any Unrestricted Subsidiary as permitted under **Section 3.12**, to the extent that such Restricted Subsidiary or Unrestricted Subsidiary is a co-obligor of such Indebtedness;

(I) any Investment in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary in connection with Capital Expenditures duly approved by the Board of Directors;

(J) payroll, travel and similar advances made to any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary, or the directors, officers and/or employees of such Restricted Subsidiary or Unrestricted Subsidiary in the ordinary course of business.

(K) Investments consisting of consideration received by any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary in connection with a Disposition that is permitted or not prohibited under this Indenture.

(L) loans or advances to any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary to the extent such Restricted Subsidiary or Unrestricted Subsidiary is acting in the capacity of a vendor, contractor, supplier, distributor or service provider to any Company Indenture Party, including advance payments for equipment and machinery made to the manufacturer or supplier thereof, in the ordinary course of business and dischargeable in accordance with customary trade terms.

(M) any Investment pursuant to a Hedging Agreement entered into in the ordinary course of business (and not for speculation) designed solely to the Company or any Subsidiaries against fluctuations in commodity prices, interest rates or foreign currency exchange rates, to the extent such Hedging Agreement is entered into with any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary;

(N) Investments in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary consisting of the non-exclusive licensing or sublicensing of Intellectual Property that is otherwise permitted or not prohibited under this Indenture;

(O) Investments in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary consisting of endorsement of negotiable instruments and documents in the ordinary course of business;

(P) notes payable, receivables, trade credits or other current assets owing to the Company Indenture Party by any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary in the ordinary course of business;

(Q) (i) pledges or deposits made on behalf of or for the benefit of any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary by any Company Indenture Party in the ordinary course of business with respect to leases or utility contracts or in favor of tax, customs and revenue authorities or (ii) Investments in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary consisting of earnest money deposits or escrowed money required in connection with any acquisition, joint venture or acquisition of assets not otherwise prohibited by the Indenture;

(R) an acquisition of assets used in the ordinary course of business of any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary by any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary for consideration to the extent such consideration consists solely of ~~Common~~Capital Stock of the Company;

(S) Investments in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary in connection with the incurrence of Liens permitted under **Sections 3.13(B), 3.13(C), 3.13(M), 3.13(N), 3.13(O)** (except where the Person which is merged with or into or consolidated with any Company Indenture Party is an Unrestricted Subsidiary), **3.13(P), 3.13(Q), 3.13(R), 3.13(S), 3.13(T), 3.13(U), 3.13(V), 3.13(X), 3.13(Y), 3.13(Z), 3.13(AA), 3.13(BB)** and **3.13(CC)**, in each case to the extent such incurrence of Liens constitutes an Investment;

(T) any transfer pricing arrangements or other tax planning arrangements for the purpose of complying with applicable laws, rules and regulation in the ordinary course of business;

(U) any Investment in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary with the proceeds from the issue or sale of Capital Stock of the Company;

(V) ~~any Investment in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary in connection with the use of the proceeds from issuance of the Notes in accordance with **Section 3.20**; *provided* that any such Investment in any Unrestricted Subsidiary shall be for the purpose of funding research and development spending and/or capital expenditures related to research and development labs, information technology and/or general administrative services; *provided further* that the aggregate amount of Investments in Unrestricted Subsidiaries made in reliance on this **Section 3.16(V)** shall not exceed $46,000,000.~~[Reserved];

(W) the establishment, incorporation or organization of Subsidiaries of the Company in connection of any of the Investments otherwise permitted under this **Section 3.16**;

(X) any Investment in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary in the ordinary course of business for the purpose of complying with applicable laws, rules and regulations in relation to corporate existence and good standing (or equivalent);

(Y) any Investment in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary, which, together with other Investments made in reliance on this **Section 3.16(Y)** during any fiscal year, in an aggregate amount not exceeding $3,000,000 during such fiscal year; *provided* that the aggregate amount of Investments made in reliance on this **Section 3.16(Y)** shall not exceed $10,000,000; and

(Z) notwithstanding any provision to the contrary, no Investment in any Unrestricted Subsidiary may be made pursuant to this **Section 3.16** unless such Investment has been provided for in a budget that has been presented to and approved by the Board of Directors or has been otherwise approved by the Board of Directors.

Section 3.17. RESTRICTED PAYMENTS.

The Company will not, and will cause the Restricted Subsidiaries not to, make any Restricted Payment, except for:

(A) any Restricted Payment by any Company Indenture Party to any other Company Indenture Party, or by any Restricted Subsidiary which is not a Guarantor to any Company Indenture Party; any Restricted Payment the consideration for which is payable solely in the Capital Stock of the Company;

(B) any Restricted Payment made under any Hedging Agreement for purposes of minimizing losses; or

(C) any Restricted Payment that constitutes a Permitted Disposition or a Permitted Investment.

Section 3.18. ACCOUNTS; CONTROL AGREEMENTS.

(A) Subject to **clause (B)** below, the Company Indenture Parties shall cause their respective accounts maintained, or opened at any time after the Issue Date, at any bank or financial institution (other than any Excluded Accounts) to be subject to an account control agreement or its equivalent or shall take such other actions necessary to create a Lien over any such account in favor of the Collateral Trustee for the benefit of the Secured Parties pursuant to applicable law, including providing notice to the bank or financial institution with which any such account is held of the Liens granted in favor of the Collateral Trustee for the benefit of the Secured Parties over such account pursuant to applicable law (collectively, the "**Bank Account Perfection Actions**"), and shall cause all Collections to be deposited in an account that is subject to an account control agreement or other Bank Account Perfection Actions; *provided*, *however*, that, so long as no Event of Default has occurred and is continuing, any Company Indenture Party may open new accounts at any bank or financial institution; *provided* that, within forty-five (45) days after opening each such account, the relevant Company Indenture Party shall have delivered to the Collateral Trustee an account control agreement with respect to such account (or taken such other Bank Account Perfection Actions) (other than any Excluded Account) (but, with respect to any such accounts opened after the Issue Date, shall not deposit or transfer funds into such account prior to taking such Bank Account Perfection Actions).

(B) Neither the deposit account control agreement or its equivalent nor any Bank Account Perfection Actions shall restrict the Company Indenture Parties' ability to freely receive, withdraw or otherwise transfer any credit balance from time to time on such any account prior to the occurrence of an Event of Default; *provided that* following the occurrence of an Event of Default any Company Indenture Party that receives or otherwise has dominion over or control of any Collections, such Company Indenture Party shall hold such Collections in trust for the Collateral Trustee and shall not commingle such Collections with any other funds of any Company Indenture Party or other Person (unless otherwise instructed by the Collateral Trustee).

Section 3.19. INTELLECTUAL PROPERTY.

(A) Notwithstanding anything to the contrary contained herein, Maxeon Solar Pte. Ltd. shall hold ownership of or an exclusive license in all Intellectual Property, which are material to the conduct of the business or operation of the Company or its Subsidiaries taken as a whole and shall not be permitted to dispose of any such Intellectual Property except to the extent permitted pursuant to **Section 3.15(E)**.

(B) The Company Indenture Parties shall cause any Intellectual Property, that is assigned to the Company or any of its Subsidiaries in accordance with the SDA to be registered in the name of Maxeon Solar Pte. Ltd. in relevant jurisdictions as soon as practicable.

(C) The Company Indenture Parties shall take or cause to be taken all commercial reasonable actions to preserve, renew, and keep in full force and effect the legal existence of all Intellectual Property, except for any Intellectual Property that constitutes Excluded Assets, which are material to the conduct of the business or operation of the Company and its Subsidiaries taken as a whole.

Section 3.20. ~~USE OF PROCEEDS~~PERMITTED SECURED INDEBTEDNESS.

~~Without receiving the necessary consents or waivers as specified in the Use of Proceeds Plan, the Company Indenture Parties will not use the proceeds of the Notes hereunder for any purpose other than (a) in accordance with the Use of Proceeds Plan, (b) pay fees, costs, and expenses of Company, incurred in connection with this Indenture, the Indenture Documents, and the transactions contemplated hereby and thereby, and (c) consistent with the terms and conditions hereof.~~

(A) On or after the Rate Reset Date, the Company and any Company Indenture Party may create Liens on the Collateral *pari passu* with the Lien for the benefit of the Holders to secure Indebtedness of the Company (including Additional Notes) (such Indebtedness of the Company or any Company Indenture Party, "**Permitted Pari Passu Secured Indebtedness**"); *provided* that the Company or such Company Indenture Party was permitted to incur such Indebtedness under **Section 3.12(G)**. The Trustee and/or the Collateral Trustee, as the case may be, will be permitted and authorized, without the consent of any Holder, to effectuate any amendments to the Security Documents, the Intercreditor Agreement, or this Indenture and take any other action necessary to permit the creation and registration of Liens on the Collateral to secure Permitted Pari Passu Secured Indebtedness in accordance with this **Section 3.20(A)** and the terms of this Indenture (including, without limitation, the appointment of any security agent

under the Intercreditor Agreement to hold the Collateral on behalf of the Holders, and the holders of Permitted Pari Passu Secured Indebtedness).

(B) On or after the Rate Reset Date, the Company and any Company Indenture Party may create Liens on the Collateral on a basis that is junior to the Lien for the benefit of the Holders to secure Indebtedness of the Company (such Indebtedness of the Company or any Company Indenture Party, "**Permitted Junior Secured Indebtedness**," and together with Permitted Pari Passu Secured Indebtedness, the "**Permitted Secured Indebtedness**"); *provided* that the Company or such Company Indenture Party was permitted to incur such Indebtedness under **Section 3.12(D)**. The Trustee and/or the Collateral Trustee, as the case may be, will be permitted and authorized, without the consent of any Holder, to effectuate any amendments to the Security Documents, the Intercreditor Agreement, or this Indenture and take any other action necessary to permit the creation and registration of Liens on the Collateral to secure Permitted Junior Secured Indebtedness on a basis that is junior to the Lien for the benefit of the Holders in accordance with this **Section 3.20(B)** and the terms of this Indenture (including, without limitation, the appointment of any security agent under the Intercreditor Agreement to hold the Collateral on behalf of the Holders, and the holders of Permitted Pari Passu Secured Indebtedness).

(C) In executing any amendment to the Security Documents, the Intercreditor Agreement (including any Additional Intercreditor Agreement), or this Indenture in accordance with this **Section 3.20**, the Trustee and/or the Collateral Trustee, as the case may be will be entitled to receive, and (subject to **Sections 10.01** and **10.02**) will be fully protected in relying on, an Officer's Certificate and an Opinion of Counsel, provided in accordance with **Section 13.02**, each stating that (A) the execution and delivery of such amendment is authorized or permitted by this Indenture; and (B) in the case of the Opinion of Counsel, such amendments is valid, binding and enforceable against the Company in accordance with its terms.

(D) Except for certain Permitted Liens, the First Lien Notes, the Second Lien Notes, the Permitted Pari Passu Secured Indebtedness (if any), and the Permitted Junior Secured Indebtedness (if any), the Company and any Company Indenture Party will not be permitted to incur any other Indebtedness secured by all or any portion of the Collateral without the consent of the Majority Holders.

Section 3.21. LIMITATION ON TRANSACTIONS WITH AFFILIATES

The Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly (whether by merger, consolidation, amendment, recapitalization or otherwise) make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction or series of transactions, contract, agreement, understanding, loan (including intercompany loans), advance or guarantee with, or for the benefit of, any Affiliate of the Company (other than the Company, its Subsidiaries, TZE and its Affiliates) involving aggregate consideration in excess of $5,000,000 (each of the foregoing, an "**Affiliate Transaction**"), unless (i) such Affiliate Transaction is on terms that are not materially less favorable to the Company or the relevant Subsidiary than those that could have been obtained in a comparable transaction by the Company

or such Subsidiary with an unrelated Person on an arm's length basis, and (ii) the Company delivers to the Trustee (x) a resolution adopted by the Board of Directors, including a majority of the disinterested directors with respect to such transaction, approving such Affiliate Transaction, or (y) an opinion issued to the Board of Directors by an accounting, appraisal or investment banking firm of nationally recognized standing as to the fairness to the Company or such Subsidiary of such Affiliate Transaction from a financial point of view or that the terms of such Affiliate Transaction are no less favorable to the Company or the relevant Subsidiary, taken as a whole, than those that could have been obtained in a comparable arm's-length transaction by the Company or such Subsidiary with a Person that is not an Affiliate of the Company, except for the following transactions:

(A) transactions with a joint venture in which one or more of the Company and any of its Restricted Subsidiaries is a participant (whether in the form of a partnership, limited liability company or other entity) for the purchase or sale of goods, equipment and services, in each case, entered into in the ordinary course of business and on an arm's length basis;

(B) any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, equity purchase agreements, stock options and stock ownership plans or similar employee benefit plans approved by the Board of Directors in good faith;

(C) (i) any employment agreements entered into by the Company or any of its Subsidiaries in the ordinary course of business; (ii) any subscription agreement or similar agreement pertaining to the repurchase of Capital Stock pursuant to put/call rights or similar rights with employees, officers or directors; and (iii) any employee compensation, benefit plan or arrangement, any health, disability or similar insurance plan which covers employees, and any reasonable employment contract and transactions pursuant thereto;

(D) any Restricted Payment permitted under the First Lien Notes Indentures, or any Permitted Investment;

(E) transactions with customers, clients, suppliers, or purchasers or sellers of goods or services, in each case, in the ordinary course of business and otherwise in compliance with the terms of this Indenture that are fair to the Company and its Subsidiaries;

(F) any contribution to the capital of the Company;

(G) the existence of, or the performance by the Company or any Subsidiary of its obligations under the terms of, any agreement as in effect as of the Issue Date or any amendment thereto (so long as any such agreement together with all amendments thereto, taken as a whole, is not more disadvantageous to the holders of the Notes in any material respect than the original agreement as in effect on the Issue Date, as determined in good faith by the Company) or any transaction contemplated thereby; and

(H) payment of reasonable and customary fees and reimbursement of expenses paid to, and indemnity provided on behalf of, officers, directors, employees or consultants of the Company or any of its Subsidiaries.

Section 3.22. ~~**Section 3.21.**~~ **Environmental Compliance.**

The Company and its Restricted Subsidiaries shall comply in all material respects with all Environmental Law and obtain and maintain any permits and take all reasonable steps in anticipation of known or expected future changes to or obligations under the same, except where failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.23. ~~**Section 3.22.**~~ **Compliance with Laws**

Each Company Indenture Party shall comply with the requirements of all applicable laws, rules, regulations, and orders of any governmental authority, other than laws, rules, regulations, and orders except where the failure to so comply, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.24. ~~**Section 3.23.**~~ **Post-Closing Obligations.**

The Company Indenture Parties shall use commercially best efforts to satisfy their respective obligations described on **Schedule** ~~3.23~~3.24, in each case, within the time periods set forth therein with respect to the relevant obligations.

Section 3.25. ~~**Section 3.24.**~~ **Additional Collateral.**

Not later than sixty (60) days (or such longer date as may be reasonably agreed by the Collateral Trustee upon receiving written instruction, advice or concurrence of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture, subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction, as it deems appropriate) after the acquisition or creation by any Restricted Collateral Subsidiary of any asset (including Intellectual Property but only to the extent that a first priority perfected Lien would have been required under the terms of the Security Documents granted by Maxeon Solar Pte. Ltd. had such Intellectual Property been registered under the name of Maxeon Solar Pte. Ltd.), except for any asset that constitutes Excluded Assets, that is material to the business or operations of the Company and its Subsidiaries taken as a whole, which asset would not automatically be subject to the Collateral Trustee's first priority perfected Lien pursuant to pre-existing Security Documents due to restrictions under applicable laws or regulations, the applicable Restricted Collateral Subsidiary shall, to the extent practicable under applicable law cause such asset to be subject to a first priority perfected Lien (subject to Permitted Liens, any limitations required under the applicable law and/or, if applicable, the exclusions set forth in the relevant Security Document(s)) in favor of the Collateral Trustee for the benefit of the ~~Holders~~Secured Parties and take such actions as shall be necessary or reasonably requested by the Collateral Trustee to grant and perfect or record such first priority Lien, in each case to the extent practicable under the applicable law and

any such documentation memorializing such actions shall be based on the Security Documents in effect at such time; *provided* that this **Section** ~~3.24~~3.25 shall not apply ~~(i)~~ to the extent such assets are of the type over which Liens are permitted under **Section 3.13(H)**, **Section 3.13(K)**, **Section 3.13(L)** or **Section 3.13(L) or (ii) to assets or property of any Restricted Collateral Subsidiary located in the United States of America, including but not limited to equity interest held or beneficially owned by any Restricted Collateral Subsidiary in any Subsidiary of the Company incorporated or organized under the laws of any state of the United States of America.BB)**.

Section 3.26. AMENDMENTS TO JUNIOR LIEN DEBT DOCUMENTS.

The Junior Lien Debt Documents (as defined in the Intercreditor Agreement) shall not be amended, restated, supplemented, waived or otherwise modified, except in a manner that is expressly permitted under the Intercreditor Agreement.

Article 4. REPURCHASE AND REDEMPTION

Section 4.01. NO SINKING FUND.

No sinking fund is required to be provided for the Notes.

Section 4.02. RIGHT OF HOLDERS TO REQUIRE THE COMPANY TO REPURCHASE NOTES UPON A FUNDAMENTAL CHANGE.

(A) *Right of Holders to Require the Company to Repurchase Notes Upon a Fundamental Change*. Subject to the other terms of this **Section 4.02**, if a Fundamental Change occurs, then each Holder will have the right (the "**Fundamental Change Repurchase Right**") to require the Company to repurchase such Holder's Notes (or any portion thereof in an Authorized Denomination) on the Fundamental Change Repurchase Date for such Fundamental Change for a cash purchase price equal to the Fundamental Change Repurchase Price.

(B) *Repurchase Prohibited in Certain Circumstances*. If the principal amount of the Notes has been accelerated and such acceleration has not been rescinded on or before the Fundamental Change Repurchase Date for a Repurchase Upon Fundamental Change (including as a result of the payment of the related Fundamental Change Repurchase Price, and any related interest pursuant to the proviso to **Section 4.02(D)**, on such Fundamental Change Repurchase Date), then (i) the Company may not repurchase any Notes pursuant to this **Section 4.02**; and (ii) the Company will cause any Notes theretofore surrendered for such Repurchase Upon Fundamental Change to be returned to the Holders thereof (or, if applicable with respect to Global Notes, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interest in such Notes in accordance with the Depositary Procedures).

(C) *Fundamental Change Repurchase Date*. The Fundamental Change Repurchase Date for any Fundamental Change will be a Business Day of the Company's choosing that is no

more than ~~thirty-five~~thirty-five (35), nor less than twenty (20), Business Days after the date the Company sends the related Fundamental Change Notice pursuant to **Section 4.02(E)**.

(D) *Fundamental Change Repurchase Price*. The Fundamental Change Repurchase Price for any Note to be repurchased upon a Repurchase Upon Fundamental Change following a Fundamental Change is an amount in cash equal to one hundred percent (100%) of the principal amount of such Note plus accrued and unpaid interest on such Note to, but excluding, the Fundamental Change Repurchase Date for such Fundamental Change; *provided*, *however*, that if such Fundamental Change Repurchase Date is after a Regular Record Date and on or before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Repurchase Upon Fundamental Change, to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Fundamental Change Repurchase Date is before such Interest Payment Date); and (ii) the Fundamental Change Repurchase Price will not include accrued and unpaid interest on such Note to, but excluding, such Fundamental Change Repurchase Date. For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of **Section 2.05(C)** and such Fundamental Change Repurchase Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest on Notes to, but excluding, such Interest Payment Date will be paid, in accordance with **Section 2.05(C)**, on the next Business Day to Holders as of the Close of Business on the immediately preceding Regular Record Date; and (y) the Fundamental Change Repurchase Price will include interest on Notes to be repurchased from, and including, such Interest Payment Date.

(E) *Fundamental Change Notice*. On or before the twentieth (20th) calendar day after the effective date of a Fundamental Change, the Company will send to each Holder, the Trustee and the Paying Agent a notice of such Fundamental Change (a "**Fundamental Change Notice**"). Substantially contemporaneously, the Company will issue a press release through such national newswire service as the Company then uses (or publish the same through such other widely disseminated public medium as the Company then uses, including its website) containing the information set forth in the Fundamental Change Notice.

Such Fundamental Change Notice must state:

(i) briefly, the events causing such Fundamental Change;

(ii) the effective date of such Fundamental Change;

(iii) the procedures that a Holder must follow to require the Company to repurchase its Notes pursuant to this **Section 4.02**, including the deadline for exercising the Fundamental Change Repurchase Right and the procedures for submitting and withdrawing a Fundamental Change Repurchase Notice;

(iv) the Fundamental Change Repurchase Date for such Fundamental Change;

(v) the Fundamental Change Repurchase Price per $1,000 principal amount of Notes for such Fundamental Change (and, if such Fundamental Change Repurchase Date is after a Regular Record Date and on or before the next Interest Payment Date, the amount, manner and timing of the interest payment payable pursuant to the proviso to **Section 4.02(D)**);

(vi) the name and address of the Paying Agent and the Conversion Agent;

(vii) the Conversion Rate in effect on the date of such Fundamental Change Notice and a description and quantification of any adjustments to the Conversion Rate that may result from such Fundamental Change (including pursuant to **Section 5.07**);

(viii) that Notes for which a Fundamental Change Repurchase Notice has been duly tendered and not duly withdrawn must be delivered to the Paying Agent for the Holder thereof to be entitled to receive the Fundamental Change Repurchase Price;

(ix) that Notes (or any portion thereof) that are subject to a Fundamental Change Repurchase Notice that has been duly tendered may be converted only if such Fundamental Change Repurchase Notice is withdrawn in accordance with this Indenture; and

(x) the CUSIP and ISIN numbers, if any, of the Notes.

Neither the failure to deliver a Fundamental Change Notice nor any defect in a Fundamental Change Notice will limit the Fundamental Change Repurchase Right of any Holder or otherwise affect the validity of any proceedings relating to any Repurchase Upon Fundamental Change.

(F) *Procedures to Exercise the Fundamental Change Repurchase Right.*

(i) *Delivery of Fundamental Change Repurchase Notice and Notes to Be Repurchased.* To exercise its Fundamental Change Repurchase Right for a Note following a Fundamental Change, the Holder thereof must deliver to the Paying Agent:

(1) before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date (or such later time as may be required by law), a duly completed, written Fundamental Change Repurchase Notice with respect to such Note; and

(2) such Note, duly endorsed for transfer (if such Note is a Physical Note) or by book-entry transfer (if such Note is a Global Note).

The Paying Agent will promptly deliver to the Company a copy of each Fundamental Change Repurchase Notice that it receives.

(ii) *Contents of Fundamental Change Repurchase Notices.* Each Fundamental Change Repurchase Notice with respect to a Note must state:

(1) if such Note is a Physical Note, the certificate number of such Note;

(2) the principal amount of such Note to be repurchased, which must be an Authorized Denomination; and

(3) that such Holder is exercising its Fundamental Change Repurchase Right with respect to such principal amount of such Note;

provided, *however*, that if such Note is a Global Note, then such Fundamental Change Repurchase Notice must comply with the Depositary Procedures (and any such Fundamental Change Repurchase Notice delivered in compliance with the Depositary Procedures will be deemed to satisfy the requirements of this **Section 4.02(F)**).

(iii) *Withdrawal of Fundamental Change Repurchase Notice*. A Holder that has delivered a Fundamental Change Repurchase Notice with respect to a Note may withdraw such Fundamental Change Repurchase Notice by delivering a written notice of withdrawal to the Paying Agent at any time before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date. Such withdrawal notice must state:

(1) if such Note is a Physical Note, the certificate number of such Note;

(2) the principal amount of such Note to be withdrawn, which must be an Authorized Denomination; and

(3) the principal amount of such Note, if any, that remains subject to such Fundamental Change Repurchase Notice, which must be an Authorized Denomination;

provided, *however*, that if such Note is a Global Note, then such withdrawal notice must comply with the Depositary Procedures (and any such withdrawal notice delivered in compliance with the Depositary Procedures will be deemed to satisfy the requirements of this **Section 4.02(F)**).

Upon receipt of any such withdrawal notice with respect to a Note (or any portion thereof), the Paying Agent will (x) promptly deliver a copy of such withdrawal notice to the Company; and (y) if such Note is surrendered to the Paying Agent, cause such Note (or such portion thereof in accordance with **Section 2.11**, treating such Note as having been then surrendered for partial repurchase in the amount set forth in such withdrawal notice as remaining subject to repurchase) to be returned to the Holder thereof (or, if applicable with respect to any Global Note, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interest in such Note in accordance with the Depositary Procedures).

(G) *Payment of the Fundamental Change Repurchase Price*. Without limiting the Company's obligation to deposit the Fundamental Change Repurchase Price within the time proscribed by **Section 3.01(B)**, the Company will cause the Fundamental Change Repurchase Price for a Note (or portion thereof) to be repurchased pursuant to a Repurchase Upon Fundamental Change to be paid to the Holder thereof on or before the later of (i) the applicable Fundamental Change Repurchase Date; and (ii) the date (x) such Note is delivered to the Paying Agent (in the case of a Physical Note) or (y) the Depositary Procedures relating to the repurchase, and the delivery to the Paying Agent, of such Holder's beneficial interest in such Note to be repurchased are complied with (in the case of a Global Note). For the avoidance of doubt, interest payable pursuant to the proviso to **Section 4.02(D)** on any Note to be repurchased pursuant to a Repurchase Upon Fundamental Change must be paid pursuant to such proviso regardless of whether such Note is delivered or such Depositary Procedures are complied with pursuant to the first sentence of this **Section 4.02(G)**.

(H) *Repurchase by Third Party*. Notwithstanding anything to the contrary in this **Section 4.02**, the Company will be deemed to satisfy its obligations under this **Section 4.02** if (i) one or more third parties conduct any Repurchase Upon Fundamental Change and related offer to repurchase Notes otherwise required by this **Section 4.02** in a manner that would have satisfied the requirements of this **Section 4.02** if conducted directly by the Company; and (ii) an owner of a beneficial interest in any Note repurchased by such third party or parties will not (after giving effect to the payment of any Additional Amounts pursuant to **Section 3.05**) receive a lesser amount as a result of withholding or similar taxes than such owner would have received had the Company repurchased such Note.

(I) *Compliance with Applicable Securities Laws*. To the extent applicable, the Company will comply with all federal and state securities laws in connection with a Repurchase Upon Fundamental Change (including complying with Rules 13e-4 and 14e-1 under the Exchange Act and filing any required Schedule TO, to the extent applicable) so as to permit effecting such Repurchase Upon Fundamental Change in the manner set forth in this Indenture; *provided*, *however*, that, to the extent that any securities laws or regulations enacted after the Issue Date conflict with the **Section 4.02**, the Company will comply with such securities laws and regulations and will not be deemed to have breached its obligations under this **Section 4.02** by virtue of such conflict.

(J) *Repurchase in Part*. Subject to the terms of this **Section 4.02**, Notes may be repurchased pursuant to a Repurchase Upon Fundamental Change in part, but only in Authorized Denominations. Provisions of this **Section 4.02** applying to the repurchase of a Note in whole will equally apply to the repurchase of a permitted portion of a Note.

Section 4.03. RIGHT OF THE COMPANY TO REDEEM THE NOTES.

(A) *No Right to Redeem Before August 17, ~~2024~~2026*. The Company may not redeem the Notes at any time before August 17, ~~2024~~2026, except pursuant to a Tax Redemption.

(B) *Right to Redeem the Notes on or after August 17, ~~2024~~2026*. Subject to the terms of this **Section 4.03**, the Company has the right, at its election, to redeem (a "**Provisional Redemption**") all, or any portion in an Authorized Denomination, of the Notes, at any time, and

from time to time, on a Redemption Date on or after August 17, ~~2024~~2026 and on or before the sixtieth (60th) Scheduled Trading Day immediately before the Maturity Date, for a cash purchase price equal to the Redemption Price, but only if the Last Reported Sale Price per Ordinary Share exceeds one hundred and thirty percent (130%) of the Conversion Price on each of at least twenty (20) Trading Days (whether or not consecutive) during the thirty (30) consecutive Trading Days ending on, and including, the Trading Day immediately before the Redemption Notice Date for such Redemption. For the avoidance of doubt, the calling of any Notes for Provisional Redemption will constitute a Make- Whole Event with respect to such Notes pursuant to **clause (B)** of the definition thereof.

(C) *Right to Redeem the Notes After a Change in Tax Law.*

(i) *Generally.* Subject to the terms of this **Section 4.03**, and without limiting the Company's right to redeem any Notes pursuant to **Section 4.03(B)**, the Company has the right, at its election, to redeem (a "**Tax Redemption**") all, but not less than all, of the Notes, at any time (subject to **Section 4.03(H)**), on a Redemption Date before the Maturity Date, for a cash purchase price equal to the Redemption Price, but only if (i) the Company has (or, on the next Interest Payment Date, would) become obligated to pay any Additional Amounts to Holders as a result of any Change in Tax Law; (ii) the Company cannot avoid such obligation by taking reasonable measures available to the Company; and (iii) the Company delivers to the Trustee (1) an Opinion of Counsel of outside legal counsel of recognized standing in the Relevant Taxing Jurisdiction attesting to **clause (i)** above; and (2) an Officer's Certificate attesting to **clauses (i)** and **(ii)** above. For the avoidance of doubt, the calling of any Notes for a Tax Redemption will constitute a Make-Whole Event pursuant to **clause (B)** of the definition thereof.

(ii) *Tax Redemption Opt-Out Election.* If the Company calls the Notes for a Tax Redemption, then, notwithstanding anything to the contrary in this **Section 4.03** or in **Section 3.05**, each Holder will have the right to elect (a "**Tax Redemption Opt-Out Election**") not to have such Holder's Notes (or any portion thereof in an Authorized Denomination) redeemed pursuant to such Tax Redemption, in which case, from and after the Redemption Date for such Tax Redemption (or, if the Company fails to pay the Redemption Price due on such Redemption Date in full, from and after such time as the Company pays such Redemption Price in full), the Company will no longer have any obligation to pay any Additional Amounts with respect to such Notes solely as a result of such Change in Tax Law, and all future payments (other than any payment or delivery of any Conversion Consideration (including payments of cash in lieu of any fractional shares)) with respect to such Notes will be subject to the deduction or withholding of such Relevant Taxing Jurisdiction's taxes required by law to be deducted or withheld as a result of such Change in Tax Law (it being understood and agreed, for the avoidance of doubt, that if such Holder converts such Notes at any time, then the Company will be obligated to pay Additional Amounts, if any, with respect to such conversion).

(1) *Tax Redemption Opt-Out Notice.* To make a Tax Redemption Opt-Out Election with respect to any Note (or any portion thereof in an Authorized Denomination), the Holder of such Note must deliver a notice (a "**Tax**

Redemption Opt-Out Election Notice") to the Paying Agent before the Close of Business on the second (2nd) Business Day immediately before the related Redemption Date, which notice must state: (x) if such Note is a Physical Note, the certificate number of such Note; (y) the principal amount of such Note as to which the Tax Redemption Opt-Out Election will apply, which must be an Authorized Denomination; and (z) that such Holder is making a Tax Redemption Opt-Out Election with respect to such Note (or such portion thereof); *provided*, *however*, that if such Note is a Global Note, then such notice must comply with the Depositary Procedures (and any such notice delivered in compliance with the Depositary Procedures will be deemed to satisfy the requirements of this **Section 4.03(C)(ii)(1)**).

(2) *Withdrawal of Tax Redemption Opt-Out Election Notice*. A Holder that has delivered a Tax Redemption Opt-Out Election Notice with respect to any Note (or any portion thereof in an Authorized Denomination) may withdraw such Tax Redemption Opt-Out Election Notice by delivering a withdrawal notice to the Paying Agent at any time before the Close of Business on the second (2nd) Business Day immediately before the related Redemption Date, which withdrawal notice must state: (x) if such Note is a Physical Note, the certificate number of such Note; (y) the principal amount of such Note as to which the Tax Redemption Opt-Out Election is being withdrawn, which must be an Authorized Denomination; and (z) that such Holder is withdrawing the Tax Redemption Opt-Out Election with respect to such Note (or such portion thereof); *provided*, *however*, that if such Note is a Global Note, then such withdrawal notice must comply with the Depositary Procedures (and any such withdrawal notice delivered in compliance with the Depositary Procedures will be deemed to satisfy the requirements of this **Section 4.03(C)(ii)(2)**).

(iii) *Right to Convert Not Affected*. For the avoidance of doubt, a Tax Redemption will not affect any Holder's right to convert any Notes on or after the Issue Date and the Company's obligation to pay any Additional Amounts with respect to such conversion. For the avoidance of doubt, if a Tax Redemption Opt-Out Election Notice is not delivered (or is delivered but thereafter withdrawn) with respect to any Note as of the Close of Business on the second (2nd) Business Day immediately before the related Redemption Date, then such Note will be redeemed pursuant to the Tax Redemption without any further action.

(D) *Redemption Prohibited in Certain Circumstances*. If the principal amount of the Notes has been accelerated and such acceleration has not been rescinded on or before the Redemption Date (including as a result of the payment of the related Redemption Price, and any related interest pursuant to the proviso to **Section 4.03(F)**, on such Redemption Date), then (i) the Company may not call for Provisional Redemption or Tax Redemption or otherwise redeem any Notes pursuant to this **Section 4.03**; and (ii) the Company will cause any Notes theretofore surrendered for such Redemption to be returned to the Holders thereof (or, if applicable with respect to Global Notes, cancel any instructions for book-entry transfer to the Company, the

Trustee or the Paying Agent of the applicable beneficial interests in such Notes in accordance with the Depositary Procedures).

(E) *Redemption Date*. The Redemption Date for a Tax Redemption will be a Business Day of the Company's choosing that is no more than ~~eighty-five~~eighty-five (85), nor less than ~~sixty-five~~sixty-five (65), Scheduled Trading Days after the related Redemption Notice Date for such Tax Redemption. The Redemption Date for a Provisional Redemption will be a Business Day of the Company's choosing that is on or before sixty (60) Scheduled Trading Days after the related Redemption Notice Date for such Provisional Redemption.

(F) *Redemption Price*. The Redemption Price for any Note called for Provisional Redemption or Tax Redemption is an amount in cash equal to one hundred percent (100%) of the principal amount of such Note plus accrued and unpaid interest on such Note to, but excluding, the Redemption Date for such Redemption; *provided*, *however*, that if such Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Redemption, to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Redemption Date is before such Interest Payment Date); and (ii) the Redemption Price will not include accrued and unpaid interest on such Note to, but excluding, such Redemption Date. For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of **Section 2.05(C)** and such Redemption Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest on Notes to, but excluding, such Interest Payment Date will be paid, in accordance with **Section 2.05(C)**, on the next Business Day to Holders as of the Close of Business on the immediately preceding Regular Record Date; and (y) the Redemption Price will include interest on Notes to be redeemed from, and including, such Interest Payment Date. For the avoidance of doubt, Additional Amounts will be added to the Redemption Price if, and to the extent, provided for in **Section 3.05**.

(G) *Redemption Notice*. To call any Notes for Provisional Redemption or Tax Redemption, the Company must (i) send to each Holder of such Notes, the Trustee and the Paying Agent a written notice of such Provisional Redemption or Tax Redemption (a "**Redemption Notice**"); and (ii) substantially contemporaneously therewith, either (x) issue a press release through such national newswire service as the Company then uses; (y) publish the same through such other widely disseminated public medium as the Company then uses, including its website; or (z) file or furnish a Form 8-K or Form 6-K (or any successor form) with the SEC, in each case of **clauses (x)**, **(y)** and **(z)**, containing the information set forth in the Redemption Notice.

Such Redemption Notice must state:

(i) that such Notes have been called for Redemption, briefly describing the Company's Redemption right under this Indenture;

(ii) the Redemption Date for such Redemption;

(iii) the Redemption Price per $1,000 principal amount of Notes for such Redemption (and, if the Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, the amount, manner and timing of the interest payment payable pursuant to the proviso to **Section 4.03(F)**);

(iv) the name and address of the Paying Agent and the Conversion Agent;

(v) that Notes called for Redemption may be converted at any time before the Close of Business on the Business Day immediately before the Redemption Date (or, if the Company fails to pay the Redemption Price due on such Redemption Date in full, at any time until such time as the Company pays such Redemption Price in full);

(vi) the Conversion Rate in effect on the Redemption Notice Date for such Redemption and a description and quantification of any adjustments to the Conversion Rate that may result from such Redemption (including pursuant to **Section 5.07**);

(vii) the Settlement Method that will apply to all conversions of Notes with a Conversion Date that occurs on or after such Redemption Notice Date and on or before the second (2nd) Business Day before such Redemption Date; and

(viii) the CUSIP and ISIN numbers, if any, of the Notes.

On or before the Redemption Notice Date, the Company will send a copy of such Redemption Notice to the Trustee and the Paying Agent.

(H) *Special Requirement for Notice of Tax Redemption*. A Redemption Notice relating to a Tax Redemption must be sent pursuant to **Section 4.03(G)** no earlier than one hundred and eighty (180) calendar days before the earliest date on which the Company would have been required to make the related payment or withholding (assuming a payment in respect of the Notes were then due), and the obligation to pay Additional Amounts must be in effect as of the date the Company sends such Redemption Notice and must be expected to remain in effect at the time of the next payment or delivery in respect of the Notes.

(I) *Selection and Conversion of Notes to Be Redeemed in Part*. If less than all Notes then outstanding are called for Redemption, then:

(i) the Notes to be redeemed will be selected by the Company as follows: (1) in the case of Global Notes, in accordance with the Depositary Procedures; and (2) in the case of Physical Notes, pro rata, by lot or by such other method the Company considers fair and appropriate; and

(ii) if only a portion of a Note is subject to Redemption and such Note is converted in part, then the converted portion of such Note will be deemed to be from the portion of such Note that was subject to Redemption.

(J) *Payment of the Redemption Price*. Without limiting the Company's obligation to deposit the Redemption Price by the time proscribed by **Section 3.01(B)**, the Company will cause the Redemption Price for a Note (or portion thereof) subject to Redemption to be paid to the Holder thereof on or before the applicable Redemption Date. For the avoidance of doubt, interest payable pursuant to the proviso to **Section 4.03(F)** on any Note (or portion thereof) subject to Redemption must be paid pursuant to such proviso.

(K) *Special Provisions for Partial Provisional Redemptions*. If the Company elects to redeem less than all of the outstanding Notes pursuant to a Provisional Redemption, and the Holder of any Note, or any owner of a beneficial interest in any Global Note, is reasonably not able to determine, before the Close of Business on the ~~sixty-second~~tenth (~~62nd~~10th) Scheduled Trading Day immediately before the relevant Redemption Date for such Provisional Redemption, whether such Note or beneficial interest, as applicable, is to be redeemed pursuant to such Provisional Redemption, then such Holder or owner, as applicable, will be entitled to convert such Note or beneficial interest, as applicable, at any time before the Close of Business on the second (2nd) Business Day immediately before such Redemption Date, and each such conversion will be deemed to be of a Note called for Provisional Redemption for purposes of this **Section 4.03** and **5.07**.

Article 5. Conversion

Section 5.01. Right to Convert.

(A) *Generally*. Notwithstanding anything to the contrary in this Indenture or the Notes, the Notes will not be convertible on the Issue Date. From and after the Issue Date until the fifth scheduled Trading Day immediately preceding the Maturity Date, subject to the provisions of this **Article 5**, each Holder may, at its option, convert such Holder's Notes into Conversion Consideration.

(B) *Conversions in Part*. Subject to the terms of this Indenture, Notes may be converted in part, but only in Authorized Denominations. Provisions of this **Article 5** applying to the conversion of a Note in whole will equally apply to conversions of a permitted portion of a Note.

(C) When Notes May Be Converted.

(i) [Reserved]

(ii) *Limitations and Closed Periods*. Notwithstanding anything to the contrary in this Indenture or the Notes:

(1) Notes may be surrendered for conversion only after the Open of Business and before the Close of Business on a day that is a Business Day;

(2) in no event may any Note be converted after the Close of Business on the ~~second~~fifth (~~2nd~~5th) Scheduled Trading Day immediately before the Maturity Date;

(3) if the Company calls any Note for Redemption pursuant to Section 4.03, then the Holder of such Note may not convert such Note after the Close of Business on the second (2nd) Business Day immediately before the applicable Redemption Date, except to the extent the Company fails to pay the Redemption Price for such Note in accordance with this Indenture; and

(4) if a Fundamental Change Repurchase Notice is validly delivered pursuant to **Section 4.02(F)** with respect to any Note, then such Note may not be converted, except to the extent (a) such Note is not subject to such notice; (b) such notice is withdrawn in accordance with **Section 4.02(F)**; or (c) the Company fails to pay the Fundamental Change Repurchase Price for such Note in accordance with this Indenture.

Section 5.02. CONVERSION PROCEDURES.

(A) *Generally*.

(i) *Global Notes*. To convert a beneficial interest in a Global Note that is convertible pursuant to **Section 5.01**, the owner of such beneficial interest must (1) comply with the Depositary Procedures for converting such beneficial interest (at which time such conversion will become irrevocable); and (2) pay any amounts due pursuant to **Section 5.02(D)** or **Section 5.02(E)**.

(ii) *Physical Notes*. To convert all or a portion of a Physical Note that is convertible pursuant to **Section 5.01**, the Holder of such Note must (1) complete, manually sign and deliver to the Conversion Agent the conversion notice attached to such Physical Note or a facsimile/email of such conversion notice; (2) deliver such Physical Note to the Conversion Agent (at which time such conversion will become irrevocable); (3) furnish any endorsements and transfer documents that the Company or the Conversion Agent may require; and (4) pay any amounts due pursuant to **Section 5.02(D)** or **Section 5.02(E)**.

(B) *Effect of Converting a Note*. At the Close of Business on the Conversion Date for a Note (or any portion thereof) to be converted, such Note (or such portion) will (unless there occurs a Default in the delivery of the Conversion Consideration or interest due, pursuant to **Section 5.03(B)** or **5.02(D)**, upon such conversion) be deemed to cease to be outstanding (and, for the avoidance of doubt, no Person will be deemed to be a Holder of such Note (or such portion thereof) as of the Close of Business on such Conversion Date), except to the extent provided in **Section 5.02(D)**.

(C) *Holder of Record of Conversion Shares*. The Person in whose name any Ordinary Share is issuable upon conversion of any Note will be deemed to become the holder of record of such share as of the Close of Business on (i) the Conversion Date for such conversion, in the

case of Physical Settlement; or (ii) the last VWAP Trading Day of the Observation Period for such conversion, in the case of Combination Settlement.

(D) *Interest Payable upon Conversion in Certain Circumstances*. If the Conversion Date of a Note is after a Regular Record Date and before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such conversion (and, for the avoidance of doubt, notwithstanding anything set forth in the proviso to this sentence), to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date); and (ii) the Holder surrendering such Note for conversion must deliver to the Conversion Agent, at the time of such surrender, an amount of cash equal to the amount of such interest referred to in clause (i) above; *provided, however*, that the Holder surrendering such Note for conversion need not deliver such cash (v) if the Company has specified a Redemption Date for a Provisional Redemption or Tax Redemption that is after such Regular Record Date and on or before the second (2nd) Business Day immediately after such Interest Payment Date; (w) if such Conversion Date occurs after the Regular Record Date immediately before the Maturity Date; (x) if the Company has specified a Fundamental Change Repurchase Date that is after such Regular Record Date and on or before the Business Day immediately after such Interest Payment Date; or (y) to the extent of any overdue interest or interest that has accrued on any overdue interest. For the avoidance of doubt, as a result of, and without limiting the generality of, the foregoing, if a Note is converted with a Conversion Date that is after the Regular Record Date immediately before the Maturity Date, then the Company will pay, as provided above, the interest that would have accrued on such Note to, but excluding, the Maturity Date. For the avoidance of doubt, if the Conversion Date of a Note to be converted is on an Interest Payment Date, then the Holder of such Note at the Close of Business on the Regular Record Date immediately before such Interest Payment Date will be entitled to receive, on such Interest Payment Date, the unpaid interest that has accrued on such Note to, but excluding, such Interest Payment Date, and such Note, when surrendered for conversion, need not be accompanied by any cash amount pursuant to the first sentence of this **Section 5.02(D)**.

(E) *Taxes and Duties*. If a Holder converts a Note, the Company will pay any documentary, stamp or similar issue or transfer tax or duty due on the issue or delivery (including, for the avoidance of doubt, pursuant to **Section 5.08**) of any Ordinary Shares upon such conversion; *provided, however*, that if any tax or duty is due because such Holder requested such shares to be registered in a name other than such Holder's name, then such Holder will pay such tax or duty.

(F) *Conversion Agent to Notify Company of Conversions*. If any Note is submitted for conversion to the Conversion Agent or the Conversion Agent receives any notice of conversion with respect to a Note, then the Conversion Agent will promptly notify the Company and the Trustee of such occurrence, together with any other information reasonably requested by the Company, and will cooperate with the Company to determine the Conversion Date for such Note.

Section 5.03. SETTLEMENT UPON CONVERSION.

(A) *Settlement Method.* Upon the conversion of any Note, the Company will settle such conversion by paying or delivering, as applicable and as provided in this **Article 5**, either (x) Ordinary Shares, together, if applicable, with cash in lieu of fractional shares as provided in **Section 5.03(B)(i)(1)** (a "**Physical Settlement**"); (y) solely cash as provided in **Section 5.03(B)(i)(2)** (a "**Cash Settlement**"); or (z) a combination of cash and Ordinary Shares, together, if applicable, with cash in lieu of fractional shares as provided in **Section 5.03(B)(i)(3)** (a "**Combination Settlement**").

(i) *The Company's Right to Elect Settlement Method.* The Company will have the right to elect the Settlement Method applicable to any conversion of a Note; *provided, however*, that:

(1) if any Notes are called for Redemption, then the Company will specify, in the related Redemption Notice (and, in the case of a Redemption of less than all outstanding Notes, in a notice simultaneously sent to all Holders of Notes not called for Redemption) sent pursuant to Section 4.03(G), the Settlement Method that will apply to all conversions of Notes with a Conversion Date that occurs on or after the related Redemption Notice Date and before the related Redemption Date;

(2) the Company will use the same Settlement Method for all conversions of Notes with the same Conversion Date (and, for the avoidance of doubt, the Company will not be obligated to use the same Settlement Method with respect to conversions of Notes with different Conversion Dates, except as provided in clause (1) above);

(3) if the Company does not timely elect a Settlement Method with respect to the conversion of a Note, then the Company will be deemed to have elected the Default Settlement Method (and, for the avoidance of doubt, the failure to timely make such election will not constitute a Default or Event of Default);

(4) if the Company timely elects Combination Settlement with respect to the conversion of a Note but does not timely notify the Holder of such Note of the applicable Specified Dollar Amount, then the Specified Dollar Amount for such conversion will be deemed to be $1,000 per $1,000 principal amount of Notes (and, for the avoidance of doubt, the failure to timely send such notification will not constitute a Default or Event of Default); and;

(5) the Settlement Method will be subject to **Section 5.09(A)(2).**

(ii) *The Company's Right to Irrevocably Fix the Settlement Method.* The Company will have the right, exercisable at its election by sending notice of such exercise to the Holders (with a copy to the Trustee and the Conversion Agent), to irrevocably fix the Settlement Method that will apply to all conversions of Notes with a

Conversion Date that occurs on or after the date such notice is sent to Holders, *provided* that (x) such Settlement Method must be a Settlement Method that the Company is then permitted to elect (for the avoidance of doubt, including pursuant to, and subject to, the other provisions of this **Section 5.03(A)**); (y) no such irrevocable election will affect any Settlement Method theretofore elected (or deemed to be elected) with respect to any Note pursuant to the other provisions of this **Section 5.03(A)**; and (z) upon any such irrevocable election, the Default Settlement Method will automatically be deemed to be set to the Settlement Method so fixed. Such notice, if sent, must set forth the applicable Settlement Method and expressly state that the election is irrevocable and applicable to all conversions of Notes with a Conversion Date that occurs on or after the date such notice is sent to Holders. For the avoidance of doubt, such an irrevocable election, if made, will be effective without the need to amend this Indenture or the Notes, including pursuant to **Section 8.01(G)** (it being understood, however, that the Company may nonetheless choose to execute such an amendment at its option).

(iii) *Requirement to Publicly Disclose the Fixed or Default Settlement Method.* If the Company changes the Default Settlement Method pursuant to **clause (x)** of the proviso to the definition of such term or irrevocably fixes the Settlement Method pursuant to **Section 5.03(A)(i)**, then the Company will either post the Default Settlement Method or fixed Settlement Method, as applicable, on its website or disclose the same in a Current Report on Form 8-K or Form 6-K (or any successor form) that is filed with the SEC.

(B) *Conversion Consideration.*

(i) *Generally.* Subject to **Section 5.03(B)(ii)** and **Section 5.03(B)(iii)**, the type and amount of consideration (the "**Conversion Consideration**") due in respect of each $1,000 principal amount of a Note to be converted will be as follows:

(1) if Physical Settlement applies to such conversion, a number of Ordinary Shares equal to the Conversion Rate in effect on the Conversion Date for such conversion;

(2) if Cash Settlement applies to such conversion, cash in an amount equal to the sum of the Daily Conversion Values for each VWAP Trading Day in the Observation Period for such conversion; or

(3) if Combination Settlement applies to such conversion, consideration consisting of (a) a number of Ordinary Shares equal to the sum of the Daily Share Amounts for each VWAP Trading Day in the Observation Period for such conversion; and (b) an amount of cash equal to the sum of the Daily Cash Amounts for each VWAP Trading Day in such Observation Period.

(ii) *Cash in Lieu of Fractional Shares.* If Physical Settlement or Combination Settlement applies to the conversion of any Note and the number of Ordinary Shares deliverable pursuant to **Section 5.03(B)(i)** upon such conversion is not a whole number, then such number will be rounded down to the nearest whole number and the Company

will deliver, in addition to the other consideration due upon such conversion, cash in lieu of the related fractional share in an amount equal to the product of (1) such fraction and (2) (x) the Daily VWAP on the Conversion Date for such conversion (or, if such Conversion Date is not a VWAP Trading Day, the immediately preceding VWAP Trading Day), in the case of Physical Settlement; or (y) the Daily VWAP on the last VWAP Trading Day of the Observation Period for such conversion, in the case of Combination Settlement.

(iii) *Conversion of Multiple Notes by a Single Holder*. If a Holder converts more than one (1) Note on a single Conversion Date, then the Conversion Consideration due in respect of such conversion will (in the case of any Global Note, to the extent permitted by, and practicable under, the Depositary Procedures) be computed based on the total principal amount of Notes converted on such Conversion Date by such Holder.

(iv) *Notice of Calculation of Conversion Consideration*. If Cash Settlement or Combination Settlement applies to the conversion of any Note, then the Company will determine the Conversion Consideration due thereupon promptly following the last VWAP Trading Day of the applicable Observation Period and will promptly thereafter send notice to the Trustee and the Conversion Agent of the same and the calculation thereof in reasonable detail. Neither the Trustee nor the Conversion Agent will have any duty to make any such determination.

(C) *Delivery of the Conversion Consideration*. Except as set forth in **Sections 5.05(D)** and **5.09**, the Company will pay or deliver, as applicable, the Conversion Consideration due upon the conversion of any Note to the Holder as follows: (i) if Cash Settlement or Combination Settlement applies to such conversion, on or before the second (2nd) Business Day immediately after the last VWAP Trading Day of the Observation Period for such conversion; and (ii) if Physical Settlement applies to such conversion, on or before the second (2nd) Business Day immediately after the Conversion Date for such conversion.

(D) *Deemed Payment of Principal and Interest; Settlement of Accrued Interest Notwithstanding Conversion*. If a Holder converts a Note, then the Company will not adjust the Conversion Rate to account for any accrued and unpaid interest on such Note, and, except as provided in **Section 5.02(D)**, the Company's delivery of the Conversion Consideration due in respect of such conversion will be deemed to fully satisfy and discharge the Company's obligation to pay the principal of, and accrued and unpaid interest, if any, on, such Note to, but excluding the Conversion Date. As a result, except as provided in **Section 5.02(D)**, any accrued and unpaid interest on a converted Note will be deemed to be paid in full rather than cancelled, extinguished or forfeited. In addition, subject to **Section 5.02(D)**, if the Conversion Consideration for a Note consists of both cash and Ordinary Shares, then accrued and unpaid interest that is deemed to be paid therewith will be deemed to be paid first out of such cash.

Section 5.04. Reserve and Status of Ordinary Shares Issued upon Conversion.

(A) *Share Reserve*. At all times from and after the Issue Date when any Notes are outstanding, the Company will reserve, out of its share issue mandate, a number of Ordinary Shares sufficient to permit the conversion of all then-outstanding Notes, assuming (x) Physical

Settlement will apply to such conversion; and (y) the Conversion Rate is adjusted pursuant to **Section 5.05** or **Section 5.06**, or increased by the maximum amount pursuant to which the Conversion Rate may be increased pursuant to **Section 5.07**.

(B) *Status of Conversion Shares; Listing.* Each Conversion Share, if any, delivered upon conversion of any Note will be a newly issued share (except that any Conversion Share delivered by a designated financial institution pursuant to **Section 5.08** need not be a newly issued share), will be duly and validly issued, fully paid, non-assessable, free from preemptive rights and free of any lien or adverse claim (except to the extent of any lien or adverse claim created by the action or inaction of the Holder of such Note or the Person to whom such Conversion Share will be delivered) and will rank pari passu with the existing Ordinary Shares. If the Ordinary Shares are then listed on any securities exchange, or quoted on any inter-dealer quotation system, then the Company will cause each Ordinary Share to be admitted for listing on such exchange or quotation on such system.

Section 5.05. ADJUSTMENTS TO THE CONVERSION RATE.

(A) *Events Requiring an Adjustment to the Conversion Rate.* The Conversion Rate will be adjusted from time to time as follows:

(i) *Share Dividends, Splits and Combinations*. If the Company issues solely the Ordinary Shares as a dividend or distribution on all or substantially all of the Ordinary Shares, or if the Company effects a split or a combination of the Ordinary Shares (in each case excluding an issuance solely pursuant to an Ordinary Share Change Event, as to which **Section 5.09** will apply), then the Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution, or immediately before the Open of Business on the effective date of such split or combination, as applicable;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date or effective date, as applicable;

OS_0 = the number of Ordinary Shares outstanding immediately before the Open of Business on such Ex-Dividend Date or effective date, as applicable, without giving effect to such dividend, distribution, split or combination; and

OS_1 = the number of Ordinary Shares outstanding immediately after giving effect to such dividend, distribution, split or combination.

If any dividend, distribution, split or combination of the type described in this **Section 5.05(A)(i)** is declared or announced, but not so paid or made, then the Conversion Rate will be readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution or to effect such split or combination, to the Conversion Rate that would then be in effect had such dividend, distribution, split or combination not been declared or announced.

(ii) *Rights, Options and Warrants*. If the Company distributes, to all or substantially all holders of the Ordinary Shares, rights, options or warrants (other than rights issued or otherwise distributed pursuant to a shareholder rights plan, as to which **Sections 5.05(A)(iii)(1)** and **5.05(F)** will apply) entitling such holders, for a period of not more than sixty (60) calendar days after the record date of such distribution, to subscribe for or purchase Ordinary Shares at a price per share that is less than the average of the Last Reported Sale Prices per Ordinary Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced, then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{OS + X}{OS + Y}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

OS = the number of Ordinary Shares outstanding immediately before the Open of Business on such Ex-Dividend Date;

X = the total number of Ordinary Shares issuable pursuant to such rights, options or warrants; and

Y = a number of Ordinary Shares obtained by dividing (x) the aggregate price payable to exercise such rights, options or warrants by (y) the average of the Last Reported Sale Prices per Ordinary Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced.

To the extent such rights, options or warrants referred to in this **Section 5.05(A)(ii)** are not so distributed, the Conversion Rate will be readjusted to the Conversion Rate that

would then be in effect had the increase to the Conversion Rate for such distribution been made on the basis of only the rights, options or warrants, if any, actually distributed. In addition, to the extent that Ordinary Shares are not delivered after the expiration of such rights, options or warrants (including as a result of such rights, options or warrants not being exercised), the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the increase to the Conversion Rate for such distribution been made on the basis of delivery of only the number of Ordinary Shares actually delivered upon exercise of such rights, option or warrants.

For purposes of this **Section 5.05(A)(ii)**, in determining whether any rights, options or warrants entitle holders of Ordinary Shares to subscribe for or purchase Ordinary Shares at a price per share that is less than the average of the Last Reported Sale Prices per Ordinary Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date the distribution of such rights, options or warrants is announced, and in determining the aggregate price payable to exercise such rights, options or warrants, there will be taken into account any consideration the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if not cash, to be determined by the Company in good faith.

(iii) Spin-Offs and Other Distributed Property.

(1) *Distributions Other than Spin-Offs*. If the Company distributes shares of its Capital Stock, evidences of its indebtedness or other assets or property of the Company, or rights, options or warrants to acquire Capital Stock of the Company or other securities, to all or substantially all holders of the Ordinary Shares, excluding:

(a) dividends, distributions, rights, options or warrants (including Ordinary Share splits) for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(i)** or **5.05(A)(ii)**;

(b) dividends or distributions paid exclusively in cash for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(iv)**;

(c) rights issued or otherwise distributed pursuant to a shareholder rights plan, except to the extent provided in **Section 5.05(F)**;

(d) Spin-Offs for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(iii)(2)**;

(e) a distribution solely pursuant to a tender offer or exchange offer for Ordinary Shares, as to which **Section 5.05(A)(v)** will apply; and

(f) a distribution solely pursuant to an Ordinary Share Change Event, as to which **Section 5.09** will apply,

then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - FMV}$$

where:

CR_0 = *the* Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;

CR_1 = *the* Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

SP = *the* average of the Last Reported Sale Prices per Ordinary Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before such Ex-Dividend Date; and

FMV = the fair market value (as determined by the Company in good faith), as of such Ex-Dividend Date, of the shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants distributed per Ordinary Share pursuant to such distribution;

provided, *however*, that if FMV is equal to or greater than SP, then, in lieu of the foregoing adjustment to the Conversion Rate, each Holder will receive, for each $1,000 principal amount of Notes held by such Holder on the record date for such distribution, at the same time and on the same terms as holders of Ordinary Shares, the amount and kind of shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants that such Holder would have received if such Holder had owned, on such record date, a number of Ordinary Shares equal to the Conversion Rate in effect on such record date.

To the extent such distribution is not so paid or made, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the distribution, if any, actually made or paid.

(2) *Spin-Offs*. If the Company distributes or dividends shares of Capital Stock of any class or series, or similar equity interests, of or relating to a Subsidiary or other business unit of the Company to all or substantially all holders of the Ordinary Shares (other than solely pursuant to (x) an Ordinary Share Change Event, as to which **Section 5.09** will apply; or (y) a tender offer or

exchange offer for Ordinary Shares, as to which **Section 5.05(A)(v)** will apply), and such Capital Stock or equity interests are listed or quoted (or will be listed or quoted upon the consummation of the transaction) on a U.S. national securities exchange (a "**Spin- Off**"), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV + SP}{SP}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Close of Business on the last Trading Day of the Spin-Off Valuation Period for such Spin-Off;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on the last Trading Day of the Spin-Off Valuation Period;

FMV = the product of (x) the average of the Last Reported Sale Prices per share or unit of the Capital Stock or equity interests distributed in such Spin-Off over the ten (10) consecutive Trading Day period (the "**Spin-Off Valuation Period**") beginning on, and including, the Ex- Dividend Date for such Spin-Off (such average to be determined as if references to Ordinary Shares in the definitions of Last Reported Sale Price, Trading Day and Market Disruption Event were instead references to such Capital Stock or equity interests); and (y) the number of shares or units of such Capital Stock or equity interests distributed per Ordinary Share in such Spin-Off; and

SP = the average of the Last Reported Sale Prices per Ordinary Share for each Trading Day in the Spin-Off Valuation Period.

Notwithstanding anything to the contrary in this **Section 5.05(A)(iii)(2)**, (i) if any VWAP Trading Day of the Observation Period for a Note whose conversion will be settled pursuant to Cash Settlement or Combination Settlement occurs during the Spin-Off Valuation Period for such Spin-Off, then, solely for purposes of determining the Conversion Rate for such VWAP Trading Day for such conversion, such Spin-Off Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Ex-Dividend Date for such Spin- Off to, and including, such VWAP Trading Day; and (ii) if the Conversion Date for a Note whose conversion will be settled pursuant to Physical Settlement occurs during the Spin-Off Valuation Period for such Spin-Off, then, solely for purposes of determining the Conversion Consideration for such conversion, such Spin-Off Valuation Period will be deemed to consist of the

Trading Days occurring in the period from, and including, the Ex-Dividend Date for such Spin-Off to, and including, such Conversion Date.

To the extent any dividend or distribution of the type set forth in this **Section 5.05(A)(iii)(2)** is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(iv) *Cash Dividends or Distributions*. If any cash dividend or distribution is made to all or substantially all holders of Ordinary Shares, then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - D}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

SP = the Last Reported Sale Price per Ordinary Share on the Trading Day immediately before such Ex-Dividend Date; and

D = the cash amount distributed per Ordinary Share in such dividend or distribution;

provided, *however*, that if D is equal to or greater than SP, then, in lieu of the foregoing adjustment to the Conversion Rate, each Holder will receive, for each $1,000 principal amount of Notes held by such Holder on the record date for such dividend or distribution, at the same time and on the same terms as holders of Ordinary Shares, the amount of cash that such Holder would have received if such Holder had owned, on such record date, a number of Ordinary Shares equal to the Conversion Rate in effect on such record date.

To the extent such dividend or distribution is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(v) *Tender Offers or Exchange Offers*. If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer that is subject to the then- applicable tender offer rules under the Exchange Act (other than solely

pursuant to an odd- lot tender offer pursuant to Rule 13e-4(h)(5) under the Exchange Act or any successor rule thereto), for Ordinary Shares, and the value (determined as of the Expiration Time by the Board of Directors) of the cash and other consideration paid per Ordinary Share in such tender or exchange offer exceeds the Last Reported Sale Price per Ordinary Share on the Trading Day immediately after the last date (the "**Expiration Date**") on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{AC + (SP \times OS_1)}{SP \times OS_0}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period for such tender or exchange offer;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period;

AC = the aggregate value (determined as of the time (the "**Expiration Time**") such tender or exchange offer expires by the Board of Directors) of all cash and other consideration paid for Ordinary Shares purchased or exchanged in such tender or exchange offer;

OS_0 = the number of Ordinary Shares outstanding immediately before the Expiration Time (including all Ordinary Shares accepted for purchase or exchange in such tender or exchange offer);

OS_1 = the number of Ordinary Shares outstanding immediately after the Expiration Time (excluding all Ordinary Shares accepted for purchase or exchange in such tender or exchange offer); and

SP = the average of the Last Reported Sale Prices per Ordinary Share over the ten (10) consecutive Trading Day period (the "**Tender/Exchange Offer Valuation Period**") beginning on, and including, the Trading Day immediately after the Expiration Date;

provided, *however*, that the Conversion Rate will in no event be adjusted down pursuant to this **Section 5.05(A)(v)**, except to the extent provided in the immediately following paragraph. Notwithstanding anything to the contrary in this **Section 5.05(A)(v)**, (i) if any VWAP Trading Day of the Observation Period for a Note whose conversion will be settled pursuant to Cash Settlement or Combination Settlement occurs during the Tender/Exchange Offer Valuation Period for such tender or exchange offer, then, solely for purposes of determining

the Conversion Rate for such VWAP Trading Day for such conversion, such Tender/Exchange Offer Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Trading Day immediately after the Expiration Date for such tender or exchange offer to, and including, such VWAP Trading Day; and (ii) if the Conversion Date for a Note whose conversion will be settled pursuant to Physical Settlement occurs during the Tender/Exchange Offer Valuation Period for such tender or exchange offer, then, solely for purposes of determining the Conversion Consideration for such conversion, such Tender/Exchange Offer Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Trading Day immediately after the Expiration Date to, and including, such Conversion Date.

To the extent such tender or exchange offer is announced but not consummated (including as a result of the Company being precluded from consummating such tender or exchange offer under applicable law), or any purchases or exchanges of Ordinary Shares in such tender or exchange offer are rescinded, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the purchases or exchanges of Ordinary Shares, if any, actually made, and not rescinded, in such tender or exchange offer.

~~(B) *No Adjustments in Certain Cases.*~~

(vi) *Incurrence of Convertible PPPSI.* If the Company, at any time or from time to time after the Issue Date, incurs any Permitted Pari Passu Secured Indebtedness, which may be exercised, converted, or exchanged into or otherwise entitled the holder thereof to receive Ordinary Shares (the "**Convertible PPPSI**"), and the lowest price per share for which one Ordinary Share is at any time issuable upon the conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof (the "**Relevant PPPSI Exercise Price**") is less than the Conversion Price then in effect, then immediately after the incurrence of such Convertible PPPSI, the Conversion Rate then in effect shall be increased such that the Conversion Price shall equal to the Relevant PPPSI Exercise Price of such Convertible PPPSI.

(B) For purposes of this **Section 5.05(A)(vi)**, in respect of any Convertible PPPSI, the Relevant PPPSI Exercise Price shall be equal to (1) the lower of (x) the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to one Ordinary Share upon conversion, exercise or exchange of such Convertible PPPSI or otherwise pursuant to the terms thereof or (y) the lowest conversion price (if applicable) set forth in the terms of such Convertible PPPSI for which one Ordinary Share is issuable upon conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof minus (2) the sum of all amounts paid or payable to the holder or the lender, as the case may be, of such Convertible PPPSI upon the issuance or sale of such Convertible PPPSI plus the value of any other consideration received or receivable by, or benefit conferred on, the holder or lender of such Convertible PPPSI. *No Adjustments in Certain Cases.*

(i) *Where Holders Participate in the Transaction or Event Without Conversion.* Notwithstanding anything to the contrary in **Section 5.05(A)**, the Company will not be obligated to adjust the Conversion Rate on account of a transaction or other event otherwise requiring an adjustment pursuant to **Section 5.05(A)** (other than a split or combination of the type set forth in **Section 5.05(A)(i)** or a tender or exchange offer of the type set forth in **Section 5.05(A)(v)**) if each Holder participates, at the same time and on the same terms as holders of Ordinary Shares, and solely by virtue of being a Holder of Notes, in such transaction or event without having to convert such Holder's Notes and as if such Holder held a number of Ordinary Shares equal to the product of (i) the Conversion Rate in effect on the related record date; and (ii) the aggregate principal amount (expressed in thousands) of Notes held by such Holder on such date.

(ii) *Certain Events.* The Company will not be required to adjust the Conversion Rate except as provided in **Section 5.05** or **Section 5.07**. Without limiting the foregoing, the Company will not be obligated to adjust the Conversion Rate on account of:

(1) except as otherwise provided in **Section 5.05**, the sale of Ordinary Shares for a purchase price that is less than the market price per Ordinary Share or less than the Conversion Price;

(2) the issuance of any Ordinary Shares pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in Ordinary Shares under any such plan;

(3) the issuance of any Ordinary Shares or options or rights to purchase Ordinary Shares pursuant to any present or future employee, director or consultant benefit or incentive plan (including pursuant to an evergreen provision) or program of, or assumed by, the Company or any of its Subsidiaries or in connection with any shares withheld for tax withholding purposes;

(4) the issuance of any Ordinary Shares pursuant to any option, warrant, right or convertible or exchangeable security of the Company outstanding or announced as of the Issue Date;

(5) for a tender offer or exchange offer by any party other than a tender offer or exchange offer by the Company or one or more of its Subsidiaries as described in Section 5.05(A)(v);

(6) an odd-lot tender offer pursuant to Rule 13e-4(h)(5) under the Exchange Act or any successor rule thereto;

(7) upon the repurchase of any of the Ordinary Shares pursuant to an open-market repurchase program or other buy-back transaction (including through any structured or derivative transactions, such as accelerated share repurchase transactions, prepaid forward transactions or similar forward derivatives) that is not a tender offer or exchange offer of the nature described in **Section 5.05(A)(v)**;

(8) solely a change in the par value of the Ordinary Shares; or

(9) accrued and unpaid interest on the Notes.

(iii) Notwithstanding anything to the contrary in this Indenture or the Notes (but without limiting the operation of **Section 5.05(H)**), the Conversion Rate will not be adjusted pursuant to **Section 5.05(A)** on an account of any event described in any of **clauses (i)** through **(v)**, inclusive **Section 5.05(A)** where the Ex- Dividend Date, effective date or Expiration Date, as applicable, of such event occurs before the Issue Date.

(iv) Notwithstanding anything to the contrary in **Section 5.05(A)(vi)**, the Company will not be obligated to adjust the Conversion Rate on account of a transaction or other event otherwise requiring an adjustment pursuant to **Section 5.05(A)(vi)**, if TZE acquires all of the Convertible PPPSI pursuant to the Right of First Offer.

(C) If an adjustment to the Conversion Rate otherwise required by this **Article 5** would result in a change of less than one percent (1%) to the Conversion Rate, then, notwithstanding anything to the contrary in this **Article 5**, the Company may, at its election, defer such adjustment, except that all such deferred adjustments must be given effect immediately upon the earliest of the following: (i) when all such deferred adjustments not already given effect would result in a change of at least one percent (1%) to the Conversion Rate; (ii) the Conversion Date of, or any VWAP Trading Day of an Observation Period for, any Note; (iii) the date a Fundamental Change or Make- Whole Event occurs; (iv) the date the Company calls any Notes for Redemption; and (v) the ~~sixty~~thirty fifth (~~65th~~35th) VWAP Trading Day before the Maturity Date.

(D) *Adjustments Not Yet Effective*. Notwithstanding anything to the contrary in this Indenture or the Notes, if:

(i) a Note is to be converted pursuant to Physical Settlement or Combination Settlement;

(ii) the record date, effective date or Expiration Time for any event that requires an adjustment to the Conversion Rate pursuant to **Section 5.05(A)** has occurred on or before the Conversion Date for such conversion (in the case of Physical Settlement) or on or before any VWAP Trading Day in the Observation Period for such conversion (in the case of Combination Settlement), but an adjustment to the Conversion Rate for such event has not yet become effective as of such Conversion Date or VWAP Trading Day, as applicable;

(iii) the Conversion Consideration due upon such conversion includes any whole Ordinary Shares (in the case of Physical Settlement) or due in respect of such VWAP Trading Day includes any whole or fractional Ordinary Shares (in the case of Combination Settlement); and

(iv) such shares are not entitled to participate in such event (because they were not held on the related record date or otherwise),

then, solely for purposes of such conversion, the Company will, without duplication, give effect to such adjustment on such Conversion Date (in the case of Physical Settlement) or such VWAP Trading Day (in the case of Combination Settlement). In such case, if the date on which the Company is otherwise required to deliver the consideration due upon such conversion is before the first date on which the amount of such adjustment can be determined, then the Company will delay the settlement of such conversion until the second (2nd) Business Day after such first date.

(E) *Conversion Rate Adjustments where Converting Holders Participate in the Relevant Transaction or Event*. Notwithstanding anything to the contrary in this Indenture or the Notes, if:

(i) a Conversion Rate adjustment for any dividend or distribution becomes effective on any Ex-Dividend Date pursuant to **Section 5.05(A)**;

(ii) a Note is to be converted pursuant to Physical Settlement or Combination Settlement;

(iii) the Conversion Date for such conversion (in the case of Physical Settlement) or any VWAP Trading Day in the Observation Period for such conversion (in the case of Combination Settlement) occurs on or after such Ex-Dividend Date and on or before the related record date;

(iv) the Conversion Consideration due upon such conversion includes any whole Ordinary Shares (in the case of Physical Settlement) or due in respect of such VWAP Trading Day includes any whole or fractional Ordinary Shares (in the case of Combination Settlement), in each case based on a Conversion Rate that is adjusted for such dividend or distribution; and

(v) such shares would be entitled to participate in such dividend or distribution (including pursuant to **Section 5.02(C)**),

then (x) in the case of Physical Settlement, such Conversion Rate adjustment will not be given effect for such conversion and the Ordinary Shares issuable upon such conversion based on such unadjusted Conversion Rate will not be entitled to participate in such dividend or distribution, but there will be added, to the Conversion Consideration otherwise due upon such conversion, the same kind and amount of consideration that would have been delivered in such dividend or distribution with respect to such Ordinary Shares had such shares been entitled to participate in such dividend or distribution; and (y) in the case of Combination Settlement, the Conversion Rate adjustment relating to such Ex-Dividend Date will be made for such conversion in respect of such VWAP Trading Day, but the Ordinary Shares issuable with respect to such VWAP Trading Day based on such adjusted Conversion Rate will not be entitled to participate in such dividend or distribution.

(F) *Shareholder Rights Plans*. If any Ordinary Shares are to be issued or delivered upon conversion of any Note and, at the time of such conversion, the Company has in effect any shareholder rights plan, then the Holder of such Note will be entitled to receive, in addition to, and concurrently with the delivery of, the Conversion Consideration otherwise payable under this Indenture upon such conversion, the rights set forth in such shareholder rights plan, unless such rights have separated from the Ordinary Shares at such time, in which case, and only in such case, the Conversion Rate will be adjusted pursuant to **Section 5.05(A)(iii)(1)** on account of such separation as if, at the time of such separation, the Company had made a distribution of the type referred to in such Section to all holders of the Ordinary Shares, subject to readjustment in accordance with such Section if such rights expire, terminate or are redeemed.

(G) *Limitation on Effecting Transactions Resulting in Certain Adjustments*. The Company will not engage in or be a party to any transaction or event that would require the Conversion Rate to be adjusted pursuant to **Section 5.05(A)** or **Section 5.07** to an amount that would result in the Conversion Price per Ordinary Share being less than the par value per Ordinary Share.

(H) *Equitable Adjustments to Prices*. Whenever any provision of this Indenture requires the Company to calculate the average of the Last Reported Sale Prices, or any function thereof, over a period of multiple days (including to calculate (i) the Share Price for a Make-Whole Event or (ii) or an adjustment to the Conversion Rate), or to calculate the Daily Conversion Values or Daily VWAPs over an Observation Period, the Company will make appropriate adjustments, if any, to such calculations to account for any adjustment to the Conversion Rate pursuant to **Section 5.05(A)**, would have resulted in an adjustment to the Conversion Rate) that becomes effective, or any event that requires such an adjustment to the Conversion Rate where the Ex- Dividend Date, effective date or Expiration Date, as applicable, of such event occurs, at any time during such period, or Observation Period, as applicable.

(I) *Calculation of Number of Outstanding Ordinary Shares*. For purposes of **Section 5.05(A)**, the number of Ordinary Shares outstanding at any time will (i) include shares issuable in respect of scrip certificates issued in lieu of fractions of Ordinary Shares; and (ii) exclude

Ordinary Shares held in the Company's treasury (unless the Company pays any dividend or makes any distribution on Ordinary Shares held in its treasury).

(J) *Calculations*. All calculations with respect to the Conversion Rate and adjustments thereto will be made, by the Company, to the nearest 1/10,000th of an Ordinary Share (with 5/100,000ths rounded upward).

(K) *Notice of Conversion Rate Adjustments*. Upon the effectiveness of any adjustment to the Conversion Rate pursuant to **Section 5.05(A)** or upon the occurrence of a Forward Purchase Adjustment Event, the Company will promptly send notice to the Holders, the Trustee and the Conversion Agent containing (i) a brief description of the transaction or other event on account of which such adjustment was made; (ii) the Conversion Rate in effect immediately after such adjustment; and (iii) the effective time of such adjustment.

Section 5.06. Voluntary Adjustments.

(A) *Generally*. To the extent permitted by law and applicable listing standards of The Nasdaq Global Stock Market (or any other securities exchange on which the Ordinary Shares (or other applicable security) is then listed), the Company, from time to time, may (but is not required to) increase the Conversion Rate by any amount if (i) the Board of Directors determines that such increase is either (x) in the best interest of the Company; or (y) advisable to avoid or diminish any income tax imposed on holders of Ordinary Shares or rights to purchase Ordinary Shares as a result of any dividend or distribution of shares (or rights to acquire shares) of Ordinary Shares or any similar event; (ii) such increase is in effect for a period of at least twenty (20) Business Days; and (iii) subject to applicable law, such increase is irrevocable during such period.

(B) *Notice of Voluntary Increases*. If the Board of Directors determines to increase the Conversion Rate pursuant to **Section 5.06(A)**, then, no later than the first Business Day of the related twenty (20) Business Day period referred to in **Section 5.06(A)**, the Company will send notice to each Holder, the Trustee and the Conversion Agent of such increase, the amount thereof and the period during which such increase will be in effect.

Section 5.07. Adjustments To The Conversion Rate In Connection With A Make-Whole Event.

(A) *Generally*. If a Make-Whole Event occurs on or after the Issue Date and the Conversion Date for the conversion of a Note occurs during the related Make-Whole Event Conversion Period, then, subject to this **Section 5.07**, the Conversion Rate applicable to such conversion will be increased by a number of shares (the "**Additional Shares**") set forth in the Make-Whole Table corresponding (after interpolation as provided in, and subject to, the provisions below) to the Make-Whole Event Effective Date and the Share Price of such Make-Whole Event.

If such Make-Whole Event Effective Date or Share Price is not set forth in the Make-Whole Table, then:

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

(ii) if the Share Price is greater than the highest Share Price, or less than the lowest Share Price, set forth in the Make-Whole Table (which highest and lowest Share Prices are, for the avoidance of doubt, subject to adjustment pursuant to **Section 5.07(C)**), then no Additional Shares will be added to the Conversion Rate.

For the avoidance of doubt, but subject to **Section 4.03(K)**, (x) the sending of a Redemption Notice relating to a Provisional Redemption will constitute a Make-Whole Event only with respect to the Notes called for Provisional Redemption pursuant to such Redemption Notice, and not with respect to any other Notes; and (y) the Conversion Rate applicable to the Notes not so called for Provisional Redemption will not be subject to increase pursuant to this **Section 5.07** on account of such Redemption Notice.

(B) The initial Make-Whole Table will be as set forth below.

					Share Price								
Make-Whole Event Effective Date	~~$20.11~~	~~$21.00~~	~~$22.00~~	~~$23.13~~	~~$24.00~~1.6422	~~$25.00~~1.7500	~~$27.00~~2.1350	~~$29.00~~3.0000	~~$30.07~~5.0000	~~$31.00~~8.0000	~~$33.00~~15.0000	~~$35.00~~25.0000	~~$40.00~~40.0000
~~August 17~~June 20, ~~2022~~2024	~~6.4964~~	~~5.6395~~	~~4.8118~~	~~4.0099~~	~~3.4750~~0.0000	~~2.936020~~ 1.0057	~~2.059315~~ 4.5152	~~1.397296~~ 6133	~~1.126044~~ 6380	~~0.900019~~ 4163	~~0.532~~4.0173	~~0.268~~3.0068	0.0000
August 17, ~~2023~~2025	~~6.4964~~	~~5.6395~~	~~4.8118~~	~~4.0099~~	~~3.4675~~0.0000	~~2.911220~~ 1.0057	~~2.018915~~ 4.4496	~~1.354894~~ 5333	~~1.084142~~ 2140	~~0.863517~~ 7313	~~0.504~~5.3760	~~0.250~~6.0000	0.0000
August 17, ~~2024~~2026	~~6.4964~~	~~5.6395~~	~~4.8118~~	~~3.9217~~	~~3.3429~~0.0000	~~2.773219~~ 8.1314	~~1.880014~~ 7.8220	~~1.235287~~ 5400	~~0.978137~~ 0500	~~0.770014~~ 6950	~~0.437~~2.4113	~~0.206~~9.0000	0.0000
August 17, ~~2025~~2027	~~6.4964~~	~~5.5257~~	~~4.4927~~	~~3.5469~~	~~2.9508~~0.0000	~~2.382018~~ 1.9314	~~1.532213~~ 1.1054	~~0.956672~~ 8733	~~0.738627~~ 9100	~~0.563~~9.9850	~~0.295~~1.1700	~~0.118~~0.0000	0.0000
August 17, ~~2026~~2028	~~6.4964~~	~~5.0114~~	~~3.8068~~	~~2.7670~~	~~2.1575~~0.0000	~~1.618814~~ 3.6457	~~0.911194~~ 7775	~~0.506245~~ 0300	~~0.369513~~ 9600	~~0.265~~2.4875	~~0.116~~0.1867	~~0.030~~3.0000	0.0000
August 17, ~~2027~~2029	~~6.4964~~	~~4.3786~~	~~2.2141~~	~~0.0000~~	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

(C) *Adjustment of Share Prices and Number of Additional Shares.* The Share Prices in the first row (*i.e.*, the column headers) of the Make-Whole Table will be adjusted in the same manner as, and at the same time and for the same events for which, the Conversion Price is adjusted as a result of the operation of **Section 5.05(A)**. The numbers of Additional Shares in the Make- Whole Table will be adjusted in the same manner as, and at the same time and for the same events for which, the Conversion Rate is adjusted pursuant to **Section 5.05(A)**.

(D) *Notice of the Occurrence of a Make-Whole Event.* The Company will notify the Holders, the Trustee and the Conversion Agent of each Make-Whole Event (i) occurring

pursuant to **clause (A)** of the definition thereof; and (ii) occurring pursuant to **clause (B)** of the definition thereof in accordance with **Section 4.03(G)**.

Section 5.08. Exchange In Lieu Of Conversion.

Notwithstanding anything to the contrary in this **Article 5**, and subject to the terms of this **Section 5.08**, if a Note is submitted for conversion, the Company may elect, in lieu of conversion, to transfer such Note to a financial institution designated by the Company and arrange to have such financial institution deliver to the Holder of such Note the Conversion Consideration that would have been due upon conversion. To make such election, the Company must send notice of such election to the Holder of such Note, the Trustee and the Conversion Agent before the Close of Business on the Business Day immediately following the Conversion Date for such Note. If the Company has made such election, then:

(A) no later than the Business Day immediately following such Conversion Date, the Company must deliver (or cause the Conversion Agent to deliver) such Note, together with delivery instructions for the Conversion Consideration due upon such conversion (including wire instructions, if applicable), to a financial institution designated by the Company that has agreed to deliver such Conversion Consideration in the manner and at the time the Company would have had to deliver the same pursuant to this **Article 5**;

(B) if such Note is a Global Note, then (i) such designated institution will send written confirmation to the Conversion Agent promptly after wiring the cash Conversion Consideration, if any, and delivering any other Conversion Consideration, due upon such conversion to the Holder of such Note; and (ii) the Conversion Agent will as soon as reasonably practicable thereafter contact such Holder's custodian with the Depositary to confirm receipt of the same; and

(C) such Note will not cease to be outstanding by reason of such exchange in lieu of conversion;

provided, *however*, that if such financial institution does not accept such Note or fails to timely deliver such Conversion Consideration, then the Company will be responsible for delivering such Conversion Consideration in the manner and at the time provided in this **Article 5** as if the Company had not elected to make an exchange in lieu of conversion.

Section 5.09. Effect Of Ordinary Share Change Event.

(A) *Generally*. If there occurs any:

(i) recapitalization, reclassification or change of the Ordinary Shares (other than (x) changes solely resulting from a subdivision or combination of the Ordinary Shares, (y) a change only in par value or from par value to no par value or no par value to par value and (z) splits and combinations that do not involve the issuance of any other series or class of securities);

(ii) consolidation, merger, combination or binding or statutory share exchange involving the Company;

(iii) sale, lease or other transfer of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person; or

(iv) other similar event,

and, as a result of which, the Ordinary Shares is converted into, or is exchanged for, or represents solely the right to receive, other securities, cash or other property, or any combination of the foregoing (such an event, a "**Ordinary Share Change Event**," and such other securities, cash or property, the "**Reference Property**," and the amount and kind of Reference Property that a holder of one (1) Ordinary Share would be entitled to receive on account of such Ordinary Share Change Event (without giving effect to any arrangement not to issue or deliver a fractional portion of any security or other property), a "**Reference Property Unit**"), then the Company and the resulting, surviving or transferee person (if not the Company) of such Ordinary Share Change Event (the "**Successor Person**"), and, if applicable as set forth below, the Underlying Issuer, will execute and deliver to the Trustee a supplemental indenture, without the consent of the Holders, providing, notwithstanding anything to the contrary in this Indenture or the Notes, as follows:

(1) from and after the effective time of such Ordinary Share Change Event, (I) the Conversion Consideration due upon conversion of any Note, and the conditions to any such conversion, will be determined in the same manner as if each reference to any number of Ordinary Shares in this **Article 5** (or in any related definitions) were instead a reference to the same number of Reference Property Units; (II) for purposes of **Section 4.03**, each reference to any number of Ordinary Shares in such Section (or in any related definitions) will instead be deemed to be a reference to the same number of Reference Property Units; and (III) for purposes of the definition of "Fundamental Change" and "Make-Whole Event," references to Ordinary Shares or to "Common Equity" will be deemed to refer to the common equity (including depositary receipts representing common equity), if any, forming part of such Reference Property;

(2) if such Reference Property Unit consists entirely of cash, then the Company will be deemed to elect Physical Settlement in respect of all conversions whose Conversion Date occurs on or after the effective date of such Ordinary Share Change Event and will pay the cash due upon such conversions no later than the second (2nd) Business Day after the relevant Conversion Date;

(3) for these purposes, (I) the Daily VWAP of any Reference Property Unit or portion thereof that consists of a class of common equity securities will be determined by reference to the definition of "Daily VWAP," substituting, if applicable, the Bloomberg page for such class of securities in such definition; and (II) the Daily VWAP of any Reference Property Unit or portion thereof that does not consist of a class of common equity securities, and the Last Reported Sale Price of any Reference Property Unit or portion thereof that does not consist of a class of securities, will be the fair value of such Reference Property Unit or

portion thereof, as applicable, determined in good faith by the Company (or, in the case of cash denominated in U.S. dollars, the face amount thereof); and

(4) if such Reference Property includes any shares of Capital Stock, then the Conversion Rate will be subject to subsequent adjustments in a manner consistent with **Section 5.05(A)**.

If the Reference Property consists of more than a single type of consideration to be determined based in part upon any form of shareholder election, then the composition of the Reference Property Unit will be deemed to be the weighted average of the types and amounts of consideration actually received, per Ordinary Share, by the holders of the Ordinary Shares. The Company will notify Holders of such weighted average as soon as practicable after such determination is made.

At or before the effective time of such Ordinary Share Change Event, the Company and the Successor Person will execute and deliver to the Trustee a supplemental indenture pursuant to **Section 8.01(F)** as set forth above. If the Reference Property includes shares of stock or other securities or assets (other than cash) of a Person other than the Successor Person (such person, the "**Underlying Issuer**"), then such Underlying Issuer will also execute such supplemental indenture.

(B) *Notice of Ordinary Share Change Events*. The Company will provide notice of each Ordinary Share Change Event to Holders, the Trustee and the Conversion Agent no later than the effective date of such Ordinary Share Change Event.

(C) *Compliance Covenant*. The Company will not become a party to any Ordinary Share Change Event unless its terms are consistent with this **Section 5.09**.

Section 5.10. RESPONSIBILITY OF TRUSTEE.

(A) The Trustee, the Collateral Trustee and the Conversion Agent shall not at any time be under any duty or responsibility to any Holder to determine the Conversion Rate (or any adjustment thereto) or whether any facts exist that may require any adjustment (including any increase) of the Conversion Rate, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed, or in the Indenture or in any supplemental indenture provided to be employed, in making the same. The Trustee and the Conversion Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any Ordinary Shares, or of any securities, property or cash that may at any time be issued or delivered upon the conversion of any Note; and the Trustee and the Conversion Agent make no representations with respect thereto. Neither the Trustee nor the Conversion Agent shall be responsible for any failure of the Company to issue, transfer or deliver any shares of Ordinary Shares or stock certificates or other securities or property or cash upon the surrender of any Note for the purpose of conversion or to comply with any of the duties, responsibilities or covenants of the Company contained in this **Article 5**. Without limiting the generality of the foregoing, neither the Trustee nor the Conversion Agent shall be under any responsibility to (a) determine whether a supplemental indenture needs to be entered into or (b) determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to **Section 5.09**

relating either to the kind or amount of shares of stock or securities or property (including cash) receivable by Holders upon the conversion of their Notes after any event referred to in such **Section 5.09** or to any adjustment to be made with respect thereto, but, subject to the provisions of **Section 13.02** of the Indenture, may accept (without any independent investigation) as conclusive evidence of the correctness of any such provisions, and shall be protected in conclusively relying upon, the Officer's Certificate (which the Company shall be obligated to file with the Trustee and the Conversion Agent prior to the execution of any such supplemental indenture) with respect thereto.

(B) The Conversion Agent will open a non-interest bearing account in the name of the Company in relation to its Settlement Method.

(C) Conversion Agent's wire instructions are listed in **Schedule I** to receive wire from the Company for cash in lieu for fractional shares.

(D) **Schedule II** lists Company's wire instructions for interest reimbursement.

(E) If there is a conversion between the Regular Record Date and Interest Payment Date (for regular period), the Holders will return the interest back to Conversion Agent and the Conversion Agent will reimburse the Company.

Article 6. SUCCESSORS

Section 6.01. When The Company May Merge, Etc.

(A) *Generally*. The Company will not consolidate with or merge with or into, dissolve or liquidate voluntarily into, or (directly, or indirectly through one or more of its Subsidiaries) sell, lease or otherwise Dispose, in one transaction or a series of transactions, all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to another Person (a "**Company Business Combination Event**"), unless:

(i) the resulting, surviving or transferee Person either (x) is the Company or (y) if not the Company, is a corporation (the "**Successor Corporation**") duly organized and existing under the laws of the United States of America, any State thereof, the District of Columbia or Singapore that expressly assumes (by executing and delivering to the Trustee, at or before the effective time of such Company Business Combination Event, a supplemental indenture pursuant to **Section 8.01(E)**) all of the Company's obligations under this Indenture, the Security Documents to which the Company is a party, and the Notes (including, for the avoidance of doubt, the obligation to pay Additional Amounts pursuant to **Section 3.05**);

(ii) immediately after giving effect to such Company Business Combination Event, no Default or Event of Default will have occurred and be continuing; and

(ii) ~~Before~~before the effective time of any Company Business Combination Event, the Company will deliver to the Trustee an Officer's Certificate and Opinion of Counsel, each stating that (i) such Company Business Combination Event (and, if

applicable, the related supplemental indenture) comply with **Section 6.01(A)**; and (ii) all conditions precedent to such Company Business Combination Event provided in this Indenture have been satisfied.

(B) *Guarantors*. The Company shall not permit any Guarantor to consolidate with or merge with or into, dissolve or liquidate voluntarily into, or (directly, or indirectly through one or more of its Subsidiaries) sell, lease or otherwise Dispose, in one transaction or a series of transactions, all or substantially all of the consolidated assets (other than to the Company or another Guarantor) (a "**Guarantor Business Combination Event**" together with a Company Business Combination Event, a "**Business Combination Event**") unless:

(i) the resulting, surviving or transferee Person (the "**Successor Guarantor**") either (x) is the Guarantor or (y) if not the Guarantor, is a corporation duly organized and existing under the laws of the jurisdiction of the Company or any of the Guarantors that expressly assumes (by executing and delivering to the Trustee, at or before the effective time of such Guarantor Business Combination Event, a supplemental indenture pursuant to **Section 8.01(B)**) all of such Guarantor's obligations under this Indenture, the Security Documents to which it is a party, the Notes and its Guarantee (including, for the avoidance of doubt, the obligation to pay Additional Amounts pursuant to **Section 3.05**);

(ii) immediately after giving effect to such Guarantor Business Combination Event, no Default or Event of Default will have occurred and be continuing; and

(iii) before the effective time of any Guarantor Business Combination Event, the Company and the Guarantor, as applicable, will deliver to the Trustee an Officer's Certificate and Opinion of Counsel, each stating that (i) such Guarantor Business Combination Event (and, if applicable, the related supplemental indenture) comply with **Section 6.01(B)**; and (ii) all conditions precedent to such Guarantor Business Combination Event provided in this Indenture have been satisfied.

Section 6.02. Successor Corporation Substituted.

At the effective time of any Business Combination Event that complies with **Section 6.01**, the Successor Corporation (if not the Company) or the Successor Guarantor (if not the applicable Guarantor), as the case may be, will succeed to, and may exercise every right and power of, the Company or the Guarantor, as the case may be, under this Indenture, the Security Documents, the Notes and/or Guarantee, as is applicable, with the same effect as if such Successor Corporation or Successor Guarantor, as the case may be, had been named as the Company or Guarantor, as the case may be, in this Indenture, the Security Documents, the Notes and such Guarantee; *provided that* in the case of a lease, the predecessor Company will be discharged from its obligations under this Indenture and the Notes.

Article 7. DEFAULTS AND REMEDIES

Section 7.01. EVENTS OF DEFAULT.

(A) *Definition of Events of Default*. "**Event of Default**" means the occurrence of any of the following:

(i) a default in the payment when due (whether at maturity, upon Redemption or Repurchase Upon Fundamental Change or otherwise) of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, any Note;

(ii) a default in the payment when due of ~~interest~~Interest on any Note, which default continues for thirty (30) days;

(iii) the Company's failure to deliver, when required by this Indenture, a Fundamental Change Notice, such failure is not cured within three (3) Business Days after its occurrence;

(iv) [Reserved].

(v) a default in the Company's obligation to convert a Note in accordance with **Article 5** upon the exercise of the conversion right with respect thereto, if such default is not cured within two (2) Business Days after its occurrence;

(vi) a default in the Company's obligations under **Article 6**;

(vii) [Reserved].

(viii) a default in any of the Company's obligations or agreements under the Indenture Documents (other than a default set forth in **clause (i)**, **(ii)**, **(iii)**, **(v) or (vi)** of this **Section 7.01(A)**) where such default is not cured or waived within thirty (30) days after notice to the Company by the Trustee and the Collateral Trustee, or to the Company, the Trustee and the Collateral Trustee by Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding, which notice must specify such default, demand that it be remedied and state that such notice is a "Notice of Default";

(ix) a default by a Company Indenture Party or any of its Significant Subsidiaries with respect to indebtedness for money borrowed (whether pursuant to one or more agreements or other instruments) of greater than twenty-five million dollars ($25,000,000) (or its foreign currency equivalent) in the aggregate of a Company Indenture Party or any of its Significant Subsidiaries, whether such indebtedness exists as of the Issue Date or is thereafter created, either: (x) resulting in such indebtedness becoming or being declared due and payable prior to its stated maturity, or (y) constituting a failure to pay the principal of any such indebtedness when due and payable (after the expiration of all applicable grace periods) at its stated maturity, upon required repurchase, upon declaration or otherwise, and, in the case of either **clause (x)** or **(y)**,

such acceleration is not, after the expiration of any applicable grace period, rescinded or annulled or such indebtedness is not paid or discharged, as the case may be, within thirty (30) days after notice to the Company by the Trustee or to the Company and the Trustee by Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding in accordance with this Indenture;

(x) one or more final judgments being rendered against a Company Indenture Party or any of its Subsidiaries for the payment of at least twenty-five million dollars ($25,000,000) (or its foreign currency equivalent) in the aggregate (excluding any amounts covered by insurance), where such judgment is not discharged or stayed within sixty (60) days after (i) the date on which the right to appeal the same has expired, if no such appeal has commenced; or (ii) the date on which all rights to appeal have been extinguished;

(xi) a Company Indenture Party or any of its Significant Subsidiaries, pursuant to or within the meaning of any Bankruptcy Law, either:

(1) commences a voluntary case or proceeding;

(2) consents to the entry of an order for relief against it in an involuntary case or proceeding;

(3) consents to the appointment of a custodian of it or for any substantial part of its property (other than that arises from any solvent liquidation or restructuring of a Significant Subsidiary in the ordinary course of business that shall result in the net assets of such Significant Subsidiary being transferred to or otherwise vested in such Company Indenture Party or any of its other subsidiaries on a pro rata basis or on a basis more favorable to such Company Indenture Party);

(4) makes a general assignment for the benefit of its creditors;

(5) takes any comparable action under any foreign Bankruptcy Law; or

(6) generally is not paying its debts as they become due;

(xii) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that either:

(1) is for relief against a Company Indenture Party or any of its Significant Subsidiaries in an involuntary case or proceeding;

(2) appoints a custodian of a Company Indenture Party or any of its Significant Subsidiaries, or for any substantial part of the property of a Company Indenture Party or any of its Significant Subsidiaries;

(3) orders the winding up or liquidation of a Company Indenture Party or any of its Significant Subsidiaries; or

(4) grants any similar relief under any foreign Bankruptcy Law,

(5) and, in each case under this **Section 7.01(A)(xii)**, such order or decree remains unstayed and in effect for at least sixty (60) days;

(xiii) If the obligation of any Guarantor under its Guarantee or any other Indenture Document to which any Guarantor is a party is limited or terminated by operation of law or by such Guarantor (other than, in each case, in accordance with the terms of this Indenture or such other Indenture Documents), or if any Guarantor fails to perform any obligation under its Guarantee or under any such Indenture Document, or repudiates or revokes or purports to repudiate or revoke in writing any obligation under its Guarantee, or under any such Indenture Document, or any Guarantor ceases to exist for any reason (other than as permitted or not prohibited by this Indenture); or

(xiv) Except as permitted or not prohibited by this Indenture and other Indenture Documents, if this Indenture or any other Indenture Document that purports to create a Lien on Collateral, shall, for any reason, fail or cease to be in full force and effect for any reason, being declared fully or partially void in judicial, regulatory or administrative proceeding or becoming enforceable against the relevant Company Indenture Parties.

(B) *Cause Irrelevant*. Each of the events set forth in **Section 7.01(A)** will constitute an Event of Default regardless of the cause thereof or whether voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

Section 7.02. ACCELERATION.

(A) *Automatic Acceleration in Certain Circumstances*. If an Event of Default set forth in **Section7.01(A)(xi)** or **7.01(A)(xii)** occurs with respect to the Company (and not solely with respect to a Significant Subsidiary of the Company), then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding will immediately become due and payable without any further action or notice by any Person.

(B) *Optional Acceleration*. Subject to **Section 7.03**, if an Event of Default (other than an Event of Default set forth in **Section 7.01(A)(xi)** or **7.01(A)(xii)** with respect to the Company and not solely with respect to a Significant Subsidiary of the Company) occurs and is continuing, then the Trustee, by notice to the Company, or Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding, by notice to the Company, the Trustee and the Collateral Trustee, may declare the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding (subject to the Trustee and the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction) to become due and payable immediately.

(C) *Rescission of Acceleration*. Notwithstanding anything to the contrary in this Indenture or the Notes, the Majority Holders ~~of a majority in aggregate principal amount of the Notes then outstanding~~, by notice to the Company and the Trustee, may, on behalf of all Holders, rescind any acceleration of the Notes and its consequences if (i) such rescission would not conflict with any judgment or decree of a court of competent jurisdiction; (ii) all existing Events of Default (except the non-payment of principal of, or interest on, the Notes that has become due solely because of such acceleration) have been cured or waived; and (iii) all sums paid or advanced by the Trustee under this Indenture and the reasonable compensation, expenses, disbursements and advances of the Trustee and the Collateral Trustee and their agents and counsel have been paid. No such rescission will affect any subsequent Default or impair any right consequent thereto.

Section 7.03. Sole Remedy For A Failure To Report.

(A) *Generally*. Notwithstanding anything to the contrary in this Indenture or the Notes, the Company may elect that the sole remedy for any Event of Default (a "**Reporting Event of Default**") pursuant to **Section 7.01(A)(viii)** arising from the Company's failure to comply with **Section 3.02** will, for each of the first one hundred and eighty (180) calendar days on which a Reporting Event of Default has occurred and is continuing, consist exclusively of the accrual of Special Interest on the Notes. If the Company has made such an election, then (i) the Notes will be subject to acceleration pursuant to **Section 7.02** on account of the relevant Reporting Event of Default from, and including, the one hundred and eighty first (181st) calendar day on which a Reporting Event of Default has occurred and is continuing or if the Company fails to pay any accrued and unpaid Special Interest when due; and (ii) Special Interest will cease to accrue on any Notes from, and including, such one hundred and eighty first (181st) calendar day (it being understood that interest on any defaulted Special Interest will nonetheless accrue pursuant to **Section 2.05(B)**).

(B) *Amount and Payment of Special Interest*. Any Special Interest that accrues on a Note pursuant to **Section 7.03(A)** will be payable on the same dates and in the same manner as the Stated Interest on such Note and will accrue at a rate per annum equal to one quarter of one percent (0.25%) of the principal amount thereof for the first ninety (90) days on which Special Interest accrues and, thereafter, at a rate per annum equal to one half of one percent (0.50%) of the principal amount thereof; *provided*, *however*, that in no event will Special Interest accrue on any day on a Note at a combined rate per annum that exceeds one half of one percent (0.50%). For the avoidance of doubt, any Special Interest that accrues on a Note will be in addition to the Stated Interest that accrues on such Note.

(C) *Notice of Election*. To make the election set forth in **Section 7.03(A)**, the Company must send to the Holders, the Trustee and the Paying Agent, before the date on which each Reporting Event of Default first occurs, a notice that (i) briefly describes the report(s) that the Company failed to file with the SEC; (ii) states that the Company is electing that the sole remedy for such Reporting Event of Default consist of the accrual of Special Interest; and (iii) briefly describes the periods during which and rate at which Special Interest will accrue and the

circumstances under which the Notes will be subject to acceleration on account of such Reporting Event of Default.

(D) *Notice to Trustee and Paying Agent; Trustee's Disclaimer*. If Special Interest accrues on any Note, then, no later than five (5) Business Days before each date on which such Special Interest is to be paid, the Company will deliver an Officer's Certificate to the Trustee and the Paying Agent stating (i) that the Company is obligated to pay Special Interest on such Note on such date of payment; and (ii) the amount of such Special Interest that is payable on such date of payment. The Trustee will have no duty to determine whether any Special Interest is payable or the amount thereof.

(E) *No Effect on Other Events of Default*. No election pursuant to this **Section 7.03** with respect to a Reporting Event of Default will affect the rights of any Holder with respect to any other Event of Default, including with respect to any other Reporting Event of Default.

Section 7.04. Other Remedies.

(A) *Trustee May Pursue All Remedies*. If an Event of Default occurs and is continuing, then the Trustee may pursue any available remedy to collect the payment of any amounts due with respect to the Notes or to enforce the performance of any provision of this Indenture or the Notes.

(B) *Procedural Matters*. The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in such proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy following an Event of Default will not impair the right or remedy or constitute a waiver of, or acquiescence in, such Event of Default. All remedies will be cumulative to the extent permitted by law.

Section 7.05. Waiver Of Past Defaults.

An Event of Default pursuant to **clause (i)**, **(ii)**, **(v)** or **(viii)** of **Section 7.01(A)** (that, in the case of **clause (viii)** only, results from a Default under any covenant that cannot be amended without the consent of each affected Holder), and a Default that could lead to such an Event of Default, can be waived only with the consent of each affected Holder. Each other Default or Event of Default may be waived, on behalf of all Holders, by the Majority Holders ~~of a majority in aggregate principal amount of the Notes then outstanding~~. If an Event of Default is so waived, then it will cease to exist. If a Default is so waived, then it will be deemed to be cured and any Event of Default arising therefrom will be deemed not to occur. However, no such waiver will extend to any subsequent or other Default or Event of Default or impair any right arising therefrom.

Section 7.06. Control By Majority.

The Majority Holders ~~of a majority in aggregate principal amount of the Notes then outstanding~~ may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law, this Indenture or the

Notes, or that, subject to **Section 10.01**, the Trustee determines may be unduly prejudicial to the rights of other Holders or may involve the Trustee in liability, unless the Trustee is offered security and indemnity satisfactory to the Trustee against any loss, liability or expense to the Trustee that may result from the Trustee's following such direction.

Section 7.07. Limitation On Suits.

No Holder may pursue any remedy with respect to this Indenture or the Notes (except to enforce (x) its rights to receive the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or interest on, any Notes; or (y) the Company's obligations to convert any Notes pursuant to **Article 5**), unless:

(A) such Holder has previously delivered to the Trustee notice that an Event of Default is continuing;

(B) Holders of at least twenty five percent (25%) in aggregate principal amount of the Notes then outstanding deliver a request to the Trustee to pursue such remedy;

(C) such Holder or Holders offer and, if requested, provide to the Trustee security and indemnity satisfactory to the Trustee against any loss, liability or expense to the Trustee that may result from the Trustee's following such request;

(D) the Trustee does not comply with such request within sixty (60) calendar days after its receipt of such request and such offer of security or indemnity; and

(E) during such sixty (60) calendar day period, the Majority Holders ~~of a majority in aggregate principal amount of the Notes then outstanding~~ do not deliver to the Trustee a direction that is inconsistent with such request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder. The Trustee will have no duty to determine whether any Holder's use of this Indenture complies with the preceding sentence.

Section 7.08. Absolute Right Of Holders To Institute Suit For The Enforcement Of The Right To Receive Payment And Conversion Consideration.

Notwithstanding anything to the contrary in this Indenture or the Notes (but without limiting **Section 8.01**), the right of each Holder of a Note to bring suit for the enforcement of any payment or delivery, as applicable, of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any interest on, or the Conversion Consideration due pursuant to **Article 5** upon conversion of, such Note on or after the respective due dates therefor provided in this Indenture and the Notes, will not be impaired or affected without the consent of such Holder.

Section 7.09. Collection Suit By Trustee.

The Trustee will have the right, upon the occurrence and continuance of an Event of Default pursuant to **clause (i)**, **(ii)** or **(iv)** of **Section 7.01(A)**, to recover judgment in its own name and as trustee of an express trust against the Company for the total unpaid or undelivered principal of, or Redemption Price or Fundamental Change Repurchase Price for, or interest on, or Conversion Consideration due pursuant to **Article 5** upon conversion of, the Notes, as applicable, and, to the extent lawful, any Default Interest on any Defaulted Amounts, and such further amounts sufficient to cover the costs and expenses of collection, including compensation provided for in **Section 10.06**.

Section 7.10. Trustee May File Proofs Of Claim.

The Trustee has the right to (A) file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes) or its creditors or property and (B) collect, receive and distribute any money or other property payable or deliverable on any such claims. Each Holder authorizes any custodian in such proceeding to make such payments to the Trustee, and, if the Trustee consents to the making of such payments directly to the Holders, to pay to the Trustee any amount due to the Trustee for the reasonable compensation, expenses, disbursements and advances of the Trustee, and its agents and counsel, and any other amounts payable to the Trustee pursuant to **Section 10.06**. To the extent that the payment of any such compensation, expenses, disbursements, advances and other amounts out of the estate in such proceeding, is denied for any reason, payment of the same will be secured by a lien on, and will be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding (whether in liquidation or under any plan of reorganization or arrangement or otherwise). Nothing in this Indenture will be deemed to authorize the Trustee to authorize, consent to, accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 7.11. Payment of the Soulte.

If, following any Appropriation, a Soulte is owed by the Secured Parties to the ~~Issuer~~Company or any Guarantor, the ~~Issuer~~Company or that Guarantor agrees that such Soulte shall only become due and payable by the relevant Secured Parties on the earlier of:

(a) the date falling 12 months after the date of the Appropriation; and

(b) the Final Discharge Date.

For the avoidance of doubt, the obligations of each Secured Party to pay its proportionate share of any Soulte are several (*conjointes et non solidaires*).

Any payment of the Soulte under paragraph (a) above to the ~~Issuer~~Company or any Guarantor which occurs on or prior to the Final Discharge Date shall be made by the relevant

Secured Parties (or the Collateral Trustee on their behalf) to a bank account of the ~~Issuer~~Company or relevant Guarantor and in each case held with the Collateral Trustee and pledged in a manner satisfactory to the Collateral Trustee acting on behalf of the Secured Parties as security for any obligation of the ~~the Issuer~~Company or relevant Guarantor under any of the Indenture Documents to which it is party including any obligation under this Indenture to pay back any Soulte or any amounts to be turned over by it as the ~~Issuer~~Company or Guarantor pursuant to **Section 7.12** on or prior to the Final Discharge Date. This pledge agreement shall include an irrevocable instruction from the ~~Issuer~~Company or the relevant Guarantor to make from such pledged bank accounts any payment required to be fulfilled under this Indenture or any Indenture Document.

The provisions of this **Section 7.11** override any conflicting provisions in the French Security Documents.

Section 7.12. SUMS RECEIVED BY DEBTORS AND THIRD PARTY SECURITY PROVIDERS.

Without prejudice to **Section 7.11**, if the ~~Issuer~~Company or any Guarantor receives or recovers (i) any Soulte or (ii) any other sum which, under the terms of any of the Indenture Documents, should have been paid to the Collateral Trustee, the ~~Issuer~~Company or that ~~Debtor~~Guarantor will:

(a) hold an amount of that receipt or recovery equal to the relevant Obligations (or, if less, the amount received or recovered) on trust for (or otherwise on behalf and for the account of) the Collateral Trustee and promptly pay that amount to the Collateral Trustee (or as the Collateral Trustee may direct) for application in accordance with the terms of this Indenture; and

(b) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the relevant Obligations to the Collateral Trustee (or as the Collateral Trustee may direct) for application in accordance with the terms of this Indenture.

Section 7.13. PRIORITIES.

~~The~~Subject to the terms of the Intercreditor Agreement, the Collateral Trustee and Trustee (acting in any capacity) will pay or deliver in the following order any money or other property that it collects pursuant to this **Article 7**:

First: to the Collateral Trustee and Trustee (acting in any capacity) and its agents and attorneys for amounts due under **Section 10.06**, including payment of all fees (including any reasonably incurred and documented fees and expenses of legal counsel; *provided* that there shall not be more than one counsel in each relevant jurisdiction), compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: if an Appropriation has occurred, in payment to the Collateral Trustee on behalf of the Appropriated Instruments Holders which have paid all or part of any Soulte for distribution of each Appropriated Instruments Holder in an amount equal to the amount of Soulte paid and not yet reimbursed for

application towards the discharge of (for the avoidance of doubt, on a *pari passu* basis) the corresponding relevant Obligations;

Third: to the Trustee for the benefit of the Holders for unpaid amounts or other property due on the Notes, including the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any interest on, or any Conversion Consideration due upon conversion of, the Notes, ratably, and without preference or priority of any kind, according to such amounts or other property due and payable on all of the Notes; and

Fourth: to the Company or such other Person as a court of competent jurisdiction directs, including upon or following an Appropriation, (i) in payment or distribution of any Soulte payable and not yet paid to it; or (ii) an amount equal to any Soulte previously paid to it (to the extent the Company paid such Soulte back to the Collateral Trustee in accordance with this Indenture) as a result of an Appropriation.

The Trustee (acting in any capacity) may fix a record date and payment date for any payment or delivery to the Holders pursuant to this **Section 7.11**, in which case the Trustee will instruct the Company to, and the Company will, deliver, at least fifteen (15) calendar days before such record date, to each Holder and the Trustee a notice stating such record date, such payment date and the amount of such payment or nature of such delivery, as applicable.

Section 7.14. Undertaking For Costs.

In any suit for the enforcement of any right or remedy under this Indenture or the Notes or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court, in its discretion, may (A) require the filing by any litigant party in such suit of an undertaking to pay the costs of such suit, and (B) assess reasonable costs (including reasonable attorneys' fees) against any litigant party in such suit, having due regard to the merits and good faith of the claims or defenses made by such litigant party; *provided*, *however*, that this **Section 7.12** does not apply to any suit by the Trustee, any suit by a Holder pursuant to **Section 7.08** or any suit by one or more Holders of more than ten percent (10%) in aggregate principal amount of the Notes then outstanding.

Section 7.15. Collateral Trustee Expense Reimbursement

The Company Indenture Parties, jointly and severally, agree to reimburse or pay the Trustee or Collateral Trustee for its fees and expenses incurred under this Indenture or the Security Documents (including all reasonably incurred and documented fees and disbursements of legal counsel; *provided* that there shall not be more than one counsel in each relevant jurisdiction) that may be paid or incurred by the Trustee or Collateral Trustee in enforcing, or obtaining advice of counsel in respect of, any rights with respect to, or collecting, any or all of the Obligations or Guaranteed Obligations and/or enforcing any rights with respect to, or collecting against, the Company Indenture Parties under this Indenture or the Security Documents.

Article 8. AMENDMENTS, SUPPLEMENTS AND WAIVERS

Section 8.01. ~~WITHOUT THE CONSENT OF HOLDERS~~Without The Consent Of Holders.

Notwithstanding anything to the contrary in **Section 8.02**, the Company and the Trustee may amend or supplement the Indenture Documents without the consent of any Holder to:

(A) cure any ambiguity or correct any omission, defect or inconsistency in any Indenture Document;

(B) add guarantees or security with respect to the Company's obligations under this Indenture or the Notes, including for greater certainty, to allow any additional Guarantor to execute a supplemental indenture, a joinder to any Security Document and/or a ~~Guarantee~~guarantee with respect to the Notes;

(C) [Reserved];

(D) add to the Company's covenants or Events of Default for the benefit of the Holders or surrender any right or power conferred on the Company;

(E) provide for the assumption of the Company's or any Guarantor's obligations under this Indenture, the Notes and the Security Document, as applicable, pursuant to, and in compliance with, **Article 6**;

(F) enter into supplemental indentures pursuant to, and in accordance with, **Section 5.09** in connection with an Ordinary Share Change Event;

(G) irrevocably elect or eliminate any Settlement Method or Specified Dollar Amount; *provided*, *however*, that no such election or elimination will affect any Settlement Method theretofore elected (or deemed to be elected) with respect to any Note pursuant to **Section 5.03(A)**;

(H) adjust the Conversion Rate, the Conversion Price or the Make-Whole Table (including the establishment of the Conversion Rate, the Conversion Price or the initial Make-Whole Table) in accordance with, and subject to the terms of, this Indenture;

(I) evidence or provide for the acceptance of the appointment, under this Indenture, of a successor Trustee or Collateral Trustee;

(J) [Reserved];

(K) comply with the rules of any applicable Depositary in a manner that does not adversely affect the rights of the Holders;

(L) comply with any requirement of the SEC in connection with any qualification of this Indenture or any supplemental indenture under the Trust Indenture Act, as then in effect;

(M) make any other change to the Indenture Documents that does not, individually or in the aggregate with all other such changes, adversely affect the rights of the Holders, as such, in any material respect; or

(N) effect, confirm and evidence the release, termination or discharge or any guarantee of or Lien securing the Notes when such release, termination or discharge is permitted by the Indenture Documents.

Section 8.02. With The Consent Of Holders.

(A) *Generally*. Subject to **Sections 8.01**, **7.05** and **7.08** ~~and~~, the immediately following sentence and the terms of the Intercreditor Agreement, the Company and the Trustee may, with the consent of the Majority Holders ~~of a majority in aggregate principal amount of the Notes~~ then outstanding, amend or supplement the Indenture Documents or waive compliance with any provision of the Indenture Documents. Notwithstanding anything to the contrary in the foregoing sentence, but subject to **Section 8.01** and the terms of the Intercreditor Agreement, without the consent of each affected Holder, no amendment or supplement to the Indenture Documents, or waiver of any provision of the Indenture Documents, may:

(i) reduce the principal, or extend the stated maturity, of any Note;

(ii) reduce the Redemption Price or Fundamental Change Repurchase Price for any Note or change the times at which, or the circumstances under which, the Notes may or will be redeemed or repurchased by the Company;

(iii) reduce the rate, or extend the time for the payment, of interest on any Note;

(iv) make any change that adversely affects the conversion rights of any Note other than as permitted or required by this Indenture or the Notes;

(v) impair the rights of any Holder set forth in **Section 7.08** (as such section is in effect on the Issue Date);

(vi) change the ranking of the Notes;

(vii) make any Note payable in money, or at a place of payment, other than that stated in this Indenture or the Note;

(viii) make any change to **Section 3.05**, or in any related definitions, in any manner that is adverse to the rights of the Holders or beneficial owners of the Notes;

(ix) reduce the amount of Notes whose Holders must consent to any amendment, supplement, waiver or other modification; or

(x) make any change to any amendment, supplement, waiver or modification provision of this Indenture or the Notes that requires the consent of each affected Holder.

For the avoidance of doubt, pursuant to **clauses (i)**, **(ii)**, **(iii)** and **(iv)** of this **Section 8.02(A)**, no amendment or supplement to this Indenture or the Notes, or waiver of any provision of this Indenture or the Notes, may change the amount or type of consideration due on any Note (whether on an Interest Payment Date, Redemption Date, Fundamental Change Repurchase Date or the Maturity Date or upon conversion, or otherwise), or the date(s) or time(s) such consideration is payable or deliverable, as applicable, without the consent of each affected Holder.

(B) *Holders Need Not Approve the Particular Form of any Amendment*. A consent of any Holder pursuant to this **Section 8.02** need approve only the substance, and not necessarily the particular form, of the proposed amendment, supplement or waiver.

(C) *Guarantors Bound*. The Guarantors shall be bound by any supplemental indenture or amendment to the Indenture Documents entered into by the Company and the Trustee pursuant to the terms of this Indenture and may but shall not be required to execute any such supplemental indenture or amendment, other than in the case of a joinder of a new Guarantor the execution by such Guarantor.

Section 8.03. With The Consent Of Supermajority Holders.

(A) Notwithstanding anything contained in **Section 8.01** or **Section 8.02**, without the consent of the Supermajority Holders, no amendment or supplement to the Indenture Documents, or waiver of any provision of the Indenture Documents, may:

(i) subordinate, or change the priority with respect to the Liens securing the Obligations;

(ii) release all or substantially all of the Collateral except as otherwise may be provided or permitted under this Indenture, the Intercreditor Agreement or the other Indenture Documents; or

(iii) discharge any Company Indenture Party from its respective payment Obligations under the Indenture Documents, in each case, except as otherwise may be provided or permitted under this Indenture, the Intercreditor Agreement or the other Indenture Documents.

(B) *Holders Need Not Approve the Particular Form of any Amendment*. A consent of any Holder pursuant to this **Section 8.03** need approve only the substance, and not necessarily the particular form, of the proposed amendment, supplement or waiver.

Section 8.04. Notice Of Amendments, Supplements And Waivers.

As soon as reasonably practicable after any amendment, supplement or waiver pursuant to **Section 8.01, 8.02 or 8.03** becomes effective, the Company will send to the Holders and the Trustee notice that (A) describes the substance of such amendment, supplement or waiver in reasonable detail and (B) states the effective date thereof; *provided*, *however*, that the Company will not be required to provide such notice to the Holders if such amendment, supplement or

waiver is included in a periodic report filed by the Company with the SEC within four (4) Business Days of its effectiveness. The failure to send, or the existence of any defect in, such notice will not impair or affect the validity of such amendment, supplement or waiver.

Section 8.05. Revocation, Effect And Solicitation Of Consents; Special Record Dates; Etc.

(A) *Revocation and Effect of Consents.* The consent of a Holder of a Note to an amendment, supplement or waiver will bind (and constitute the consent of) each subsequent Holder of any Note to the extent the same evidences any portion of the same indebtedness as the consenting Holder's Note, subject to the right of any Holder of a Note to revoke (if not prohibited pursuant to **Section 8.05(B)**) any such consent with respect to such Note by delivering notice of revocation to the Trustee before the time such amendment, supplement or waiver becomes effective.

(B) *Special Record Dates.* The Company may, but is not required to, fix a record date for the purpose of determining the Holders entitled to consent or take any other action in connection with any amendment, supplement or waiver pursuant to this **Article 8**. If a record date is fixed, then, notwithstanding anything to the contrary in **Section 8.05(A)**, only Persons who are Holders as of such record date (or their duly designated proxies) will be entitled to give such consent, to revoke any consent previously given or to take any such action, regardless of whether such Persons continue to be Holders after such record date; *provided*, *however*, that no such consent will be valid or effective for more than one hundred and twenty (120) calendar days after such record date.

(C) *Solicitation of Consents.* For the avoidance of doubt, each reference in this Indenture or the Notes to the consent of a Holder will be deemed to include any such consent obtained in connection with a repurchase of, or tender or exchange offer for, any Notes.

(D) *Effectiveness and Binding Effect.* Each amendment, supplement or waiver pursuant to this **Article 8** will become effective in accordance with its terms and, when it becomes effective with respect to any Note (or any portion thereof), will thereafter bind every Holder of such Note (or such portion).

Section 8.06. Notations And Exchanges.

If any amendment, supplement or waiver changes the terms of a Note, then the Trustee or the Company may, in its discretion, require the Holder of such Note to deliver such Note to the Trustee so that the Trustee may place an appropriate notation prepared by the Company on such Note and return such Note to such Holder. Alternatively, at its discretion, the Company may, in exchange for such Note, issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, a new Note that reflects the changed terms. The failure to make any appropriate notation or issue a new Note pursuant to this **Section 8.06** will not impair or affect the validity of such amendment, supplement or waiver.

Section 8.07. TRUSTEE AND COLLATERAL TRUSTEE TO EXECUTE SUPPLEMENTAL INDENTURES.

The Trustee and/or the Collateral Trustee, as the case may be, will execute and deliver any amendment or supplemental indenture authorized pursuant to this **Article 8**; *provided*, *however*, that the Trustee and/or the Collateral Trustee, as the case may be, need not (but may, in ~~its~~their respective sole and absolute discretion) execute or deliver any such amendment or supplemental indenture that adversely affects the ~~Trustee's~~ rights, duties, liabilities or immunities of the Trustee and/or the Collateral Trustee, as the case may be. In executing any amendment or supplemental indenture, the Trustee and/or the Collateral Trustee, as the case may be, will be entitled to receive, and (subject to **Sections 10.01** and **10.02**) will be fully protected in relying on, an Officer's Certificate and an Opinion of Counsel, provided in accordance with **Section 13.02**, each stating that (A) the execution and delivery of such amendment or supplemental indenture is authorized or permitted by this Indenture; and (B) in the case of the Opinion of Counsel, such amendment or supplemental indenture is valid, binding and enforceable against the Company in accordance with its terms. Every amendment or supplement to this Indenture or the Notes will be set forth in an amended or supplemental indenture.

Article 9. SATISFACTION AND DISCHARGE

Section 9.01. TERMINATION OF COMPANY'S OBLIGATIONS.

This Indenture will be discharged, and will cease to be of further effect as to all Notes issued under this Indenture, when:

(A) all Notes then outstanding (other than Notes replaced pursuant to **Section 2.13**) have (i) been delivered to the Trustee for cancellation; or (ii) become due and payable (whether on a Redemption Date, a Fundamental Change Repurchase Date, the Maturity Date, upon conversion or otherwise) for an amount of cash or Conversion Consideration, as applicable, that has been fixed;

(B) the Company or any Guarantor has caused there to be irrevocably deposited with the Trustee, or with the Paying Agent (or, with respect to Conversion Consideration, the Conversion Agent), in each case for the benefit of the Holders, or has otherwise caused there to be delivered to the Holders, cash (or, with respect to Notes to be converted, Conversion Consideration) sufficient to satisfy all amounts or other property (including, if applicable, all related Additional Amounts) due on all Notes then outstanding (other than Notes replaced pursuant to **Section 2.13**);

(C) the Company has performed all other Obligation by it under this Indenture; and

(D) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that the conditions precedent to the discharge of this Indenture have been satisfied;

provided, *however*, that **Article 10** and **Section 11.01** will survive such discharge and, until no Notes remain outstanding, **Section 2.15** and the obligations of the Trustee, the Paying Agent and

the Conversion Agent with respect to money or other property deposited with them will survive such discharge.

At the Company's written request, the Trustee will acknowledge the satisfaction and discharge of this Indenture.

Section 9.02. Repayment To Company.

Subject to applicable unclaimed property law, the Trustee, the Paying Agent and the Conversion Agent will promptly notify the Company if there exists (and, at the Company's request, promptly deliver to the Company) any cash, Conversion Consideration or other property held by any of them for payment or delivery on the Notes that remain unclaimed two (2) years after the date on which such payment or delivery was due. After such delivery to the Company, the Trustee, the Paying Agent and the Conversion Agent will have no further liability to any Holder with respect to such cash, Conversion Consideration or other property, and Holders entitled to the payment or delivery of such cash, Conversion Consideration or other property must look to the Company for payment as a general creditor of the Company.

Section 9.03. Reinstatement.

If the Trustee, the Paying Agent or the Conversion Agent is unable to apply any cash or other property deposited with it pursuant to **Section 9.01** because of any legal proceeding or any order or judgment of any court or other governmental authority that enjoins, restrains or otherwise prohibits such application, then the discharge of this Indenture pursuant to **Section 9.01** will be rescinded; *provided*, *however*, that if the Company thereafter pays or delivers any cash or other property due on the Notes to the Holders thereof, then the Company will be subrogated to the rights of such Holders to receive such cash or other property from the cash or other property, if any, held by the Trustee, the Paying Agent or the Conversion Agent, as applicable.

Article 10. TRUSTEE

Section 10.01. Duties of the Trustee.

(A) If an Event of Default has occurred and is continuing, the Trustee will exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(B) Except during the continuance of an Event of Default:

(i) the duties of the Trustee will be determined solely by the express provisions of this Indenture, and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations will be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith or willful misconduct on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon Officer's Certificates or Opinions of Counsel that are provided to the Trustee and conform to the requirements of this Indenture. However, the Trustee will examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(C) The Trustee may not be relieved from liabilities for its gross negligence or willful misconduct, except that:

(i) this paragraph will not limit the effect of **Section 10.01(B)**;

(ii) the Trustee will not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee will not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to **Section 7.06**.

(D) Each provision of this Indenture that in any way relates to the Trustee is subject to paragraphs **(A)**, **(B)** and **(C)** of this **Section 10.01**, regardless of whether such provision so expressly provides.

(E) No provision of this Indenture will require the Trustee to expend or risk its own funds or incur any liability.

(F) The Trustee will not be liable for interest on any money received by it, except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds, except to the extent required by law.

Section 10.02. Rights Of The Trustee.

(A) The Trustee may conclusively rely on any document that it believes to be genuine and signed or presented by the proper Person, and the Trustee need not investigate any fact or matter stated in such document.

(B) Before the Trustee acts or refrains from acting, it may require an Officer's Certificate, an Opinion of Counsel or both. The Trustee will not be liable for any action it takes or omits to take in good faith in reliance on such Officer's Certificate or Opinion of Counsel. The Trustee may consult with counsel; and the advice of such counsel, or any Opinion of Counsel, will constitute full and complete authorization of the Trustee to take or omit to take any action in good faith in reliance thereon without liability.

(C) The Trustee may act through its attorneys and agents and will not be responsible for the misconduct or negligence of any such agent appointed with due care.

(D) The Trustee will not be liable for any action it takes or omits to take in good faith and that it believes to be authorized or within the rights or powers vested in it by this Indenture.

(E) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company will be sufficient if signed by an Officer of the Company.

(F) The Trustee need not exercise any rights or powers vested in it by this Indenture at the request or direction of any Holder unless such Holder has offered the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense that it may incur in complying with such request or direction.

(G) The Trustee will not be responsible or liable for any punitive, special, indirect or consequential loss or damage (including lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(H) The rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be indemnified, are extended to, and will be enforceable by, the Trustee in each of its capacities under this Indenture (including in its capacity as Conversion Agent) and each agent, custodian and other Person employed to act under this Indenture, including the Conversion Agent.

(I) The permissive rights of the Trustee enumerated in this Indenture will not be construed as duties.

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

(K) Except with respect to receipt of payments of principal and interest on the Notes payable by the Company pursuant to **Section 3.01** and any Default or Event of Default information contained in the Officer's Certificate delivered to it pursuant to **Section 3.06(B)**, the Trustee will have no duty to monitor the Company's compliance with or the breach of any representation, warranty or covenant made in this Indenture.

(F) The Trustee shall at no time have any responsibility or liability for or in respect to the legality, validity or enforceability of any Collateral or any arrangement or agreement between the Company and any other Person with respect thereto, or the perfection or priority of any security interest created in any of the Collateral or maintenance of any perfection and priority, or for or with respect to the sufficiency of the Collateral following an Event of Default.

(G) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has received written notice at the Corporate Trust

Office of any event which is in fact such a default, and such notice references the Notes and this Indenture.

Section 10.03. Individual Rights Of The Trustee.

(A) The Trustee, in its individual or any other capacity, may become the owner or pledgee of any Note and may otherwise deal with the Company or any of its Affiliates with the same rights that it would have if it were not Trustee; *provided*, *however*, that if the Trustee acquires a "conflicting interest" (within the meaning of Section 310(b) of the Trust Indenture Act), then it must eliminate such conflict within ninety (90) days or resign as Trustee. Each Note Agent will have the same rights and duties as the Trustee under this **Section 10.03**.

Section 10.04. Trustee's Disclaimer.

The Trustee will not be (A) responsible for, and makes no representation as to, the validity or adequacy of this Indenture or the Notes; (B) accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture; (C) responsible for the use or application of any money received by any Paying Agent other than the Trustee; and (D) responsible for any statement or recital in this Indenture, the Notes or any other document relating to the sale of the Notes or this Indenture, other than the Trustee's certificate of authentication.

Section 10.05. Notice Of Defaults.

If a Default or Event of Default occurs, then the Trustee will send Holders a notice of such Default or Event of Default within ninety (90) days after it occurs or, if it is not known to the Trustee at such time, promptly (and in any event within ten (10) Business Days) after it becomes known to a Responsible Officer; *provided*, *however*, that, except in the case of a Default or Event of Default in the payment of the principal of, or interest on, any Note, the Trustee may withhold such notice if and for so long as it in good faith determines that withholding such notice is in the interests of the Holders. The Trustee will not to be charged with knowledge of any Default or Event of Default, or knowledge of any cure of any Default or Event of Default, unless written notice of such Default or Event of Default, or of such cure of any Default or Event of Default, has been given by the Company or any Holder to a Responsible Officer of the Trustee.

Section 10.06. Compensation And Indemnity.

(A) The Company will, from time to time, pay the Trustee reasonable compensation for its acceptance of this Indenture and services under this Indenture. The Trustee's compensation will not be limited by any law on compensation of a trustee of an express trust. In addition to the compensation for the Trustee's services, the Company will reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it under this Indenture, including the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

(B) The Company will indemnify the Trustee against any and all losses, liabilities or expenses incurred by it arising out of or in connection with the acceptance and administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company (including this **Section 10.06**) and defending itself against any claim (whether asserted by the Company, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties under this Indenture, except to the extent any such loss, liability or expense may be attributable to its gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. The Trustee will promptly notify the Company of any claim for which it may seek indemnity, but the Trustee's failure to so notify the Company will not relieve the Company of its obligations under this **Section 10.06(B)**. The Company will defend such claim, and the Trustee will cooperate in such defense. If the Trustee is advised by counsel that it may have defenses available to it that are in conflict with the defenses available to the Company, or that there is an actual or potential conflict of interest, then the Trustee may retain separate counsel, and the Company will pay the reasonable fees and expenses of such counsel (including the reasonable fees and expenses of counsel to the Trustee incurred in evaluating whether such a conflict exists). The Company need not pay for any settlement of any such claim made without its consent, which consent will not be unreasonably withheld.

(C) The obligations of the Company under this **Section 10.06** will survive the resignation or removal of the Trustee and the satisfaction or discharge of this Indenture.

(D) To secure the Company's payment obligations in this **Section 10.06**, the Trustee will have a lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal of, or interest on, particular Notes, which lien will survive the discharge of this Indenture.

(E) If the Trustee incurs expenses or renders services after an Event of Default pursuant to **Section 7.01(A)(xi)** or **7.01(A)(xii)** occurs, then such expenses and the compensation for such services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

Section 10.07. Replacement Of The Trustee.

(A) Notwithstanding anything to the contrary in this **Section 10.07**, a resignation or removal of the Trustee, and the appointment of a successor Trustee, will become effective only upon such successor Trustee's acceptance of appointment as provided in this **Section 10.07**.

(B) The Trustee may resign at any time and be discharged from the trust created by this Indenture by so notifying the Company. The Majority Holders ~~of a majority in aggregate principal amount of the Notes then outstanding~~ may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee if:

(i) the Trustee fails to comply with **Section 10.09**;

(ii) the Trustee is adjudged to be bankrupt or insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(iii) a custodian or public officer takes charge of the Trustee or its property; or

(iv) the Trustee becomes incapable of acting.

(C) If the Trustee resigns or is removed, or if a vacancy exists in the office of Trustee for any reason, then (i) the Company will promptly appoint a successor Trustee; and (ii) at any time within one (1) year after the successor Trustee takes office, the Majority Holders ~~of a majority in aggregate principal amount of the Notes then outstanding~~ may appoint a successor Trustee to replace such successor Trustee appointed by the Company.

(D) If a successor Trustee does not take office within sixty (60) days after the retiring Trustee resigns or is removed, then the retiring Trustee (at the expense of the Company), the Company or the Holders of at least ten percent (10%) in aggregate principal amount of the Notes then outstanding may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(E) If the Trustee, after written request by a Holder of at least six (6) months, fails to comply with **Section 10.09**, then such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(F) A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Company, upon which notice the resignation or removal of the retiring Trustee will become effective and the successor Trustee will have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee will send notice of its succession to Holders. The retiring Trustee will, upon payment of all amounts due to it under this Indenture, promptly transfer all property held by it as Trustee to the successor Trustee, which property will, for the avoidance of doubt, be subject to the lien provided for in **Section 10.06(D)**.

(G) The successor Trustee shall concurrently with its appointment as the successor Trustee accede as a party to the Intercreditor Agreement.

Section 10.08. Successor Trustee By Merger, Etc.

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, then such corporation will become the successor Trustee without any further act.

Section 10.09. Eligibility; Disqualification.

There will at all times be a Trustee under this Indenture that is a corporation organized and doing business under the laws of the United States of America or of any state thereof, that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or

examination by federal or state authorities and that has a combined capital and surplus of at least $50.0 million as set forth in its most recent published annual report of condition.

Article 11. COLLATERAL AND SECURITY

Section 11.01. COLLATERAL.

(A) The Obligations will be secured by a Lien on the Collateral, subject to Permitted Liens and perfection in accordance with the terms of this Indenture and the Security Documents, subject to the terms of the Intercreditor Agreement.

Section 11.02. SECURITY DOCUMENTS.

(A) The Security Documents to be entered into by the applicable Company Indenture Parties on or after the Issue Date, in each case, shall create the first priority Liens on the Collateral securing their respective Obligations, subject to the terms of the Intercreditor Agreement. In the event of a conflict between the terms of this Indenture and the Security Documents in regards to the Collateral, ~~the Security Documents~~this Indenture shall control. The Company will take, and will cause its Subsidiaries to take any and all actions reasonably required to cause the Security Documents to create and maintain, as security for the Obligations hereunder, a valid and enforceable first priority Lien in and on all the Collateral, in favor of the Collateral Trustee for the benefit of the Holders, the Trustee and the Collateral Trustee, subject to Permitted Liens ~~and~~, the terms of the Security Documents and the terms of the Intercreditor Agreement and perfected in accordance with the terms of this Indenture and the Security Documents.

Section 11.03. AUTHORIZATION OF ACTIONS TO BE TAKEN.

(A) Each Holder of Notes, by its acceptance thereof, hereby designates and appoints the Collateral Trustee as its agent under this Indenture ~~and~~, the Security Documents and the Intercreditor Agreement and each Holder by acceptance of the Notes consents and agrees to the terms of each Security Document and the Intercreditor Agreement, as originally in effect and as amended, supplemented or replaced from time to time in accordance with its terms or the terms of this Indenture and the Intercreditor Agreement, authorizes and directs the Collateral Trustee to enter into the Security Documents and the Intercreditor Agreement, and irrevocably authorizes and empowers the Collateral Trustee to perform its obligations and duties, exercise its rights and powers and take any action permitted or required thereunder that are expressly delegated to the Collateral Trustee by the terms of this Indenture ~~and~~, the Security Documents. ~~The~~ and the Intercreditor Agreement. Subject to the terms of the Intercreditor Agreement, the Collateral Trustee shall hold (directly or through any agent) and is directed by each Holder to so hold, and shall be entitled to enforce (in accordance with the terms of the Security Documents and subject to the terms of the Intercreditor Agreement) on behalf of the Holders all Liens on the Collateral created by the Security Documents for their benefit.

(B) Subject to the provisions of the applicable Security Documents and the Intercreditor Agreement, the Trustee and each Holder, by acceptance of any Notes, agrees that (x) the Collateral Trustee may, in its sole discretion and without the consent of the Trustee or the

Holders, take all actions it deems necessary or appropriate, subject to the terms of the Intercreditor Agreement, in order to (i) preserve the Collateral or rights under the Security Documents, and (ii) collect and receive any and all amounts payable in respect of the Obligations of the Company and the Guarantors hereunder and under the Indenture Documents and (y) the Collateral Trustee shall, subject to the terms of the Intercreditor Agreement, have power to institute and to maintain such suits and proceedings as it may deem expedient to protect or enforce the Liens securing the Obligations and/or to prevent any impairment of the Collateral by any act that may be unlawful or in violation of the Indenture Documents, and such suits and proceedings as the Collateral Trustee may deem expedient to preserve or protect its interests and the interests of the Holders in the Collateral (including the power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the security interest thereunder or be prejudicial to the interests of the Collateral Trustee, the Holders or the Trustee). Notwithstanding the foregoing, the Collateral Trustee may, at the expense of the Company, request the written direction of the Holders with respect to any such actions and upon receipt of the written consent of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture (subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction), shall take such actions. ~~Until~~Subject to the terms of the Intercreditor Agreement, until the Notes and the other Obligations are discharged in full or are otherwise no longer outstanding, all remedies and Enforcement Actions in respect of the Collateral and any foreclosure actions in respect of any Liens on all or any portion of the Collateral, and all actions, undertakings or consents by the Collateral Trustee in respect of all or any portion of the Collateral, in each case, shall be undertaken solely at the written instruction of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture, subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction.

(C) Unless expressly provided to the contrary in any Indenture Document ~~or Notes Purchase Agreement~~, in relation to any Collateral governed by the laws of Switzerland (the "**Swiss Security Documents**") or Italian Security Documents, as the case may be:

(i) the Collateral Trustee:

A. holds:

(1) any Collateral created or evidenced or expressed to be created or evidenced under or pursuant to a Swiss Security Document by way of a security assignment (*Sicherungsabtretung*) or transfer for security purposes (*Sicherungsübereignung*) or any other non-accessory (*nicht akzessorische*) Collateral;

(2) the benefit of any Collateral Trustee Claims; and

(3) any proceeds and other benefits of such Collateral,

(4) as fiduciary (*treuhänderisch*) in its own name but for the account of all relevant Secured Parties which have the benefit of such Collateral in accordance with this Indenture and the respective Swiss Security Document and so that they are not available to the personal creditors of the Collateral Trustee; and

B. In respect of any Italian Security Documents (as defined below) where the relevant Collateral cannot be granted to the Collateral Trustee by way of trust, the Collateral Trustee declares that, in respect of such Italian Security Documents, it shall (to the extent possible under applicable law) hold such Collateral as *mandatario con rappresentanza* and representative for the security pursuant to article 2414-bis of the Italian Civil Code of the relevant Secured Parties on the terms contained in this Indenture;

(ii) each present and future Secured Party hereby authorizes the Collateral Trustee:

(1) to (a) accept and execute as its direct representative (*direkter Stellvertreter*) any Swiss law pledge or any other Swiss law accessory (*akzessorische*) Collateral created or evidenced or expressed to be created or evidenced under or pursuant to a Swiss Security Document for the benefit of such Secured Party and (b) hold, administer and, if necessary, enforce any such Collateral on behalf of each relevant Secured Party which has the benefit of such Collateral;

(2) to agree as its direct representative (*direkter Stellvertreter*) to amendments and alterations to any Swiss Security Document which creates or evidences or expressed to create or evidence a pledge or any other Swiss law accessory (*akzessorische*) Collateral;

(3) to effect as its direct representative (*direkter Stellvertreter*) any release of a Collateral created or evidenced or expressed to be created or evidenced under a Swiss Security Document in accordance with this Indenture; and

(4) to exercise as its direct representative (*direkter Stellvertreter*) such other rights granted to the Collateral Trustee hereunder or under the relevant Swiss Security Document;

(iii) each present and future Secured Party hereby authorizes the Collateral Trustee, when acting in its capacity as creditor of the Collateral Trustee Claim, to hold:

(1) any Swiss law pledge or any other Swiss law accessory (*akzessorische*) Collateral;

(2) any proceeds of such Collateral; and

(3) the benefit of this paragraph and of the Collateral Trustee Claims;

(iv) as creditor in its own right but for the benefit of the Secured Parties in accordance with this Indenture.

(D) in relation to any Collateral governed by the laws of the Republic of Italy (the "**Italian Security Documents**") each present and future Secured Party hereby:

(i) appoints, with the express consent pursuant to articles 1394 and 1395 of the Italian Civil Code, the Collateral Trustee to act as its agent with representative powers (*mandatario con rappresentanza*) and special attorney-in-fact (*procuratore speciale*) and representative for the security pursuant to article 2414-bis of the Italian Civil Code so that, acting in the name and on behalf of each Secured Party, but also in its own name and on its own interest, it takes all the actions that it considers proper or necessary as provided under this Indenture and executes, also in the name and on behalf of the Secured Parties, the Italian Security Documents, and the Collateral Trustee hereby accepts such appointment;

(ii) grants the Collateral Trustee the power to negotiate and approve the terms and conditions of such Italian Security Documents and any amendment and/or restatement, confirmation and/or confirmation and extension thereof, execute any other agreement or instrument, give or receive any notice or declaration, identify and specify to third parties the names of the Secured Parties at any given date, collect any and all amounts due to the Secured Parties under each Italian Security Document and take any other action in relation to the creation, perfection, maintenance, confirmation and extension, enforcement and release of the security created thereunder and the performance of the Italian Security Documents, any amendments and/or waivers thereof which is made in accordance with this Indenture and any other such agreement, instrument, notices or declaration, in each case in the name and on behalf of the Secured Parties;

(iii) confirms that the Collateral Trustee is entitled to release any Italian Security Documents upon payment in full of any amounts due thereunder before the expiry of the applicable claw-back or ineffectiveness period, subject to satisfaction of the conditions set out in the relevant Italian Security Documents;

(iv) confirms that in the event that any security created under any Italian Security Documents remains registered in the name of a Secured Party after it has ceased to be a Secured Party, then the Collateral Trustee shall remain empowered to execute a release of such security in its name and on its behalf;

(v) undertakes to grant any power of attorney as it might be needed or appropriate for the Collateral Trustee to act in accordance with and within the limits of this Indenture and any Italian Security Document;

(vi) undertakes to ratify and approve any such action taken in the name and on behalf of the Secured Parties by the Collateral Trustee acting in its appointed capacity;

(vii) confirms that the Collateral Trustee has authority to accept on its behalf the terms of any reliance letter or engagement letter relating to any reports or letters provided in connection with the Italian Security Document or the transactions contemplated therein, to bind it in respect of those reports or letters and to sign that reliance letter or engagement letter on its behalf and, to the extent that reliance letter or engagement letter has already been entered into, ratifies those actions;

(viii) confirms that it accepts the terms and qualifications set out in that reliance letter or engagement letter; and

(ix) acknowledges and agrees that the Collateral Trustee may enter in its name and on its behalf as agent with representative powers (*mandatario con rappresentanza*) into contractual arrangements pursuant to or in connection with the Italian Security Documents to which the Collateral Trustee is also a party (in its capacity as agent, trustee, *mandatario con rappresentanza*, representative for the security pursuant to article 2414-bis of the Italian Civil Code or otherwise) and expressly authorizes the Collateral Trustee, pursuant to article 1395 of the Italian Civil Code. The Secured Parties expressly waive any right they may have under article 1394 of the Italian Civil Code in respect of contractual arrangements entered into by the Collateral Trustee in their name and on their behalf pursuant to or in connection with the Italian Security Documents, in each case to the extent legally possible to such Secured Party.

(E) Notwithstanding anything else to the contrary herein, whenever reference is made in this Indenture to any discretionary action by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by the Collateral Trustee or to any election, decision, opinion, acceptance, use of judgment, expression of satisfaction, reasonable satisfaction or other exercise of discretion, rights or remedies to be made (or not to be made) by the Collateral Trustee, it is understood that in all cases the Collateral Trustee shall be fully justified in failing or refusing to take any such action under this Indenture if it shall not have received such written instruction, advice or concurrence of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture, subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction, as it deems appropriate. This provision is intended solely for the benefit of the Collateral Trustee and its successors and permitted assigns and is not intended to and will not entitle the other parties hereto to any defense, claim or counterclaim, or confer any rights or benefits on any party hereto.

Section 11.04. PARALLEL DEBT

(A) In this Section 11.04:

"**Collateral Trustee Claim**" has the meaning given to it in Section 11.04(C) below; and

"**Secured Party Claim**" means any amount which a Company Indenture Party owes to a Secured Party under and in connection with the Indenture Documents.

(B) As relevant, any Collateral created pursuant to a Security Document (other than for any Italian Security Document) is granted to the Collateral Trustee in its individual capacity as an independent creditor of the Collateral Trustee Claim created pursuant to this Section 11.04.(D).

(C) Subject to **Section 12.06** (*Guarantee Limitations*), each Company Indenture Party must pay the Collateral Trustee, as an independent and separate creditor, in its own right and not as a trustee, agent or representative of the other Secured Parties, an amount equal to its Secured Party Claim on its due date when that amount falls due for payment under the relevant Indenture Document (each a "**Collateral Trustee Claim**").

(D) Each Collateral Trustee Claim is created on the understanding that the Collateral Trustee must:

(i) ~~(1)~~ share the proceeds of each Collateral Trustee Claim with itself and the other Secured Parties; and

(ii) ~~(2)~~ pay those proceeds to the Secured Parties,

(iii) in accordance with Section 7.11 subject to limitations (if any) expressly provided for in any Security Document.

(E) The Collateral Trustee may, subject to any indemnification and/or prefunding and/or security to its satisfaction and its rights in **Section 11.07** (*Collateral Trustee*), demand and receive payment and enforce performance of any Collateral Trustee Claim in its own name as an independent and separate right. This includes any payment demand, suit, execution, enforcement of security, recovery of guarantees and applications for and voting in respect of any kind of insolvency proceeding. Each Company Indenture Party shall have all objections and defenses against a Collateral Trustee Claim as such Company Indenture Party has against a Secured Party Claim.

(F) Each Company Indenture Party irrevocably and unconditionally waives any right it may have to require a Secured Party to join in any proceedings as co-claimant with the Collateral Trustee in respect of any Collateral Trustee Claim.

(G) The Collateral Trustee Claims do not limit or affect the existence of the Secured Party Claims for which the Secured Parties have an independent right to demand payment.

(H) Discharge by a Company Indenture Party of a Secured Party Claim will discharge the corresponding Collateral Trustee Claim in the same amount.

(I) Discharge by Company Indenture Party of a Collateral Trustee Claim will discharge the corresponding Secured Party Claim in the same amount.

(J) The aggregate amount of the Collateral Trustee Claims will never exceed the aggregate amount of Secured Party Claims and vice versa.

(K) A defect affecting a Collateral Trustee Claim against a Company Indenture Party will not affect any Secured Party Claim.

(L) A defect affecting a Secured Party Claim against a Company Indenture Party will not affect any Collateral Trustee Claim.

(M) If the Collateral Trustee returns to any Company Indenture Party whether in any kind of insolvency proceedings or otherwise, any recovery in respect of which it has made a payment to a Secured Party, that Secured Party must repay an amount equal to that recovery to the Collateral Trustee; provided that the Collateral Trustee shall have no obligation to make any such return payment until it has received the repayment of the full amount due from the relevant Secured Party.

(N) In no event will the "parallel debt" provisions (including, for the avoidance of doubt, the provisions of this Section 11.05) apply to the Italian Security Documents.

Section 11.05. Release of Collateral

(A) ~~The~~Subject to the terms of the Intercreditor Agreement and applicable law, the Liens securing the Obligations on the applicable Collateral shall be automatically terminated and released without further action by any party (other than satisfaction of any requirements in the Security Documents, if any), in whole or in part, as the case may be: (i) upon any Disposition of any portion of Collateral in accordance with a Disposition permitted under the terms of any Indenture Document (other than a Disposition to a Company Indenture Party); (ii) upon the full and final payment and performance of all Obligations of the Company Indenture Parties under the Indenture Documents or the satisfaction and discharge of this Indenture and the other Indenture Documents in accordance with **Article 9**; (iii) as described under **Section 8.03**; or (iv) if the Collateral is owned by a Guarantor, upon release of such Guarantor from the ~~Guarantee~~Guaranteed Obligations in accordance with the provisions hereof~~; or (v) with respect to the Additional Collateral, immediately upon the repayment, repurchase, redemption or retirement of Notes in an aggregate principal amount of no less than $62,500,000. Notwithstanding anything to the contrary in the Indenture, the Company may, from time to time, repurchase the Notes in an aggregate principal of no less than $62,500,000.~~ .

(B) Without the necessity of any consent of or notice to the Trustee or any Holder of the Notes, any Company Indenture Party may request and instruct the Collateral Trustee to, on behalf of each Holder of Notes, (i) execute and deliver to any Company Indenture Party, as the case may be, for the benefit of any Person, such release documents as may be reasonably requested, of all or any Liens held by the Collateral Trustee in any Collateral securing the Obligations, and (ii) deliver any such assets in the possession of the Collateral Trustee to any Company Indenture Party, as the case may be; and Collateral Trustee shall as soon as practicable take such actions provided that any such release complies with and is expressly permitted in

accordance with the terms of this Indenture ~~and~~, the Security Documents and the Intercreditor Agreement and is accompanied by an ~~Officers'~~Officer's Certificate and an Opinion of Counsel.

(C) The release of any Collateral from the Liens securing the Obligations or the release of, in whole or in part, the Liens securing the Obligations created by any of the Security Document will not be deemed to impair the Liens securing the Obligations in contravention of the provisions hereof if and to the extent the Collateral or the Liens securing the Obligations are released pursuant to the terms of this Indenture ~~and~~, the applicable Security Documents and the Intercreditor Agreement. Each of the Holders of the Notes acknowledges that a release of Collateral or Liens securing the Obligations strictly in accordance with the terms of this Indenture ~~and~~, the Security Documents and the Intercreditor Agreement will not be deemed for any purpose to be an impairment of the Security Documents or otherwise contrary to the terms of this Indenture.

(D) The Company shall furnish to the Collateral Trustee and the Trustee on or prior to any proposed releases of Collateral an Officer's Certificate certifying and an Opinion of Counsel stating that all requirements relating to such release have been complied with and that such release has been authorized by, permitted by and made in accordance with the provisions of this Indenture ~~and~~, the relevant Security Documents and the Intercreditor Agreement. No release of the Collateral shall be effective against the Collateral Trustee, the Trustee or the Holders until the Company has delivered to the Collateral Trustee and the Trustee the Officer's Certificate and the Opinion of Counsel required under this **Section 11.05**.

Section 11.06. Application of Proceeds of Collateral.

(A) Upon any realization upon the Collateral from the exercise of any rights or remedies under any Security Document or any other agreement with any Company Indenture Party which secures any of the Obligations, the proceeds thereof shall, subject to the terms of the Intercreditor Agreement, be applied in accordance with **Section 7.11** of this Indenture.

(B) ~~Each~~Subject to the terms of the Intercreditor Agreement, each of the Collateral Trustee and the Trustee is authorized and empowered to receive any funds collected or distributed under the Security Documents and to apply and distribute such funds according to the provisions of this Indenture.

Section 11.07. Collateral Trustee.

(A) Subject to the provisions of **Section 10.01**, neither the Trustee, nor the Collateral Trustee nor any of their respective officers, directors, employees, attorneys or agents shall be responsible or liable (i) for the legality, enforceability, effectiveness or sufficiency of the Security Documents, for the creation, perfection, priority, sufficiency, maintenance, renewal or protection of any Lien, or for any defect or deficiency as to any such matters, or (ii) for any failure to demand, collect, foreclose or realize upon or otherwise enforce any of the Liens or Security Documents or any delay in doing so; except, in the case of the Collateral Trustee, to the extent such action or omission constitutes gross negligence or willful misconduct (as determined by a final order of a court of competent jurisdiction that is not subject to appeal) on the part of the Collateral Trustee, (iii) for the validity or sufficiency of the Collateral or any agreement or

assignment contained therein, for the validity of the title, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral ~~or~~, (iv) the Intercreditor Agreement or (v) any subordination agreement or other similar agreement entered into in connection with this Indenture.

(B) The rights, privileges, protections, immunities and benefits given to the Trustee under this Indenture, including, without limitation, its right to be indemnified and compensated and all other rights, privileges, protections, immunities and benefits set forth in this Indenture (including those set forth in **Article 10**), are extended to the Collateral Trustee, and its agents, receivers and attorneys, and shall be enforceable by, the Collateral Trustee, as if fully set forth in this **Section 11.07** with respect to the Collateral Trustee, except that the Collateral Trustee shall only be liable for (and shall be indemnified and held harmless to the extent such losses do not constitute) its gross negligence or willful misconduct (as determined by a final order of a court of competent jurisdiction that is not subject to appeal). In acting under any Security Document, the Collateral Trustee shall enjoy the rights, privileges, protections, immunities and benefits that are extended to the Collateral Trustee hereunder. The Collateral Trustee may act through its attorneys and agents and will not be responsible for the misconduct or negligence of any such agent appointed with due care.

(C) Beyond the exercise of reasonable care in the custody of Collateral in its possession, the Collateral Trustee will have no duty as to any Collateral in its possession or control or in the possession or control of any agent or bailee or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto. For the avoidance of doubt, nothing herein shall require the Collateral Trustee to be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any Liens on the Collateral. If, at the direction of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture (subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction), the Trustee or Collateral Trustee agrees to (but shall be under no obligation to do so) file or record any Security Documents or any related financing statement or other similar documents, such filing or recording by the Trustee or Collateral Trustee at the direction of the Holders shall be deemed done by Trustee or Collateral Trustee without representation or warranty by the Trustee or the Collateral Trustee (and the Trustee and the Collateral Trustee disclaim any representation or warranty as to the validity, effectiveness, priority, perfection or otherwise). The Collateral Trustee will be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords property held by it as a collateral agent or any similar arrangement, and the Collateral Trustee will not be liable or responsible for any loss or diminution in the value of any of the Collateral by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Collateral Trustee in good faith.

(D) The Collateral Trustee shall not have any duty to ascertain or inquire as to the performance or observance of any of the terms of this Indenture or any Indenture Document by

the Company or any Company Indenture Party or any other Person that is a party thereto or bound thereby.

(E) The Collateral Trustee shall not be required to acquire title to an asset for any reason and shall not be required to carry out any fiduciary or trust obligation for the benefit of another. The Collateral Trustee is not a fiduciary and shall not be deemed to have assumed any fiduciary obligation. If the Collateral Trustee in its sole discretion believes that any obligation to take or omit to take any action may cause the Collateral Trustee to be considered an "owner or operator" under any Environmental Laws or otherwise cause the Collateral Trustee to incur, or be exposed to, any environmental liability or any liability under any other federal, state or local law, the Collateral Trustee reserves the right, instead of taking such action, either to resign as Collateral Trustee or to arrange for the transfer of the title or control of the asset to a court appointed receiver. The Collateral Trustee will not be liable to any Person for any environmental liability or any environmental claims or contribution actions under any federal, state or local law, rule or regulation by reason of the Collateral Trustee's actions and conduct as authorized, empowered and directed hereunder or relating to any kind of discharge or release or threatened discharge or release of any hazardous materials into the environment.

(F) The Collateral Trustee may resign or be replaced in accordance with the procedures set forth in **Section 10.07** hereof, except that references to the Trustee in such section shall be deemed to be references to the Collateral Trustee for this purpose. If the Collateral Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act will be the successor Collateral Trustee.

Section 11.08. Appointment of the Collateral Trustee for French Transaction Security Documents.

Without prejudice to, and in addition to, the other provisions of **Section 10** and this **Section 11**, each other Secured Party:

(A) appoints the Collateral Trustee to act as security agent (*agent des sûretés*) pursuant to articles 2488-6 et seq. of the French Civil Code acting in such a capacity in respect of the French Security Documents (including any lower ranking French Security Documents to be ~~signed~~ entered into after the ~~Signing Date~~date hereof in order to create security in favor of the Secured Parties); and

(B) irrevocably authorizes (and as the case may be directs) the Collateral Trustee acting as security agent (*agent des sûretés*) within the meaning of article 2488-6 of the French Civil Code without limitation and notwithstanding any other rights conferred upon the Collateral under this Indenture:

(i) to negotiate, accept and execute in its name and for the benefit of each other Secured Party the French Security Documents;

(ii) to take, register, administer and enforce any security interest created or expressed to be created pursuant to a French Security Document and proceed to all

relevant filings and notifications in order to ensure the enforceability of the security interests created pursuant to the French Security Documents;

(iii) to perform the duties and to exercise the rights, powers and discretions that are specifically delegated to it under or in connection with the French Security Documents and in particular to:

(1) enforce the French Security Documents, and, in connection with any enforcement or any step to be taken in connection with any enforcement, to appoint any expert, to collect any sums, to give good discharge for any amount payable and to make any payment (including any Soulte);

(2) take any action in the interest of the Secured Parties in any proceedings including filing a claim for any debt (*déclarer*) owed to a Secured Party;

(3) exercise any of the rights, powers, authorities and discretions which the Secured Parties would have had, if they had been parties as beneficiaries under the French Security Documents including (1) giving any instruction to any third party in connection with any security interest created under a French Security Documents, (2) receiving any payment in respect of any security interest created under a French Security Documents, (3) completing any applicable registration requirements in connection with the French Security Documents and (4) receiving any information which a secured creditor is entitled to receive with respect to any Security Property subject to security interest created under a French Security Documents; and

(4) and more generally to take any action and exercise any right, power, prerogative and discretion upon the Indenture Documents set out in this Indenture or under or in connection with the Security Documents and to protect the rights of the Secured Parties under or in connection with any security interest created thereunder, in each case together with any other right, power, prerogative and discretion which is incidental thereto;

(5) to release the security interest granted under the French Security Documents in accordance with the provisions of **Section 11.04**; and

(6) to take any action and exercise any right, power, authorities and discretion in accordance with the Indenture Documents~~,~~;

in each case, in accordance with the Intercreditor Agreement.

(C) Unless expressly provided to the contrary in any French Security Documents, in accordance with the provisions of article 2488-6 of the French Civil Code, the Collateral Trustee shall hold:

(i) any security interest created under a French ~~Transaction~~ Security Document;

(ii) the proceeds of any security interest created under a French ~~Transaction~~ Security Document; and

(iii) any other rights or assets acquired by the Collateral Trustee in connection with the French Security Documents,

(iv) in its own name (en son nom propre) for the benefit of (*au profit de*) the Secured Parties (together with any of their successors in title and transferees) on the terms contained in this Indenture. The Collateral Trustee shall hold those rights and assets set out in paragraphs (i) to (iii) above in its capacity as *agent des sûretés* and those rights and assets shall constitute, in accordance with article 2488-6 of the French Civil Code, an estate (patrimoine affecté) separate from all the Collateral Trustee's own assets.

(D) In connection with any French Security Documents or any security interest created under a French Security Documents only, it is intended that the Collateral Trustee shall act as agent des sûretés under French law in its relations with any third party, despite the choice of laws of the State of New York as the governing law of this Indenture.

(E) The Collateral Trustee accepts its appointment as "*agent des sûretés*" pursuant to this **Section 11.07** and declares that it holds in its own name the security interest created or expressed to be created pursuant to the French Security Documents in its capacity as Collateral Trustee (*agent des sûretés*) pursuant to articles 2488-6 et seq. of the French Civil Code for the benefit of the Secured Parties on the terms contained in this Indenture and accordingly any action taken by the Collateral Trustee in connection with or for the purposes of the French Security Documents and the security interest created thereunder in accordance with this Indenture and the French Security Documents shall be deemed to be taken by the Collateral Trustee acting as "*agent des sûretés*" in its own name and for the benefit of the Secured Parties.

(F) The Collateral Trustee is under no obligation to file (*déclarer*) a claim for any debt owed by the Company or any Guarantor to a Secured Party in any insolvency proceedings unless:

(i) each relevant Secured Party instructs the Collateral Trustee to file (*déclarer*) such a claim;

(ii) the Collateral Trustee has received all information it deems necessary to file that claim (*déclaration*); ~~and~~

(iii) the Collateral Trustee expressly agrees with each relevant Secured Party to file that claim on that Secured Party's behalf~~.~~; and

(iv) the filing of such claim is in accordance with the terms of the Intercreditor Agreement.

(G) If, the Collateral Trustee enforces a French Security Document by way of Appropriation, the Collateral Trustee shall become, in accordance with the relevant French Security Document and French law, the owner of the Charged Property subject to the appropriation for the benefit of (*au profit de*) the Secured Parties.

(H) If a Soulte is payable as a result of the enforcement of any security interest created under any French Security Document, the Collateral Trustee shall:

(i) determine, for each Secured Party whose Obligations are discharged by that enforcement, the portion of the Soulte which is attributable to the Secured Party, such amount being in proportion with the amount of that Secured Party's Secured Liabilities (as such term is defined in the French Security Documents) (its **Soulte Portion**); and

(ii) promptly notify each relevant Secured Party of its Soulte Portion and the name of each ~~Debtor~~Secured Party which is entitled to receive the Soulte.

(I) In consideration of the Collateral Trustee acting as *agent des sûretés* in connection with any French Security Documents, the Collateral Trustee, the Company, each Guarantor, each security provider under the Indenture Document and each Secured Party agree that each relevant Secured Party is liable to pay in accordance with the provisions of article 2348 of the French Civil Code and the provisions of the relevant French Security Document, its Soulte Portion to the Company, the Guarantor or the relevant security provider, as applicable, which, before the enforcement by way of transfer of ownership of any Charged Property, was the owner of that Charged Property.

(J) Each relevant Secured Party shall pay to the Collateral Trustee its Soulte Portion for payment to the Company, the Guarantor or the relevant security provider under the Indenture Document, as applicable, promptly following any request by the Collateral Trustee. In no circumstances shall the Collateral Trustee in its capacity as security agent or agent (as the case may be) be liable for the payment of any Soulte out of its own assets.

(K) The obligations of each Secured Party in respect of the payment of any Soulte are several. Failure by a Secured Party to pay its Soulte Portion under this **Section 11.08** does not affect the obligations of any other Secured Party to pay its Soulte Portion under this **Section 11.08** and no Secured Party is responsible for the obligations of any other Secured Party under this **Section 11.08(K)**.

(L) The Collateral Trustee may resign, or be required to resign as *agent des sûretés*, only if the Collateral Trustee resigns or is required to resign as Collateral Trustee under **Section 11.07(F)** at the same time.

(M) If the Collateral Trustee resigns, or the Majority ~~Primary Creditors~~Holders requires the Collateral Trustee to resign under:

(i) the Collateral Trustee will be deemed to have resigned from its role as *agent des sûretés* under this **Section 11.08(L)**; and

(ii) the successor Collateral Trustee shall accept its appointment as *agent des sûretés* immediately on the successor Collateral Trustee's appointment under **Section 11.07(F).**

immediately on its acceptance of its appointment as *agent des sûretés* under paragraph (ii) above, all rights and assets held by the Collateral Trustee as *agent des sûretés* will be transferred to the successor Collateral Trustee automatically (*de plein droit*) in accordance with article 2488-11 of the French Civil Code.

Section 11.09. APPOINTMENT OF THE COLLATERAL TRUSTEE FOR GERMAN SECURITY DOCUMENTS.

Without prejudice to, and in addition to, the other provisions of **Section 10** and this **Section 11**, and without limiting any other rights of the Collateral Trustee under this Indenture or any other Indenture Document, in relation to the German Security Documents the following shall apply:

(A) Each other Secured Party hereby appoints and authorizes the Collateral Trustee to:

(i) hold and administer:

(1) and, as the case may be, release and (subject to it having become enforceable) realize any security interest granted under any German Security Document (each, a "**German Security Interest**") that is constituted by way of a transfer of title or assignment by way of security (*Sicherungseigentum/Sicherungsabtretung*) or by way of any other non-accessory security right (*nicht akzessorische Sicherheit*);

(2) the benefit of this paragraph (i); and

(3) any proceeds of such German Security Interest,

as trustee in its own name but for the benefit of all relevant Secured Parties (other than the Collateral Trustee) (each, a "**German Secured Party**") that have the benefit of such German Security Interest in accordance with this Indenture or any other Indenture Document and the respective German Security Document;

(ii) administer and, as the case may be, release and (subject to it having become enforceable) realize any German Security Interest that is created in favor of the Collateral Trustee or the German Secured Parties (or any of them) by way of a pledge (*Verpfändung*) or any other German law accessory security right (*akzessorische Sicherheit*); and

(iii) if and when acting in its capacity as creditor of the Collateral Trustee Claim, hold and administer and, as the case may be, release and (subject to it having become enforceable) realize:

(1) any German Security Interest that is created in favor of the Collateral Trustee as creditor of the Collateral Trustee Claim by way of a pledge (*Verpfändung*) or any other German law accessory security right (*akzessorische Sicherheit*);

(2) any proceeds of such German Security Interest; and

(3) the benefit of this paragraph (iii) and of the Collateral Trustee Claim,

as creditor in its own right but for the benefit of the German Secured Parties in accordance with this Indenture.

(B) Each German Secured Party hereby ratifies and approves all acts done by the Collateral Trustee on such German Secured Party's behalf before execution of this Indenture, or the relevant German Secured Party's accession to this Indenture, as the case may be, including, for the avoidance of doubt, the declarations made by the Collateral Trustee as representative without power of attorney (*Vertreter ohne Vertretungsmacht*) in relation to the creation of any pledge (*Pfandrecht*) on behalf and for the benefit of any German Secured Party in respect of any German Security Document.

(C) The Collateral Trustee shall, and is hereby authorized by each of the German Secured Parties to, execute on behalf of itself and each other German Secured Party, without the need for any further referral to, or authority from, any other person, all necessary releases or confirmations of any security created under the German Security Documents. The Collateral Trustee and each of the German Secured Parties hereby agree that, in relation to the German Security Documents, no German Secured Party shall exercise any independent power to enforce any German Security Interest or take any other action in relation to the enforcement of the German Security Interests, or make or receive any declarations in relation thereto.

(D) Each German Secured Party hereby irrevocably instructs and authorizes the Collateral Trustee (with the right of sub-delegation) to act on its behalf and, if required under requirements of law or if otherwise appropriate, in its name and on its behalf in connection with the preparation, execution and delivery of the German Security Documents, the perfection and monitoring of the German Security Documents and the rescission, release or amendment of the German Security Documents, and to enter into any documents evidencing German Security Interests and to make and accept all declarations and take all actions it considers necessary or useful in connection with any German Security Interest on behalf of such German Secured Party. The Collateral Trustee is hereby authorized by each German Secured Party to make all statements necessary or appropriate in connection with the foregoing. The Collateral Trustee shall further be entitled to rescind, release, amend or execute, on behalf of each German Secured Party, any additional documents securing the German Security Interest.

(E) At the request of the Collateral Trustee, each German Secured Party shall provide the Collateral Trustee with a separate written power of attorney (*Spezialvollmacht*) for the purposes of executing any relevant agreements and documents on its behalf.

Section 11.10. ~~**Section 11.09.**~~ **Appointment of Supplemental Collateral Trustee.**

(A) Without limiting paragraphs of this **Article 11** hereof, the Company is hereby authorized to appoint an additional individual or institution selected by the Company in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral trustee, sub-trustee, administrative sub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually as a "**Supplemental Collateral Trustee**" and collectively as "**Supplemental Collateral Trustees**") by executing one or more supplemental indentures hereto.

(B) In the event that the Company appoints a Supplemental Collateral Trustee with respect to any Collateral, (i) subject to the terms of the Intercreditor Agreement, each and every right, power, privilege or duty expressed or intended by this Indenture or any of the other Security Documents (other than the rights arising in respect of the ~~Parallel Debt~~Collateral Trustee Claim under **Section 11.04**) to be exercised by or vested in or conveyed to such Supplemental Collateral Trustee with respect to such Collateral shall be exercisable by and vest in such Supplemental Collateral Trustee to the extent, and only to the extent, necessary to enable such Supplemental Collateral Trustee to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Security Documents and necessary to the exercise or performance thereof by such Supplemental Collateral Trustee (other than covenants and obligations relating to the ~~Parallel Debt~~Collateral Trustee Claim) shall run to and be enforceable by such Supplemental Collateral Trustee, and (ii) the provisions of this Indenture (and, in particular, this **Article 11**) that refer to the Collateral Trustee shall inure to the benefit of such Supplemental Collateral Trustee and all references therein to the Collateral Trustee shall be deemed to be references to a Collateral Trustee and/or such Supplemental Collateral Trustee, as the context may require.

(C) The Company hereby appoints the Philippine Supplemental Collateral Trustee as the collateral trustee in respect of the Philippine Collateral.

(D) The Philippine Supplemental Collateral Trustee agrees, with respect to the Philippine Collateral, (i) subject to the terms of the Intercreditor Agreement, each and every right, power, privilege or duty expressed or intended by this Indenture or the Philippine Security Document (other than the rights arising in respect of the ~~Parallel Debt~~Collateral Trustee Claim under **Section 11.04**) to be exercised by or vested in or conveyed to the Philippine Supplemental Collateral Trustee with respect to the Philippine Collateral shall be exercisable by and vest in the Philippine Supplemental Collateral Trustee to the extent, and only to the extent, necessary to enable the Philippine Supplemental Collateral Trustee to exercise such rights, powers and privileges with respect to the Philippine Collateral and to perform such duties with respect to Philippine Collateral, and every covenant and obligation contained in the Philippine Security Document and necessary to the exercise or performance thereof by the Philippine Supplemental

Collateral Trustee (other than covenants and obligations relating to the ~~Parallel Debt~~Collateral Trustee Claim) shall run to and be enforceable by the Philippine Supplemental Collateral Trustee, and (ii) the provisions of this Indenture (and, in particular, this **Article 11**) that refer to the Collateral Trustee shall inure to the benefit of the Philippine Supplemental Collateral Trustee and all references therein to the Collateral Trustee shall be deemed to be references to a Collateral Trustee and/or the Philippine Supplemental Collateral Trustee, as the context may require.

Article 12. GUARANTEES

Section 12.01. Subsidiary Guarantees

(A) Subject to this **Article 12**, each of the Guarantors hereby, jointly and severally, unconditionally guarantees, on a senior secured basis, as primary obligors and not as a surety, to each Holder (and its successors and assigns) of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes, the Indenture Documents and/or the Obligations of the Company:

(i) that the principal of, interest on, or any other amount payable to the Holders, under the Notes shall be promptly paid in full or performed when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest (including but not limited to any interest, fees, costs or charges that would accrue but for the provisions of applicable Bankruptcy Law after any insolvency proceeding), on the Notes, if any, if lawful; and

(ii) that in the case of any extension of time of payment or renewal of any Notes or the payment of any other amount payable to the Holders, the same shall be promptly paid in full when due (such obligations in **clauses (i)** and **(ii)** being herein collectively called the "**Guaranteed Obligations**")

(B) Failing payment when so due of any amount so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. An Event of Default under this Indenture or the Notes shall constitute an event of default under the Subsidiary Guarantees, and shall entitle the Holders to accelerate the obligations of the Guarantors hereunder in the same manner and to the same extent as the obligations of the Company.

(C) The Guarantors hereby agree that their obligations hereunder shall be absolute, irrevocable and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of the Notes, this Indenture, the Indenture Documents or any other agreement or instrument referred to herein or therein, the absence of any action to enforce the same, any waiver or consent by any Holder with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance (other than complete performance) which might otherwise constitute a legal or equitable discharge or defense of a surety ~~or~~of Guarantor, all to the fullest extent permitted by law. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not alter or impair the liability of the Guarantors hereunder which

remain absolute, irrevocable and unconditional under any and all circumstances as described above, to the fullest extent permitted by law:

(i) at any time or from time to time, without notice to the Guarantors, the time for any performance of or compliance with any of the Guaranteed Obligations shall be extended, or such performance or compliance shall be waived;

(ii) any of the acts mentioned in any of the provisions of this Indenture or the Notes, if any, or any other agreement or instrument referred to herein or therein shall be done or omitted;

(iii) the maturity of any of the Guaranteed Obligations shall be accelerated, or any of the Guaranteed Obligations shall be amended in any respect, or any right under the Indenture, Notes, or any other agreement or instrument referred to herein or therein shall be amended or waived in any respect or any other guarantee of any of the Guaranteed Obligations or any security therefor shall be released or exchanged in whole or in part or otherwise dealt with;

(iv) any Lien or security interest granted to, or in favor of any Holder, the Collateral Trustee or the Trustee as security for any of the Guaranteed Obligations shall fail to be perfected; or

(v) the release of any other Guarantor.

(D) Each Guarantor further, to the fullest extent permitted by law, hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenants that its Subsidiary Guarantee will not be discharged except by complete performance of the obligations contained in the Notes and this Indenture.

(E) Until terminated in accordance with **Section 12.05**, each Subsidiary Guarantee shall, to the fullest extent permitted by law, remain in full force and effect and continue to be effective should any petition be filed by or against the Company for liquidation, reorganization, should the Company become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee or other similar officer be appointed for all or any significant part of the Company's assets, and shall, to the fullest extent permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment of the Notes are, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on the Notes or Subsidiary Guarantees, whether as a "voidable preference," "fraudulent transfer" or otherwise, all as though such payment had not been made. In the event that any payment or any part thereof, is rescinded, reduced, restored or returned, the Notes shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

(F) Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (a) the maturity of the obligations guaranteed

hereby may be accelerated as provided in **Section 7.02** hereof (and shall be deemed to have become automatically due and payable in the circumstances in said **Section 7.02**) for the purposes of its Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed thereby, and (b) in the event of any declaration of acceleration of such obligations as provided in **Section 7.02** hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantor for the purpose of its Subsidiary Guarantee. The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Subsidiary Guarantees.

(G) Each Guarantor also agrees to pay any and all costs and expenses (including reasonable attorneys' fees) incurred by the Trustee or the Collateral Trustee in enforcing any rights under the Indenture Documents.

(H) Each Guarantor shall be subrogated to all rights of Holders against the Company in respect of any amounts paid by such Guarantor pursuant to the provisions of this **Section 12.01**; provided that, no Guarantor shall be entitled to enforce or receive any payments arising out of, or based upon, such right of subrogation until all amounts then due and payable by the Company under this Indenture, the Notes or the Indenture Documents shall have been paid in full in cash.

(I) Each payment to be made by a Guarantor in respect of its Subsidiary Guarantee shall be made without set-off, counterclaim, reduction or diminution of any kind or nature.

(H) Each Subsidiary Guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held in connection with the Indenture Documents or any of them.

Section 12.02. EXECUTION AND DELIVERY

(A) To evidence its Subsidiary Guarantee set forth in **Section 12.01** hereof, each Guarantor hereby agrees that this Indenture (or a supplemental indenture) shall be executed on behalf of such Guarantor by one of its authorized officers.

(B) Each Guarantor hereby agrees that its Subsidiary Guarantee set forth in **Section 12.01** hereof shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Subsidiary Guarantee on the Notes. If an officer whose signature is on this Indenture (or a supplemental indenture) no longer holds that office at the time the Trustee authenticates a Note, the Subsidiary Guarantee of such Guarantor shall be valid nevertheless.

(C) The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Subsidiary Guarantee set forth in this Indenture on behalf of the Guarantors.

Section 12.03. [RESERVED].

Section 12.04. RELEASES OF SUBSIDIARY GUARANTEES.

(A) The Subsidiary Guarantee of a Guarantor shall be automatically and unconditionally released: (1) in connection with (x) any Disposition (including by way of merger or consolidation) of the Capital Stock of such Guarantor (or the Capital Stock of the direct parent of such Guarantor) to a Person that is not (either before or after giving effect to such transaction) a Company Indenture Party or an affiliate of a Company Indenture Party, to the extent such sale is permitted hereunder or (y) any sale or other Disposition of all or substantially all of the properties or assets of that Guarantor, by way of merger, consolidation or otherwise solely to the extent that such sale or other Disposition is permitted pursuant to **Section 6.01** and so long as such Disposition is not to a Company Indenture Party or an affiliate of a Company Indenture Party; (2) the liquidation or dissolution of such Guarantor; *provided* that no Event of Default occurs as a result thereof or has occurred or is continuing; (3) upon satisfaction and discharge of this Indenture and the other Indenture Documents in accordance with **Article 9**; or (4) upon payment of the Obligations in full in immediately available funds.

(B) Upon delivery by the Company to the Trustee of an ~~Officers'~~Officer's Certificate or an Opinion of Counsel to the effect that any of the conditions described in the foregoing **clauses (1)**, **(2)**, or **(3)** of **Section 12.04(A)** has occurred and the conditions precedent to such transactions provided for in this Indenture have been complied with, the Trustee shall promptly execute any documents reasonably requested by the Company in order to evidence the release of any Guarantor from its obligations under its Subsidiary Guarantee. Any Guarantor not released from its obligations under its Subsidiary Guarantee shall remain liable for the full amount of principal of and interest, premium, if any, on, the Notes and for the other obligations of such Guarantor under this Indenture as provided in this **Article 12**.

(C) Further, the Subsidiary Guarantees are not convertible and will automatically terminate when the Notes are all converted in full in accordance with **Article 5**.

Section 12.05. INSTRUMENT FOR THE PAYMENT OF MONEY.

(A) Each Guarantor hereby acknowledges that the guarantee in this **Article 12** constitutes an instrument for the payment of money, and consents and agrees that any Holder (to the extent that the Holder is otherwise entitled to exercise rights and remedies hereunder) or the Trustee, at its sole option, in the event of a dispute by such Guarantor in the payment of any moneys due hereunder, shall have the right to bring a motion-action under New York CPLR Section 3213 to the extent permitted thereunder.

Section 12.06. LIMITATION ON GUARANTOR LIABILITY

(A) Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Subsidiary Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of any bankruptcy law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law or any comparable laws in any other jurisdiction to the extent applicable to any Subsidiary

Guarantee. The obligations of each Guarantor under its Subsidiary Guarantee will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under its Subsidiary Guarantee or pursuant to its contribution obligations under this Indenture, result in the obligations of such Guarantor under its Subsidiary Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law or any comparable laws in any other jurisdiction and not otherwise being void or voidable under any similar laws affecting the rights of creditors generally.

(B) Limitation with respect to Swiss Guarantors

(i) If and to the extent a Guarantor incorporated in Switzerland (a "**Swiss Guarantor**") becomes directly or indirectly liable under this Indenture or any other Indenture Documents ~~or Notes Purchase Agreement~~ for obligations of any other Company Indenture Party (other than the wholly owned direct or indirect subsidiaries of such Swiss Guarantor) (the "**Restricted Obligations**") and if complying with such obligations would constitute a repayment of capital (*Einlagerückgewähr*), a violation of the legally protected reserves (*gesetzlich geschützte Reserven*) or the payment of a (constructive) dividend (*Gewinnausschüttung*) by such Swiss Guarantor or would otherwise be restricted under Swiss law and practice then applicable, such Swiss Guarantor's aggregate liability for Restricted Obligations shall not exceed the amount of the Swiss Guarantor's freely disposable equity (*frei verfügbares Eigenkapital*) at the time it becomes liable including, without limitation, any statutory reserves which can be transferred into unrestricted, distributable reserves, in accordance with Swiss law (the "**Freely Disposable Amount**").

(ii) This limitation shall only apply to the extent it is a requirement under applicable law at the time the Swiss Guarantor is required to perform Restricted Obligations under any Indenture Document ~~or Notes Purchase Agreement~~. Such limitation shall not free the Swiss Guarantor from its obligations in excess of the Freely Disposable Amount, but merely postpone the performance date thereof until such times when the Swiss Guarantor has again freely disposable equity.

(iii) If the enforcement of the obligations of the Swiss Guarantor under any Indenture Documents ~~or Notes Purchase Agreement~~ would be limited due to the effects referred to in this Indenture, the Swiss Guarantor shall further, to the extent permitted by applicable law and Swiss accounting standards and upon request by the Collateral Trustee, (i) write up or sell any of its assets that are shown in its balance sheet with a book value that is significantly lower than the market value of the assets, in case of sale, however, only if such assets are not necessary for the Swiss Guarantor's business (*nicht betriebsnotwendig*) and (ii) reduce its share capital to the minimum allowed under then applicable law, provided that such steps are permitted under the Indenture Documents.

(iv) The Swiss Guarantor and any holding company of the Swiss Guarantor which is a party to an Indenture Document shall procure that the Swiss Guarantor will take and will cause to be taken all and any action as soon as reasonably practicable but in

any event within 30 Business Days from the request of the Collateral Trustee, including, without limitation, (i) the passing of any shareholders' resolutions to approve any payment or other performance under this Indenture or any other Indenture Document ~~or Notes Purchase Agreement~~, (ii) the provision of an audited interim balance sheet, (iii) the provision of a determination by the Swiss Guarantor of the Freely Disposable Amount based on such audited interim balance sheet, (iv) the provision of a confirmation from the auditors of the Swiss Guarantor that a payment of the Swiss Guarantor under the Indenture or any other Indenture Documents in an amount corresponding to the Freely Disposable Amount is in compliance with the provisions of Swiss corporate law which are aimed at protecting the share capital and legal reserves, and (v) the obtaining of any other confirmations which may be required as a matter of Swiss mandatory law in force at the time the Swiss Guarantor is required to make a payment or perform other obligations under this Indenture or any other Indenture Document ~~or any Notes Purchase Agreement~~, in order to allow a prompt payment in relation to Restricted Obligations with a minimum of limitations.

(v) If so required under applicable law (including tax treaties) at the time it is required to make a payment under this Indenture and any Indenture Document, the Swiss Guarantor:

(1) shall use its best efforts to ensure that such payments can be made without deduction of Swiss ~~withholding tax~~Withholding Tax, or with deduction of Swiss ~~withholding tax~~Withholding Tax at a reduced rate, by discharging the liability to such tax by notification pursuant to applicable law (including tax treaties) rather than payment of the tax;

(2) shall deduct the Swiss ~~withholding tax~~Withholding Tax at such rate (being 35% on the date hereof) as in force from time to time if the notification procedure pursuant to sub-paragraph (a) above does not apply; or shall deduct the Swiss ~~withholding tax~~Withholding Tax at the reduced rate resulting after discharge of part of such tax by notification if the notification procedure pursuant to sub-paragraph (a) applies for a part of the Swiss ~~withholding tax~~Withholding Tax only; and shall pay within the time allowed any such taxes deducted to the Swiss Federal Tax Administration; and

(3) shall promptly notify the Collateral Trustee that such notification or, as the case may be, deduction has been made, and provide the Collateral Trustee with evidence that such a notification of the Swiss Federal Tax Administration has been made or, as the case may be, such taxes deducted have been paid to the Swiss Federal Tax Administration.

(vi) In the case of a deduction of Swiss ~~withholding tax~~Withholding Tax, the Swiss Guarantor shall use its best efforts to ensure that any person that is entitled to a full or partial refund of the Swiss ~~withholding tax~~Withholding Tax deducted from such payment under this Indenture or any Indenture Documents ~~or Notes Purchase Agreement~~, will, as soon as possible after such deduction:

(1) request a refund of the Swiss ~~withholding tax~~Withholding Tax under applicable law (including tax treaties), and

(2) pay to the Collateral Trustee upon receipt any amount so refunded.

The Collateral Trustee shall co-operate with the Swiss Guarantor to secure such refund.

(vii) To the extent the Swiss Guarantor is required to deduct Swiss ~~withholding tax~~Withholding Tax pursuant to this Indenture or any other Indenture Documents, and if the Freely Disposable Amount is not fully utilised, the Swiss Guarantor will be required to pay an additional amount so that after making any required deduction of Swiss ~~withholding tax~~Withholding Tax the aggregate net amount paid to the Collateral Trustee is equal to the amount which would have been paid if no deduction of Swiss ~~withholding tax~~Withholding Tax had been required, provided that the aggregate amount paid (including the additional amount) shall in any event be limited to the Freely Disposable Amount. If a refund is made to a Secured Party, such Secured Party shall transfer the refund so received to the Swiss Guarantor, subject to any right of set-off of such Secured Party pursuant to the Indenture Documents ~~and Notes Purchase Agreement~~.

Section 12.07. "TRUSTEE" TO INCLUDE PAYING AGENT

(A) In case at any time any Paying Agent other than the Trustee shall have been appointed and be then acting hereunder, the term "Trustee" as used in this **Article 12** shall in each case (unless the context shall otherwise require) be construed as extending to and including such Paying Agent within its meaning as fully and for all intents and purposes as if such Paying Agent were named in this Article 12 in place of the Trustee.

Article 13. MISCELLANEOUS

Section 13.01. NOTICES.

Any notice or communication by any Company Indenture Party or the Trustee, Collateral Trustee and Note Agent to the other must be provided in writing and will be deemed to have been duly given in writing if delivered in person or by first class mail (registered or certified, return receipt requested), facsimile transmission, electronic transmission or other similar means of unsecured electronic communication or overnight air courier guaranteeing next day delivery, or to the other's address, which initially is as follows:

If to any Company Indenture Party:

Maxeon Solar Technologies, Ltd.
8 Marina Boulevard, #05-02
Marina Bay Financial Centre
018981, Singapore
Attention: Chief Legal Officer
Telephone: (480) 734 - 1234

Email address: lindsey.wiedmann@maxeon.com

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

White & Case
16th floor, York House, The Landmark
15 Queen's Road Central
Hong Kong
Attention: Jessica Zhou; Kaya Proudian
Email: jessica.zhou@whitecase.com; kproudian@whitecase.com

If to the Trustee:

Deutsche Bank Trust Company Americas
1 Columbus Circle, 17th Floor
Mail Stop:NYC01-1710
New York, NY 10019
Facsimile: (732) 578-4635
Attention: Corporates Team, Maxeon Solar Technologies Ltd. SF6772
~~Facsimile: (732) 578-4635~~

If to the Collateral Trustee:

DB Trustees (Hong Kong) Limited
Level 60, International Commerce Centre
1 Austin Road West
Kowloon, Hong Kong

Facsimile No.: +852 2203 7320
Attention: The Directors
E-mail: ~~debtagency.hkcsg@list.db.com~~debtagency.hkcsg@list.db.com

If to the Philippine Supplemental Collateral Trustee:

~~Rizal Commercial Banking~~RCBC Trust Corporation ~~Trust and Investments Group~~
9th Floor, Yuchengco Tower
RCBC Plaza, 6819 Ayala Avenue
Makati City, Philippines 0727
Attention: Mr. Ryan Roy W. Sinaon
Telephone: 63 (02) 8894-9000 local 1278
E-mail: rwsinaon@rcbc.com

Any Company Indenture Party ~~or the~~, the Trustee, the Collateral Trustee or the Philippine Supplemental Collateral Trustee, by notice to the other, may designate additional or different

addresses (including facsimile numbers and electronic addresses) for subsequent notices or communications.

All notices and communications (other than those sent to Holders) will be deemed to have been duly given: (A) at the time delivered by hand, if personally delivered; (B) five (5) Business Days after being deposited in the mail, postage prepaid, if mailed; (C) when receipt acknowledged, if transmitted by facsimile, electronic transmission or other similar means of unsecured electronic communication; and (D) the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

All notices or communications required to be made to a Holder pursuant to this Indenture must be made in writing and will be deemed to be duly sent or given in writing if mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery, to its address shown on the Register; *provided*, *however*, that a notice or communication to a Holder of a Global Note may, but need not, instead be sent pursuant to the Depositary Procedures (in which case, such notice will be deemed to be duly sent or given in writing). The failure to send a notice or communication to a Holder, or any defect in such notice or communication, will not affect its sufficiency with respect to any other Holder.

If the Trustee is then acting as the Depositary's custodian for the Notes, then, at the reasonable request of the Company to the Trustee, the Trustee will cause any notice prepared by the Company to be sent to any Holder(s) pursuant to the Depositary Procedures, *provided* such request is evidenced in a Company Order delivered, together with the text of such notice, to the Trustee at least two (2) Business Days before the date such notice is to be so sent. For the avoidance of doubt, such Company Order need not be accompanied by an Officer's Certificate or Opinion of Counsel. The Trustee will not have any liability relating to the contents of any notice that it sends to any Holder pursuant to any such Company Order.

If a notice or communication is mailed or sent in the manner provided above within the time prescribed, it will be deemed to have been duly given, whether or not the addressee receives it.

Notwithstanding anything to the contrary in this Indenture or the Notes, (A) whenever any provision of this Indenture requires a party to send notice to another party, no such notice need be sent if the sending party and the recipient are the same Person acting in different capacities; and (B) whenever any provision of this Indenture requires a party to send notice to more than one receiving party, and each receiving party is the same Person acting in different capacities, then only one such notice need be sent to such Person.

Facsimile, documents executed, scanned and transmitted electronically and electronic signatures, including those created or transmitted through a software platform or application, will be deemed original signatures for purposes of this Indenture and all matters and agreements related thereto, with such facsimile, scanned and electronic signatures having the same legal effect as original signatures. The parties agree that this Indenture or any instrument, agreement or document necessary for the consummation of the transactions contemplated by this Indenture or related hereto or thereto (including addendums, amendments, notices, instructions, communications with respect to the delivery of securities or the wire transfer of funds or other

communications) ("**Executed Documentation**") may be accepted, executed or agreed to through the use of an electronic signature in accordance with applicable laws, rules and regulations in effect from time to time applicable to the effectiveness and enforceability of electronic signatures. Any Executed Documentation accepted, executed or agreed to in conformity with such laws, rules and regulations will be binding on all parties to this Indenture to the same extent as if it were physically executed and each party hereby consents to the use of any third-party electronic signature capture service providers as may be reasonably chosen by a signatory hereto or thereto. When the Trustee, Collateral Trustee or a Note Agent acts on any Executed Documentation sent by electronic transmission, the Trustee, Collateral Trustee or Note Agent will not be responsible or liable for any losses, costs or expenses arising directly or indirectly from its reliance upon and compliance with such Executed Documentation, notwithstanding that such Executed Documentation (A) may not be an authorized or authentic communication of the party involved or in the form such party sent or intended to send (whether due to fraud, distortion or otherwise); or (B) may conflict with, or be inconsistent with, a subsequent written instruction or communication; it is understood and agreed that the Trustee, Collateral Trustee and each Note Agent will conclusively presume that Executed Documentation that purports to have been sent by an authorized officer of a Person has been sent by an authorized officer of such Person. The party providing Executed Documentation through electronic transmission or otherwise with electronic signatures agrees to assume all risks arising out of such electronic methods, including the risk of the Trustee, Collateral Trustee or a Note Agent acting on unauthorized instructions and the risk of interception and misuse by third parties.

Section 13.02. Delivery Of Officer's Certificate And Opinion Of Counsel As To Conditions Precedent.

Upon any request or application by the Company to the Trustee or to the Collateral Trustee to take any action under this Indenture (other than the initial authentication of Notes under this Indenture), the Company will furnish to the Trustee and the Collateral Trustee:

(A) an Officer's Certificate in form and substance reasonably satisfactory to the Trustee and the Collateral Trustee that complies with **Section 13.03** and states that, in the opinion of the signatory thereto, all conditions precedent and covenants, if any, provided for in this Indenture relating to such action have been satisfied; and

(B) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee that complies with **Section 13.03** and states that, in the opinion of such counsel, all such conditions precedent and covenants, if any, have been satisfied.

Section 13.03. Statements Required In Officer's Certificate And Opinion Of Counsel.

Each Officer's Certificate (other than an Officer's Certificate pursuant to **Section 3.06**) or Opinion of Counsel with respect to compliance with a covenant or condition provided for in this Indenture will include:

(A) a statement that the signatory making such certificate or opinion thereto has read such covenant or condition;

(B) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion therein are based;

(C) a statement that, in the opinion of such signatory, he, she or it has made such examination or investigation as is necessary to enable him, her or it to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(D) a statement as to whether, in the opinion of such signatory, such covenant or condition has been satisfied.

Section 13.04. Rules By The Trustee, The Registrar And The Paying Agent.

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 13.05. No Personal Liability Of Directors, Officers, Employees And Shareholders.

No past, present or future director, officer, employee, incorporator or shareholder of any Company Indenture Party, as such, will have any liability for any obligations of such Company Indenture Party under this Indenture, the Intercreditor Agreement or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

Section 13.06. Governing Law; Waiver Of Jury Trial.

THIS INDENTURE AND THE NOTES, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS INDENTURE OR THE NOTES, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY INDENTURE PARTIES, THE TRUSTEE AND THE COLLATERAL TRUSTEE IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED BY THIS INDENTURE OR THE NOTES.

Section 13.07. Submission To Jurisdiction.

Any legal suit, action or proceeding arising out of or based upon this Indenture or the transactions contemplated by this Indenture may be instituted in the federal courts of the United States of America located in the City of New York or the courts of the State of New York, in each case located in the City of New York (collectively, the "**Specified Courts**"), and each party irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail (to the extent allowed under any applicable statute or rule of court) to such party's address set forth in **Section 13.01**

will be effective service of process for any such suit, action or proceeding brought in any such court. Each of the Company Indenture Parties, the Trustee, the Collateral Trustee and Holders (by its acceptance of any Note) irrevocably and unconditionally waives any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waives and agrees not to plead or claim any such suit, action or other proceeding has been brought in an inconvenient forum.

Section 13.08. No Adverse Interpretation Of Other Agreements.

Neither this Indenture nor the Notes may be used to interpret any other indenture, note, loan or debt agreement of the Company or its Subsidiaries or of any other Person, and no such indenture, note, loan or debt agreement may be used to interpret this Indenture or the Notes.

Section 13.09. Successors.

All agreements of each Company Indenture Parties in this Indenture and the Notes will bind its successors. All agreements of the Trustee and the Collateral Trustee in this Indenture will bind their respective successors.

Section 13.10. Force Majeure.

The Trustee, Collateral Trustee and each Note Agent will not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility under this Indenture or the Notes by reason of any occurrence beyond its control (including any act or provision of any present or future law or regulation or governmental authority, act of God or war, civil unrest, epidemic, pandemic, local or national disturbance or disaster, act of terrorism or unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility).

Section 13.11. U.S.A. Patriot Act.

In order to comply with the laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including those relating to the funding of terrorist activities and money laundering, including Section 326 of the USA PATRIOT Act of the United States ("**Applicable Terrorism Law**"), the Trustee, Collateral Trustee and the Note Agents are required to obtain, verify, record and update certain information relating to individuals and entities which maintain a business relationship with the Trustee, Collateral Trustee and/or the Note Agents. Accordingly, each of the Company Indenture Parties (including any Person that executes an agreement to become a Guarantor) agrees to provide to the Trustee, Collateral Trustee or any of the Note Agents (or any additional party that executes an agreement to become party to this Indenture as a trustee, a collateral trustee or a note agent) upon its request from time to time such documentation as may be available for such party in order to enable the Trustee, the Collateral Trustee or any of the Note Agents (or any such additional party) to comply with Applicable Terrorism Law.

Section 13.12. Calculations.

Except as otherwise provided in this Indenture, the Company will be responsible for making all calculations called for under this Indenture or the Notes, including, but not limited to, determinations of the Share Price, the Last Reported Sale Price, the Daily Conversion Value, the Daily Cash Amount, the Daily Share Amount, accrued interest on the Notes, the Conversion Rate, the Conversion Price and the Make-Whole Table.

The Company will make all calculations in good faith, and, absent manifest error, its calculations will be final and binding on all Holders. The Company will provide a schedule of its calculations to the Trustee and the Conversion Agent, and each of the Trustee and the Conversion Agent may rely conclusively on the accuracy of the Company's calculations without independent verification. The Trustee will promptly forward a copy of each such schedule to a Holder upon its written request therefor.

Section 13.13. Severability.

If any provision of this Indenture or the Notes is invalid, illegal or unenforceable, then the validity, legality and enforceability of the remaining provisions of this Indenture or the Notes will not in any way be affected or impaired thereby.

Section 13.14. Counterparts.

The parties may sign any number of copies of this Indenture. Each signed copy will be an original, and all of them together represent the same agreement. Delivery of an executed counterpart of this Indenture by facsimile, electronically in portable document format or in any other format will be effective as delivery of a manually executed counterpart.

Section 13.15. Table Of Contents, Headings, Etc.

The table of contents and the headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and will in no way modify or restrict any of the terms or provisions of this Indenture.

Section 13.16. Service Of Process.

The Company Indenture Parties irrevocably appoint Corporation Service Company, which currently maintains an office at 19 West 44thStreet, Suite 200, New York, New York 10036, United States of America, as their authorized agent in the City of New York upon which process may be served in any suit, action or proceeding referred to in **Section 13.07**, and agrees that service of process upon such agent, and written notice of such service to the Company Indenture Parties, as applicable, by the person serving the same to Maxeon Solar Technologies, Ltd., Maxeon Solar Technologies, Pte. Ltd., 51 Rio Robles, San Jose, California 95134, Attention: General Counsel, will be in every respect effective service of process upon the Company in any such suit, action or proceeding. The Company Indenture Parties agree to take any and all reasonable action as may be necessary to maintain such designation and appointment of such agent in full force and effect until the date that is six (6) months after the Maturity Date. If, for

any reason, such agent ceases to be such agent for service of process, then the Company Indenture Parties will promptly appoint a new agent of recognized standing for service of process in the State of New York and deliver to the Holders and the Trustee a copy of the new agent's acceptance of that appointment within ten (10) Business Days of such acceptance. Nothing in this **Section 13.16** will affect the right of the Trustee, any Note Agent or any Holder to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed against the Company Indenture Parties in any other court of competent jurisdiction. To the extent that the Company Indenture Parties have or hereafter may acquire any sovereign or other immunity from jurisdiction of any court or from any legal process with respect to itself or its property, the Company Indenture Parties irrevocably waive such immunity in respect of their obligations under this Indenture or under any Note.

Article 14. INTERCREDITOR ARRANGEMENTS

Section 14.01. INTERCREDITOR AGREEMENT

(A) This Indenture is entered into, and the Notes are issued hereunder, and the Obligations are incurred, in each case, with the benefit of, and subject to, the terms of the Intercreditor Agreement, and each Holder, by accepting a Note, shall be deemed to have agreed to, and accepted the terms and conditions of, the Intercreditor Agreement. In addition, the rights and benefits of the Trustee and the Collateral Trustee are governed by this Indenture, and subject to the terms of the Intercreditor Agreement. For the avoidance of doubt, to the extent any provision of the Intercreditor Agreement conflicts with the provisions of this Indenture, the provisions of the Intercreditor Agreement shall govern and be controlling.

Section 14.02. ADDITIONAL INTERCREDITOR AGREEMENT

(A) At the request of the Company, at the time of, or prior to, the incurrence of any Permitted Secured Indebtedness, the Company, the relevant Guarantors, the Trustee and the Collateral Trustee will (without the consent of Holders), to the extent authorized and permitted under the Intercreditor Agreement, enter into such amendments, supplements or agreements as necessary to add the obligees of such Indebtedness and/or any representative(s) thereof as party to the Intercreditor Agreement, or an additional Intercreditor Agreement (the "**Additional Intercreditor Agreement**"); *provided* that such amendments, supplements, agreements or such Additional Intercreditor Agreement will not impose any personal obligations on the Trustee or the Collateral Trustee or adversely affect the rights, duties, liabilities or immunities of the Trustee or the Collateral Trustee under the Indenture or the Intercreditor Agreement.

(B) At the written direction of the Company and without the consent of the Holders, the Trustee and the Collateral Trustee, to the extent authorized and permitted under the Intercreditor Agreement, shall upon the written direction of the Company from time to time enter into one or more Additional Intercreditor Agreements or amendments or supplements of the Intercreditor Agreement to: (1) cure any ambiguity, omission, defect or inconsistency therein; (2) increase the amount of Indebtedness permitted to be incurred or issued under this Indenture of the types covered thereby that may be incurred by the Company or any Company Indenture Party that is subject thereto (including the addition of provisions relating to new Indebtedness); (3) add Guarantors thereto; (4) further secure the Notes (including any Additional Notes); or (5) make

any other such change thereto that does not adversely affect the rights of holders of the Notes in any material respect; *provided* that such Additional Intercreditor Agreement will not impose any personal obligations on the Trustee or the Collateral Trustee or adversely affect the rights, duties, liabilities or immunities of the Trustee or the Collateral Trustee under the Indenture or the Intercreditor Agreement.

(C) In executing any execution of the Additional Intercreditor Agreement or the amendments or supplements of the Intercreditor Agreement in accordance with this **Section 14.02**, the Trustee and the Collateral Trustee, as the case may be will be entitled to receive, and (subject to **Sections 10.01** and **10.02**) will be fully protected in relying on, an Officer's Certificate and an Opinion of Counsel, provided in accordance with **Section 13.02**, each stating that (A) the execution and delivery of such Additional Intercreditor Agreement or such amendments or supplements of the Intercreditor Agreement is authorized or permitted by this Indenture; and (B) in the case of the Opinion of Counsel, such Additional Intercreditor Agreement, or such amendments or supplements of the Intercreditor Agreement is valid, binding and enforceable against the Company in accordance with its terms.

(D) Each Holder, by accepting a Note, will be deemed to have agreed to and accepted the terms and conditions of the Intercreditor Agreement and each Additional Intercreditor Agreement (in each case as may be amended or supplemented from time to time in accordance with the terms of this Indenture, the Intercreditor Agreement or other Indenture Documents), to have authorized the Trustee and the Collateral Trustee to become a party to any such Intercreditor Agreement, and Additional Intercreditor Agreement, and any amendment referred to in Article 8 and the Trustee or the Collateral Trustee will not be required to seek the consent of any Holders to perform their respective obligations under and in accordance with this Article 14.

[***The Remainder of This Page Intentionally Left Blank; Signature Page Follows***]

IN WITNESS WHEREOF, the parties to this Indenture have caused this indenture to be duly executed as of the date first written above.

~~Issuer~~**Company:**

MAXEON SOLAR TECHNOLOGIES, LTD.

By: _____
Name: Kai Strohbecke
Title: Authorized Signatory

Guarantors:

SUNPOWER CORPORATION LIMITED

By: _____
Name: Peter Aschenbrenner
Title: Director

SUNPOWER ENERGY CORPORATION LIMITED

By: _____
Name: Kai Strohbecke
Title: Director

SUNPOWER SYSTEMS INTERNATIONAL LIMITED

By: _____
Name: Peter Aschenbrenner
Title: Director

[Signature Page to Amended 1L Indenture]

SUNPOWER MANUFACTURING CORPORATION LIMITED

By: _____
Name: Kai Strohbecke
Title: Director

MAXEON ROOSTER HOLDCO, LTD.

By: _____
Name: Kai Strohbecke
Title: Director

MAXEON SOLAR PTE. LTD.

By: _____
Name: Kai Strohbecke
Title: Director

SUNPOWER BERMUDA HOLDINGS

By: _____
Name: Kai Strohbecke
Title: Director

SUNPOWER TECHNOLOGY LTD.

By: _____
Name: Kai Strohbecke
Title: Authorized Signatory

SUNPOWER PHILIPPINES MANUFACTURING LTD.

By: _____
Name: Kai Strohbecke
Title: Authorized Signatory

ROOSTER BERMUDA DRE, LLC

By: _____
Name: Kai Strohbecke
Title: Authorized Signatory

SUNPOWER SYSTEMS SÀRL

By: _____
Name: Kai Strohbecke
Title: Authorized Signatory

[Signature Page to Amended 1L Indenture]

Trustee:

DEUTSCHE BANK TRUST COMPANY AMERICAS, AS TRUSTEE, REGISTRAR, PAYING AGENT, CONVERSION AGENT

By: _____
Name:
Title:

By: _____
Name:
Title:

[Signature Page to Amended 1L Indenture]

Collateral Trustee:

DB TRUSTEES (HONG KONG) LIMITED, AS COLLATERAL TRUSTEE

By: _____
Name:
Title:

By: _____
Name:
Title:

[Signature Page to Amended 1L Indenture]

Philippine Supplemental Collateral Trustee:

~~**RIZAL COMMERCIAL BANKING**~~**RCBC TRUST CORPORATION**~~ TRUST AND INVESTMENTS GROUP~~, AS PHILIPPINE SUPPLEMENTAL COLLATERAL TRUSTEE

By: _____
Name:
Title:

By: _____
Name:
Title:

[Signature Page to Amended 1L Indenture]

EXHIBIT A

FORM OF NOTE

[Insert Global Note Legend, if applicable]

[Insert Restricted Note Legend, if applicable]

[THE FOLLOWING INFORMATION IS SUPPLIED SOLELY FOR U.S. FEDERAL INCOME TAX PURPOSES. THE NOTES WERE ISSUED WITH "ORIGINAL ISSUE DISCOUNT" ("OID") WITHIN THE MEANING OF SECTION 1273 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. NOTEHOLDERS MAY OBTAIN INFORMATION REGARDING THE AMOUNT OF ANY OID, THE ISSUE PRICE, THE ISSUE DATE, AND THE YIELD TO MATURITY RELATING TO THE NOTES BY CONTACTING THE COMPANY.]

Maxeon Solar Technologies, Ltd.

~~7.50%~~Variable-Rate Convertible First Lien Senior Secured Note due ~~2027~~2029

CUSIP No.: [_____]*[Insert for a "restricted" CUSIP number:*]* Certificate No. [_____]
ISIN No.: [_____][*Insert for a "restricted" ISIN number: *]*

Maxeon Solar Technologies, Ltd., a company incorporated in Singapore, for value received, promises to pay to [Zhonghuan Singapore Investment and Development Pte. Ltd.] / [Cede & Co.], or its registered assigns, the principal sum of [___] dollars ($[_____]) [(as revised by the attached Schedule of Exchanges of Interests in the Global Note)]† on August 17, ~~2027~~2029 and to pay interest thereon, as provided in the Indenture referred to below, until the principal and all accrued and unpaid interest are paid or duly provided for.

Interest Payment Dates:	February 17 and August 17 of each year, commencing on February 17, 2023.
Regular Record Dates:	February 2 and August 2.

Additional provisions of this Note are set forth on the other side of this Note.

[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]

* This Note will be deemed to be identified by CUSIP No. [____] and ISIN No. [____] from and after such time when the Company delivers, pursuant to Section 2.12 of the within-mentioned Indenture, written notice to the Trustee of the deemed removal of the Restricted Note Legend affixed to this Note.

† Insert bracketed language for Global Notes only.

IN WITNESS WHEREOF, Maxeon Solar Technologies, Ltd. has caused this instrument to be duly executed as of the date set forth below.

MAXEON SOLAR TECHNOLOGIES, LTD.

Date: _____

By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

Deutsche Bank Trust Company Americas, as Trustee, certifies that this is one of the Notes referred to in the within-mentioned Indenture.

Date: _____ By: _____
Authorized Signatory

Maxeon Solar Technologies, Ltd.

~~7.50%~~Variable-Rate Convertible First Lien Senior Note due ~~2027~~2029

This Note is one of a duly authorized issue of notes of Maxeon Solar Technologies, Ltd., a company incorporated in Singapore (the "**Company**"), designated as its ~~7.50%~~Variable Rate Convertible First Lien Senior Notes due ~~2027~~2029 (the "**Notes**"), all issued or to be issued pursuant to an indenture, dated as of August 17, 2022 (as amended by (a) that certain Supplemental Indenture No. 1, dated September 30, 2022, by and among the Company, the Trustee and the Collateral Trustee (as defined below), (b) that certain Supplemental Indenture No. 2, dated October 14, 2022, by and among the Company, SunPower Systems Sàrl, the Trustee and the Collateral Trustee, (c) that certain Supplemental Indenture No. 3, dated October 14, 2022, by and among the Company, SunPower Philippines Manufacturing Ltd., the Trustee, the Collateral Trustee and the Supplemental Collateral Trustee named therein, (d) that certain Supplemental Indenture No. 4, dated November 13, 2023, by and among the Company, the Trustee and the Collateral Trustee, (e) that certain Supplemental Indenture No. 5, dated January 30, 2024 by and among the Company and the Trustee, and (f) that certain Supplemental Indenture No. 6, dated May 31, 2024 by and among the Company, the Trustee, the Collateral Trustee and the Supplemental Collateral Trustee named therein, and (g) that certain Supplemental Indenture No. 7, dated June 20, 2024 by and among Company, the Trustee, the Collateral Trustee and the Supplemental Collateral Trustee named therein and as the same may be amended from time to time, the "**Indenture**"), between the Company, the Guarantors from time to time party thereto, Deutsche Bank Trust Company Americas, a New York Banking Corporation as Trustee, ~~as~~ DB Trustees (Hong Kong) Limited as Collateral Trustee and ~~Rizal Commercial Banking~~RCBC Trust Corporation ~~Trust and Investment Group~~ as Philippine Supplemental Collateral Trustee. Capitalized terms used in this Note without definition have the respective meanings ascribed to them in the Indenture.

The Indenture sets forth the rights and obligations of the Company, the Trustee and the Holders and the terms of the Notes. The Notes are secured pursuant to the terms of the Indenture and the Security Documents referred to in the Indenture and subject to the terms of the Intercreditor Agreement referred to in the Indenture. Notwithstanding anything to the contrary in this Note, to the extent that any provision of this Note conflicts with the provisions of the Indenture, the provisions of the Indenture will control.

1. **Interest**. This Note will accrue interest at a rate and in the manner set forth in Section 2.05 of the Indenture. Stated Interest on this Note will begin to accrue from, and including, ~~August 17, 2022~~[ ], 20[ ].

2. **Maturity**. This Note will mature on August 17, ~~2027~~2029, unless earlier repurchased, redeemed or converted.

3. **Method of Payment**. Cash amounts due on this Note will be paid in the manner set forth in Section 2.04 of the Indenture. Interest payable in PIK Notes or payment of interest in Ordinary Shares will be paid in the manner set forth in Section 2.04.

4. **Persons Deemed Owners**. The Holder of this Note will be treated as the owner of this Note for all purposes.

5. **Denominations; Transfers and Exchanges**. All Notes will be in registered form, without coupons, in principal amounts equal to any Authorized Denominations. Subject to the terms of the Indenture, the Holder of this Note may transfer or exchange this Note by presenting it to the Registrar and delivering any required documentation or other materials.

6. **Right of Holders to Require the Company to Repurchase Notes upon a Fundamental Change**. If a Fundamental Change occurs, then each Holder will have the right to require the Company to repurchase such Holder's Notes (or any portion thereof in an Authorized Denomination) for cash in the manner, and subject to the terms, set forth in Section 4.02 of the Indenture.

7. **Redemption of the Notes**. The Notes will be subject to Redemption for cash in the manner, and subject to the terms, set forth in Section 4.03 of the Indenture.

8. **Conversion**. The Holder of this Note may convert this Note into Conversion Consideration in the manner, and subject to the terms, set forth in Article 5 of the Indenture.

9. **When the Company May Merge, Etc**. Article 6 of the Indenture places certain restrictions on the Company and the Guarantors' ability to be a party to a Business Combination Event.

10. **Defaults and Remedies**. If an Event of Default occurs, then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding may (and, in certain circumstances, will automatically) become due and payable in the manner, and subject to the terms, set forth in Article 7 of the Indenture.

11. **Amendments, Supplements and Waivers**. The Company and the Trustee may amend or supplement the Indenture or the Notes or waive compliance with any provision of the Indenture or the Notes in the manner, and subject to the terms, set forth in Section 7.05 and Article 8 of the Indenture.

12. **No Personal Liability of Directors, Officers, Employees and Shareholders**. No past, present or future director, officer, employee, incorporator or shareholder of the Company, as such, will have any liability for any obligations of the Company under the Indenture or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

13. **Authentication**. No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually or electronically signs the certificate of authentication of such Note.

14. **Abbreviations**. Customary abbreviations may be used in the name of a Holder or its assignee, such as TEN COM (tenants in common), TEN ENT (tenants by the entireties), JT TEN (joint tenants with right of survivorship and not as tenants in common), CUST (custodian), and U/G/M/A (Uniform Gift to Minors Act).

15. **Governing Law**. THIS NOTE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS NOTE, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

* * *

To request a copy of the Indenture, which the Company will provide to any Holder at no charge, please send a written request to the following address:

Maxeon Solar Technologies, Ltd.
8 Marina Boulevard, #05-02
Marina Bay Financial Centre
018981, Singapore
Attention: General Counsel

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE*

INITIAL PRINCIPAL AMOUNT OF THIS GLOBAL NOTE: $~~207,000,000~~[ ]

The following exchanges, transfers or cancellations of this Global Note have been made:

Date	Amount of Increase (Decrease) in Principal Amount of this Global Note	Principal Amount of this Global Note After Such Increase (Decrease)	Signature of Authorized Signatory of Trustee

* Insert for Global Notes only.

CONVERSION NOTICE

Maxeon Solar Technologies, Ltd.

~~7.50%~~Variable-Rate Convertible First Lien Senior Secured Notes due ~~2027~~2029

Subject to the terms of the Indenture, by executing and delivering this Conversion Notice, the undersigned Holder of the Note identified below directs the Company to convert (check one):

☐ the entire principal amount of

☐ $_____* aggregate principal amount of

the Note identified by CUSIP No._____ and Certificate No._____.

The undersigned acknowledges that if the Conversion Date of a Note to be converted is after a Regular Record Date and before the next Interest Payment Date, then such Note, when surrendered for conversion, must, in certain circumstances, be accompanied with an amount of cash equal to the interest that would have accrued on such Note to, but excluding, such Interest Payment Date.

Date: _____

_____
(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

_____
Participant in a Recognized Signature
Guarantee Medallion Program

_____
Authorized Signatory

---

* Must be an Authorized Denomination.

FUNDAMENTAL CHANGE REPURCHASE NOTICE

Maxeon Solar Technologies, Ltd.

~~7.50%~~Variable-Rate Convertible First Lien Senior Secured Notes ~~2027~~2029

Subject to the terms of the Indenture, by executing and delivering this Fundamental Change Repurchase Notice, the undersigned Holder of the Note identified below is exercising its Fundamental Change Repurchase Right with respect to (check one):

☐ the entire principal amount of

☐ $_____* aggregate principal amount of

the Note identified by CUSIP No._____ and Certificate No._____.

The undersigned acknowledges that this Note, duly endorsed for transfer, must be delivered to the Paying Agent before the Fundamental Change Repurchase Price will be paid.

Date: _____

_____
(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

_____
Participant in a Recognized Signature Guarantee Medallion Program

_____
Authorized Signatory

* Must be an Authorized Denomination.

ASSIGNMENT FORM

Maxeon Solar Technologies, Ltd.

~~7.50%~~Variable-Rate Convertible First Lien Senior Secured Notes due ~~2027~~2029

Subject to the terms of the Indenture, the undersigned Holder of the within Note assigns to:

Name: _____

Address: _____

Social security or tax identification number: _____

the within Note and all rights thereunder irrevocably appoints:

as agent to transfer the within Note on the books of the Company. The agent may substitute another to act for him/her.

Date: _____

_____
(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

_____
Participant in a Recognized Signature Guarantee Medallion Program

_____
Authorized Signatory

TRANSFEROR ACKNOWLEDGMENT

If the within Note bears a Restricted Note Legend, the undersigned further certifies that (check one):

1. ☐ Such Transfer is being made to the Company or a Subsidiary of the Company.

2. ☐ Such Transfer is being made pursuant to, and in accordance with, a registration statement that is effective under the Securities Act at the time of the Transfer.

3. ☐ Such Transfer is being made pursuant to, and in accordance with, Rule 144A under the Securities Act, and, accordingly, the undersigned further certifies that the within Note is being transferred to a Person that the undersigned reasonably believes is purchasing the within Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act in a transaction meeting the requirements of Rule 144A. **If this item is checked, then the transferee must complete and execute the acknowledgment contained on the next page**.

4. ☐ Such Transfer is being made pursuant to, and in accordance with, any other available exemption from the registration requirements of the Securities Act (including, if available, the exemption provided by Rule 144 under the Securities Act).

Dated: _____

_____
(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

_____
(Participant in a Recognized Signature Guarantee Medallion Program)

By: _____
Authorized Signatory

TRANSFEREE ACKNOWLEDGMENT

The undersigned represents that it is purchasing the within Note for its own account, or for one or more accounts with respect to which the undersigned exercises sole investment discretion, and that and the undersigned and each such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act. The undersigned acknowledges that the transferor is relying, in transferring the within Note on the exemption from the registration and prospectus- delivery requirements of the Securities Act of 1933, as amended, provided by Rule 144A and that the undersigned has received such information regarding the Company as the undersigned has requested pursuant to Rule 144A.

Dated: _____

_____
(Name of Transferee)

By: _____
Name:
Title:

EXHIBIT B-1

FORM OF RESTRICTED NOTE LEGEND

THE OFFER AND SALE OF THIS NOTE AND THE ORDINARY SHARES, IF ANY, ISSUABLE UPON CONVERSION OF THIS NOTE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS NOTE MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT ONLY:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT; AND

(2) AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT ONLY:

(A) TO THE COMPANY, ITS PARENT OR ANY SUBSIDIARY THEREOF;

(B) PURSUANT TO A REGISTRATION STATEMENT THAT IS EFFECTIVE UNDER THE SECURITIES ACT;

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT;

(D) PURSUANT TO RULE 144 UNDER THE SECURITIES ACT;

(E) PURSUANT TO REGULATION S UNDER THE SECURITIES ACT; OR

(F) PURSUANT TO ANY OTHER EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

BEFORE THE REGISTRATION OF ANY SALE OR TRANSFER IN ACCORDANCE WITH (C), (D), (E) OR (F) ABOVE, THE COMPANY, THE TRUSTEE AND THE REGISTRAR RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH CERTIFICATES OR OTHER DOCUMENTATION OR EVIDENCE AS THEY MAY REASONABLY REQUIRE IN ORDER TO DETERMINE THAT THE PROPOSED SALE OR TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS."

* This paragraph and the immediately preceding paragraph will be deemed to be removed from the face of this Note at such time when the Company delivers written notice to the Trustee of such deemed removal pursuant to Section 2.12 of the within-mentioned Indenture.

EXHIBIT B-2

FORM OF GLOBAL NOTE LEGEND

THIS IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITARY OR A NOMINEE OF THE DEPOSITARY, WHICH MAY BE TREATED BY THE COMPANY, THE TRUSTEE AND ANY AGENT THEREOF AS THE OWNER AND HOLDER OF THIS NOTE FOR ALL PURPOSES.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY ("DTC") TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL NOTE WILL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC, OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE, AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE WILL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN ARTICLE 2 OF THE INDENTURE HEREINAFTER REFERRED TO.

EXHIBIT C

FORM OF SUPPLEMENTAL INDENTURE

SUPPLEMENTAL INDENTURE (this "**Supplemental Indenture**") dated as of _____, 20___ among ~~[NEW GUARANTOR] (the "New Guarantor"), an [indirect] subsidiary of~~ Maxeon Solar Technologies, Ltd. (or its successor) (the "**Company**"), Deutsche Bank Trust Company Americas, as trustee (the "**Trustee**"), and DB Trustees (Hong Kong) Limited as collateral trustee (the "**Collateral Trustee**"), under the indenture referred to below.

WHEREAS the Company (or its successor) has heretofore executed and delivered to the Trustee and the Collateral Trustee an indenture, dated as of August 17, 2022 (as amended, supplemented or otherwise modified, the "**Indenture**") ~~dated as of August 17, 2022~~, providing for the issuance of the Company's ~~7.50%~~Variable-Rate Convertible First Lien Senior Secured Notes due 2029 (the "**Notes**"), initially in an aggregate principal amount of $207,000,000;

~~WHEREAS the Indenture provides that, under certain circumstances, a New Guarantor shall execute and deliver to the Trustee and the Collateral Trustee a supplemental indenture pursuant to which the New Guarantor shall unconditionally guarantee all the obligations of the Company under the Notes and the Indenture pursuant to a Guarantee on the terms and conditions set forth herein; and~~

[ ]; and

WHEREAS pursuant to [Section 8.01] / [Section 8.02] / [Section 8.03] of the Indenture, the Trustee, the Collateral Trustee and the Company are authorized to execute and deliver this Supplemental Indenture [without]/[with] the consent of [any Holder]/[Majority Holder]/[Supermajority Holder]/[each Holder] of the Notes;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the ~~New Guarantor, the~~ Company, the Trustee and the Collateral Trustee mutually covenant and agree for the equal and ratable benefit of the Holders (as defined in the Indenture) as follows:

1. **Defined Terms.** As used in this Supplemental Indenture, terms defined in the Indenture or in the preamble or recital hereto are used herein as therein defined. The words "herein," "hereof" and "hereby" and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular section hereof.

2. **Amendments. [ ]**

~~2. **Agreement to Guarantee.** The New Guarantor hereby agrees, jointly and severally with all existing Guarantors (if any), to unconditionally guarantee the Obligations of the Company under the Notes and the Indenture on the terms and subject to the conditions set forth in Article 12 of the Indenture and to be bound by all other applicable provisions of the Indenture and the Notes and to perform all of the obligations and agreements of a guarantor~~

~~under the Indenture.~~

~~3. **Notices.** All notices or other communications to the New Guarantor shall be given as provided in Section 13.01 of the Indenture.~~

~~4~~3. **Ratification of Indenture; Supplemental Indentures Part of Indenture.** Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder shall be bound hereby.

~~5~~4. **Governing Law.** THIS SUPPLEMENTAL INDENTURE AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS SUPPLEMENTAL INDENTURE, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

~~6~~5. **Trustee and Collateral Make No Representation.** The Trustee and the Collateral Trustee make no representation as to the validity or sufficiency of this Supplemental Indenture or with respect to the recitals contained herein, all of which recitals are made solely by the other parties hereto.

~~7~~6. **Counterparts.** The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

~~8~~7. **Effect of Headings.** The Section headings herein are for convenience only and shall not affect the construction thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed as of the date first above written.

MAXEON SOLAR TECHNOLOGIES, LTD.

By:_____
Name:
Title:

~~**[NEW GUARANTOR]**~~

~~By:~~_____
~~Name:~~
~~Title:~~

DEUTSCHE BANK TRUST COMPANY AMERICAS, AS TRUSTEE,

REGISTRAR, PAYING AGENT,
CONVERSION AGENT

By:_____
Name:
Title:

By:_____
Name:
Title:

DB TRUSTEES (HONG KONG) LIMITED, AS COLLATERAL TRUSTEE

By:_____
Name:
Title:

By:_____
Name:
Title:

Schedule I

Conversion Agent's wire instructions to receive wire from the Company for cash in lieu for fractional shares:

Schedule II

Company's wire instructions for interest reimbursement:

Schedule ~~1.01 Post-Closing~~ III

Closing Security Documents

(i) Singapore:

1. Supplemental "First Ranking" Debenture, dated the Rate Reset Date, by the Company in favor of DB Trustees (Hong Kong) Limited to secure the Notes and New 2029 First Lien Notes;

2. Supplemental "First Ranking" Debenture, dated the Rate Reset Date, by Maxeon Solar Pte. Ltd. in favor of DB Trustees (Hong Kong) Limited to secure the Notes and New 2029 First Lien Notes;

3. Supplemental "First Ranking" Share Charge, dated the Rate Reset Date, by Maxeon Rooster HoldCo, Ltd. in favour of DB Trustees (Hong Kong) Limited (with respect to shares in Maxeon Solar Pte. Ltd) to secure the Notes and New 2029 First Lien Notes; and

4. Supplemental "First Ranking" Account Charge, dated the Rate Reset Date, by SunPower Systems Sàrl in respect of its Singapore accounts in favor of DB Trustees (Hong Kong) Limited to secure the Notes and New 2029 First Lien Notes.

(ii) Switzerland

1. ~~Within 45 days of the Issue Date, the following Security Documents shall have been entered into~~Security Confirmation Agreement, dated the Rate Reset Date, in relation to:

~~(a) French law governed Securities account pledge and statement of pledge granted by Maxeon Solar Technologies, Ltd. in respect of its securities in SunPower Energy Solutions France SAS;~~

~~(b) Malaysian law governed Share charge granted by SunPower Technology Ltd in respect of its shares in SunPower Malaysia Manufacturing Sdn. Bhd. (Malaysian entity) and evidence shall have been provided that the relevant Perfection Requirements have been completed; and~~

~~(c) PRC law governed Equity pledge granted by SunPower Manufacturing Corporation Limited in respect of its shares in Huansheng Pholtovoltaic (Jiangsu) Co., Ltd.~~

(a) existing "First Ranking" Quota Pledge by SunPower Bermuda Holdings in favor of DB Trustees (Hong Kong) Limited to secure the Notes and New 2029 First Lien Notes; and

(b) existing "First Ranking" Account Pledge by SunPower Systems Sàrl in respect of its Swiss accounts in favor of DB Trustees (Hong Kong) Limited to secure the Notes and New 2029 First Lien Notes.

(iii) Bermuda

1. Supplemental "First Ranking" Bermuda Fixed and Floating Charge, dated the Rate Reset Date, between Maxeon Rooster HoldCo Ltd. and Rooster Bermuda DRE, LLC (as

chargors) and DB Trustees (Hong Kong) Limited (as chargee) to secure the Notes and New 2029 First Lien Notes; and

2. Supplemental "First Ranking" Bermuda Share Charge, dated the Rate Reset Date, between the Company and SunPower Corporation Limited (as chargors) and DB Trustees (Hong Kong) Limited (as chargee), in respect of the shares issued by Maxeon Rooster HoldCo Ltd., to secure the Notes and New 2029 First Lien Notes.

(iv) Cayman Islands

1. Deed of Confirmation, dated the Rate Reset Date, with respect to the existing "first ranking" Equitable Share Mortgage between SunPower Systems Sàrl (as mortgagor) and DB Trustees (Hong Kong) Limited (as mortgagee), in respect to the shares issued by SunPower Technology Ltd., to secure the Notes;

3. Supplemental "First Ranking" Equitable Share Mortgage, dated the Rate Reset Date, between SunPower Systems Sàrl (as mortgagor) and DB Trustees (Hong Kong) Limited (as mortgagee), in respect to the shares issued by SunPower Technology Ltd., to secure the Notes and New 2029 First Lien Notes;

4. Deed of Confirmation, dated the Rate Reset Date, with respect to the existing "first ranking" Equitable Share Mortgage between SunPower Technology Ltd. (as mortgagor) and DB Trustees (Hong Kong) Limited (as mortgagee), in respect to the shares issued by SunPower Philippines Manufacturing Ltd., to secure the Notes; and

5. Supplemental "First Ranking" Equitable Share Mortgage, dated the Rate Reset Date, between SunPower Technology Ltd. (as mortgagor) and DB Trustees (Hong Kong) Limited (as mortgagee), in respect to the shares issued by SunPower Philippines Manufacturing Ltd., to secure the Notes and New 2029 First Lien Notes.

(v) Hong Kong

1. Second Supplemental "First Ranking" Hong Kong Composite Share Charge, dated the Rate Reset Date, by and between the Company as chargor and DB Trustees (Hong Kong) Limited as collateral trustee, in relation to the shares of SunPower Energy Corporation Limited, SunPower Corporation Limited and SunPower Manufacturing Corporation Limited, to secure the Notes and New 2029 First Lien Notes;

2. Second Supplemental "First Ranking" Hong Kong Debenture, dated the Rate Reset Date, by and between SunPower Systems International Limited as chargor and DB Trustees (Hong Kong) Limited as collateral trustee, to secure the Notes and New 2029 First Lien Notes; and

3. Second Supplemental "First Ranking" Hong Kong Share Charge, dated the Rate Reset Date, by and between SunPower Energy Corporation Limited and DB Trustees (Hong Kong) Limited as collateral trustee, in relation to the shares of SunPower Systems International Limited, to secure the Notes and New 2029 First Lien Notes.

(vi) France

1. Second Ranking French Securities Account Pledge Agreement, dated the Rate Reset Date, by and between the Company and DB Trustees (Hong Kong) Limited as collateral

trustee, in relation to the shares of SunPower Energy Solutions France SAS, to secure the Notes, the New 2029 First Lien Notes and the Second Lien Notes.

(vii) Malaysia

1. Deed of Confirmation, dated the Rate Reset Date, by SunPower Technology Ltd. in relation to the existing Malaysia Share Charge entered into by SunPower Technology Ltd. and DB Trustees (Hong Kong) Limited as collateral trustee, in relation to the shares of SunPower Malaysia Manufacturing Sdn Bhd, with respect to the obligations under the Notes.

(viii) New York

1. Amended and Restated New York law governed Security Agreement, dated the Rate Reset Date, by and among the Company, the Guarantors and DB Trustees (Hong Kong) Limited as collateral trustee, to secure the Notes; and

Schedule 1.01 Post-Closing Security Documents

1. For purposes of this Schedule 1.01, '**Patents**' shall mean all granted and in-force patents, designs and utility models (or the equivalent thereof), including all reissues, continuations, divisions, continuations-in-part, renewals or extensions thereof (i) granted to or acquired by Maxeon Solar Pte. Ltd. as sole owner; and (ii) any such patents, designs and utility models (or the equivalent thereof) co-owned by Maxeon Solar Pte. Ltd. and one or more third-parties ("**Co-Owned Patents**"), other than those Co-Owned Patents in respect of which Maxeon Solar Pte. Ltd. has not yet received consent from each such co-owner of such Co-Owned Patents to the granting of a Lien in such Co-Owned Patents under applicable local law security documents described in paragraph 2 below (the "**Local Law Patent Security Documents**") (such consent to be obtained by Maxeon Solar Pte. Ltd. through commercially reasonable endeavours), such that a Lien will be granted over such Co-Owned Patents once such consent from the relevant co-owner(s) is obtained by Maxeon Solar Pte. Ltd., as more particularly described in each of the Local Law Patent Security Documents.

2. Subject to prompt assistance from the entity holding the security interest in the applicable Collateral, as may be necessary, ~~in accordance with the timetable in Schedule 1 of the Supplemental Indenture No. 1 dated as of September 30, 2022 among the Company, the Trustee and the Collateral trustee,~~ Maxeon Solar Pte. Ltd. shall:

   (a) by 31 July 2024 negotiate and execute ~~local law patent security documents (the "~~the following Local Law Patent Security Documents~~")~~ in respect of ~~its patents registered~~the Patents in the PRC, ~~the~~ United Kingdom, France, the European Union Intellectual Property Office (~~*provided*, that the Obligations to be secured by the Liens on the applicable Collateral under any Italian law patent security document in respect of patents registered in the European Union Intellectual Property Office shall not exceed US$100,000~~"**EUIPO**"), Australia, ~~South~~ Korea, Japan, Germany, Italy ~~(*provided*, that the Obligations to be secured by the Liens on the applicable Collateral under any Italian law patent security document shall not exceed US$100,000)~~, and the European Patent Office ("**EPO**") (collectively, the "**Agreed IP Security Jurisdictions**")~~; and~~, which shall be on terms that are substantially the same as those in the local law security documents between the Collateral Trustee and Maxeon Solar Pte. Ltd. dated (where applicable) October 7, 2022, or October 20, 2022 (as amended from time to time): -

      a. **Australia**:
         - New South Wales law governed Amendment and Restatement Deed for each of the Security Trust Deed Poll ("**STDP**") and Specific Security Deed ("**SSD**") executed on October 7, 2022, (as amended from time to time) to secure the First Lien Notes.

      b. **PRC**:
         - PRC law governed Pledge Agreement to secure the First Lien Notes.

c. **France**:
   - French law governed 2nd ranking Pledge of Intellectual Property Rights Agreement to secure the First Lien Notes and the Second Lien Notes.

d. **Germany & EPO**:
   - German law governed Junior Ranking Pledge of IP Rights and Confirmation Agreement (*Nachrangige Verpfändung Gewerblicher Schutzrechte und Bestätigungsvereinbarung*) to secure the First Lien Notes.

e. **Italy**: Italian law governed amendment and restatement agreement of the pledge agreement dated October 21, 2022, to be entered into in notarial form to secure the First Lien Notes (*provided*, that the Obligations to be secured by the Liens on the applicable Collateral under any Italian law patent security document shall not exceed US$100,000).

f. **EUIPO**: Italian law governed amendment and restatement agreement of the pledge agreement dated October 20, 2022, to be entered into by way of exchange of commercial correspondence, to secure the First Lien Notes (*provided*, that the Obligations to be secured by the Liens on the applicable Collateral under any Italian law patent security document shall not exceed US$100,000).

g. **Japan**:
   - Japanese law governed Agreement on release of pledge agreement executed on October 7, 2022;
   - Japanese law governed First-Priority Pledge Agreement for the Notes; and

h. **South Korea**:
   - South Korean law governed Amendment Agreement for the keun-pledge executed on October 7, 2022, to secure the First Lien Notes.

i. **United Kingdom**:
   - English law governed Supplemental Security Agreement in respect of the security agreement dated 7 October 2022 for the Notes; and

(b) contemporaneously with ~~the~~ execution of each Local Law Patent Security Document, provide: -

a. any relevant constitutional documents and necessary corporate approvals with respect to entry into the respective Local Law Patent Security Documents;
b. any related opinions as requested by the entity holding the security interest in the applicable Collateral ~~and/or Investor~~ to be issued based on standard opinion practice of each Agreed IP Security Jurisdiction, appointment of agents for service of process as applicable; and
c. any additional documentation or deliverables as reasonably required in the

respective jurisdictions.

~~3. Within 60 days of the Issue Date, provide the Collateral Trustee a list of all Patents owned by it as of the Issue Date in each of the Agreed IP Security Jurisdictions.~~

(c) ~~4. Within 90 days of the Issue Date, Maxeon Solar Pte. Ltd. shall, subject to prompt assistance from the entity holding the security interest in the applicable Collateral, as may be necessary,~~ take practical steps consistent with ~~agreed~~generally accepted market practice in the PRC, the United Kingdom, France, the European Union Intellectual Property Office, Australia (to the extent that only a centralized filing will be made), South Korea and Italy (the "**Agreed IP Perfection Jurisdictions**") to ensure that the Liens under the Local Law Patent Security Documents in respect of ~~its~~the Patents ~~registered~~ in the Agreed IP Perfection Jurisdictions are recorded, filed and notified in the Agreed IP Perfection Jurisdictions and on all relevant registers of the Agreed IP Perfection Jurisdictions, to ensure the enforceability, validity and priority of such Liens~~.~~, specifically:

~~5. Within 60 days of the Issue Date:~~

~~(a) Subject to a favorable ruling by the Swiss Federal Tax Administration that the use of proceeds of the Notes is permitted, in each case without payments in respect of the Notes becoming subject to withholding or deduction for Swiss withholding tax as a consequence of such use of proceeds in Switzerland, the following documents should have been entered into:~~

~~(1) a supplemental indenture substantively in the form of Exhibit C, including, as applicable, such provisions as are required or appropriate under the relevant local laws and regulations, pursuant to which SunPower Systems Sarl becomes a Guarantor;~~

~~(2) Cayman law governed Share Mortgage granted by SunPower Systems Sarl in respect of its shares in SunPower Technology Ltd; and~~

~~(3) Swiss law governed Account Pledge granted by SunPower Systems Sarl;~~

~~(b) Swiss law governed Quota Pledge granted by SunPower Bermuda Holdings in respect of its quotas in SunPower Systems Sarl; and~~

~~(c) Philippine law governed all-asset omnibus security agreement granted by SunPower Philippines Manufacturing Ltd in respect of, among others, bank accounts and Common A Shares in SPML Land, Inc, but excluding any real estate and equipment, improvements and fixtures deemed to form part of the land.~~

~~6. SunPower Malaysia Manufacturing Sdn Bhd shall have furnished a copy of the application in Form A (Financial Guarantee) made to BNM via BNM's online portal for the BNM Approval:~~

~~(a) within 7 days from the deployment of proceeds from the issuance of the Notes of Ringgit Malaysia One Hundred Million (RM100,000,000.00) in aggregate by the Company to SunPower Malaysia Manufacturing Sdn Bhd; or~~

~~(b) March 31, 2023,~~

~~whichever is the earlier.~~

~~7. [Reserved].~~

~~**Schedule 1**~~

a. ~~1. The~~for the PRC, within 90 days from the date of signing of the PRC Local Law Patent Security Documents~~ for the following Agreed IP Security Jurisdictions shall be agreed and executed no later than October 7, 2022:~~; and

~~a. Australia~~
~~b. France~~
~~c. South Korea~~
~~d. Germany~~
~~e. European Patent Office f. Japan~~
~~f. United Kingdom~~

~~2. The Local Law Patent Security Documents for the following Agreed IP Security Jurisdictions shall be agreed and executed no later than October 20, 2022:~~

b. for the other Agreed IP Perfection Jurisdictions apart from the PRC, within 30 days from the date of signing of the respective Local Law Patent Security Documents in such Agreed IP Perfection Jurisdictions.

~~a. PRC~~

3. By the date falling 30 days after the Rate Reset Date, SunPower Philippines Manufacturing Ltd. shall enter into an amendment and restatement or supplement to the existing Philippine Security Document, to secure the Notes.

~~b. Italy~~
~~c. European Union Intellectual Property Office~~

Schedule ~~3.23~~3.24 Post-Closing Obligations

1. Not later than the dates specified in Schedule 1.01 (or such later date as may be reasonably agreed by the Collateral Trustee upon receiving written instruction, advice or concurrence of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture, subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction, as it deems appropriate, subject to the terms of the Intercreditor Agreement), the Company and the Restricted Subsidiaries shall enter into each document or take the actions set forth on **Schedule 1.01**.

Annex 2

Amendments to the Note

The front of each of the Note No.1 and Note No. 2 shall be amended as follows, as applicable:

NOTE

THE OFFER AND SALE OF THIS NOTE AND THE ORDINARY SHARES, IF ANY, ISSUABLE UPON CONVERSION OF THIS NOTE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS NOTE MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT ONLY:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT; AND

(2) AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT ONLY:

(A) TO THE COMPANY, ITS PARENT OR ANY SUBSIDIARY THEREOF;

(B) PURSUANT TO A REGISTRATION STATEMENT THAT IS EFFECTIVE UNDER THE SECURITIES ACT;

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT;

(D) PURSUANT TO RULE 144 UNDER THE SECURITIES ACT;

(E) PURSUANT TO REGULATION S UNDER THE SECURITIES ACT; OR

(F) PURSUANT TO ANY OTHER EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

BEFORE THE REGISTRATION OF ANY SALE OR TRANSFER IN ACCORDANCE WITH (C), (D), (E) or (F) ABOVE, THE COMPANY, THE TRUSTEE AND THE REGISTRAR RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH CERTIFICATES OR OTHER DOCUMENTATION OR EVIDENCE AS THEY MAY REASONABLY REQUIRE IN ORDER TO DETERMINE THAT THE PROPOSED SALE OR TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS."

THE FOLLOWING INFORMATION IS SUPPLIED SOLELY FOR U.S. FEDERAL INCOME TAX PURPOSES. THE NOTES WERE ISSUED WITH "ORIGINAL ISSUE DISCOUNT" ("OID") WITHIN THE MEANING OF SECTION 1273 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. NOTEHOLDERS MAY OBTAIN INFORMATION REGARDING THE AMOUNT OF ANY OID, THE ISSUE PRICE, THE ISSUE DATE, AND THE YIELD TO MATURITY RELATING TO THE NOTES BY CONTACTING THE COMPANY.

Maxeon Solar Technologies, Ltd.

~~7.50%~~ Variable-Rate Convertible First Lien Senior Secured Note due 2029~~2027~~

CUSIP No.: 57779B AC8
ISIN No.: US57779BAC81

Certificate [No. 1][1] / [No. 2][2]

Maxeon Solar Technologies, Ltd., a company incorporated in Singapore, for value received, promises to pay to Zhonghuan Singapore Investment and Development Pte. Ltd., or its registered assigns, the principal sum of [TWO HUNDRED AND SEVEN MILLION dollars ($207,000,000)][3] / [TWENTY-FIVE MILLION dollars ($25,000,000)][4] on August 17, ~~2027~~2029 and to pay interest thereon, as provided in the Indenture referred to below, until the principal and all accrued and unpaid interest are paid or duly provided for.

Interest Payment Dates: February 17 and August 17 of each year, commencing on [February 17, 2023][5] / [August 17, 2024][6].

Regular Record Dates: February 2 and August 2.

Additional provisions of this Note are set forth on the other side of this Note.

[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]

1 Applicable to the Note No. 1

2 Applicable to the Note No. 2

3 Applicable to the Note No. 1

4 Applicable to the Note No. 2

5 Applicable to the Note No. 1

6 Applicable to the Note No. 2

The title, first two paragraphs and sections 1 and 2 of the reverse of each of the Note No.1 and Note No. 2 shall be amended as follows:

Maxeon Solar Technologies, Ltd.

~~7.50%~~ Variable-Rate Convertible First Lien Senior Secured Note due 2029~~2027~~

This Note is one of a duly authorized issue of notes of Maxeon Solar Technologies, Ltd., a company incorporated in Singapore (the "**Company**"), designated as its ~~7.50%~~ Variable-Rate Convertible First Lien Senior Notes due ~~2027~~ (the "**Notes**"), all issued or to be issued pursuant to an indenture, dated as of August 17, 2022 (as amended by (a) that certain Supplemental Indenture No. 1, dated September 30, 2022, by and among the Company, the Trustee and the Collateral Trustee (as defined below), (b) that certain Supplemental Indenture No. 2, dated October 14, 2022, by and among the Company, SunPower Systems Sàrl, the Trustee and the Collateral Trustee, (c) that certain Supplemental Indenture No. 3, dated October 14, 2022, by and among the Company, SunPower Philippines Manufacturing Ltd., the Trustee, the Collateral Trustee and the Supplemental Collateral Trustee named therein, (d) that certain Supplemental Indenture No. 4, dated November 13, 2023, by and among the Company, the Trustee and the Collateral Trustee, (e) that certain Supplemental Indenture No. 5, dated January 30, 2024 by and among the Company and the Trustee, and (f) that certain Supplemental Indenture No. 6, dated May 31, 2024 by and among the Company, the Trustee, the Collateral Trustee and the Supplemental Collateral Trustee named therein, and (g) that certain Supplemental Indenture No. 7, dated June 20, 2024 by and among Company, the Trustee, the Collateral Trustee and the Supplemental Collateral Trustee named therein and as may be further amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "**Indenture**"), between the Company, the Guarantors from time to time party thereto, Deutsche Bank Trust Company Americas, a New York Banking Corporation as Trustee, as DB Trustees (Hong Kong) Limited as Collateral Trustee and RCBC Trust Corporation as Philippine Supplemental Collateral Trustee. Capitalized terms used in this Note without definition have the respective meanings ascribed to them in the Indenture.

The Indenture sets forth the rights and obligations of the Company, the Trustee and the Holders and the terms of the Notes. Notwithstanding anything to the contrary in this Note, to the extent that any provision of this Note conflicts with the provisions of the Indenture, the provisions of the Indenture will control.

1. **Interest**. This Note will accrue interest at a rate and in the manner set forth in Section 2.05 of the Indenture. Stated Interest on this Note will begin to accrue from, and including, August 17, 2022.

2. **Maturity**. This Note will mature on August 17, ~~2027~~2029, unless earlier repurchased, redeemed or converted.

The title of the form of Conversion Notice appended to each of the Note No.1 and Note No. 2 shall be amended as follows:

CONVERSION NOTICE

Maxeon Solar Technologies, Ltd.

~~7.50%~~ **Variable-Rate** Convertible First Lien Senior Secured Note due 2029~~2027~~

The title of the form of Fundamental Change Repurchase Notice appended to each of the Note No.1 and Note No. 2 shall be amended as follows:

FUNDAMENTAL CHANGE REPURCHASE NOTICE

Maxeon Solar Technologies, Ltd.

~~7.50%~~ **Variable-Rate** Convertible First Lien Senior Secured Note due 2029~~2027~~

The title of the form of Assignment Form appended to each of the Note No.1 and Note No. 2 shall be amended as follows:

ASSIGNMENT FORM

Maxeon Solar Technologies, Ltd.

~~7.50%~~ **Variable-Rate** Convertible First Lien Senior Secured Note due 2029~~2027~~

Exhibit 99.4

MAXEON SOLAR TECHNOLOGIES, LTD.,

THE GUARANTORS PARTY HERETO,

and

DEUTSCHE BANK TRUST COMPANY AMERICAS

as Trustee

and

DB TRUSTEES (HONG KONG) LIMITED

as Collateral Trustee

and

RCBC TRUST CORPORATION

as Philippine Supplemental Collateral Trustee

INDENTURE

Dated as of June 20, 2024

9.00% Convertible First Lien Senior Secured Notes due 2029

THIS INDENTURE IS SUBJECT TO THE PROVISIONS OF THE 1L/2L INTERCREDITOR AGREEMENT AND THE PARI PASSU INTERCREDITOR AGREEMENT (EACH AS DEFINED HEREIN).

TABLE OF CONTENTS

CONVERTIBLE FIRST LIEN SENIOR SECURED NOTES INDENTURE, dated as of June 20, 2024, among Maxeon Solar Technologies, Ltd. (Company Registration No: 201934268H), a company incorporated in Singapore, as issuer (the "**Company**"), the guarantors listed on the signature pages hereof (each, a "**Guarantor**" and collectively, the "**Guarantors**"), Deutsche Bank Trust Company Americas, a New York Banking Corporation, as trustee (the "**Trustee**"), DB Trustees (Hong Kong) Limited as the collateral trustee (in such capacity, and including any successor collateral trustee or additional collateral trustee, the Philippine Supplemental Collateral Trustee (as defined below) or Supplemental Collateral Trustee (as defined herein) pursuant to the applicable provisions of this Indenture, and thereafter, the "**Collateral Trustee"**) and RCBC Trust Corporation as collateral trustee with respect to the Philippine Collateral (as defined below) (in such capacity and solely with respect to the Philippine Collateral, the "**Philippine Supplemental Collateral Trustee**").

Each party to this Indenture (as defined below) agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders (as defined below) of the Company's 9.00% Convertible First Lien Senior Secured Notes due 2029 (the "**Notes**").

Article 1. DEFINITIONS; RULES OF CONSTRUCTION

Section 1.01. Definitions.

"**1L/2L Intercreditor Agreement**" means the intercreditor agreement, dated on or about June 20, 2024, made between, among others, the Company, the Guarantors, the Trustee, the Collateral Trustee, the Philippine Supplemental Collateral Trustee, the Amended 2029 First Lien Notes Trustee, the Amended 2029 First Lien Notes Collateral Trustee, the Amended 2029 First Lien Notes Philippine Supplemental Collateral Trustee, the Second Lien Notes Trustee, the Second Lien Notes Collateral Trustee, and the Second Lien Notes Philippine Supplemental Collateral Trustee and the other parties named therein, as amended, restated or otherwise modified or varied from time to time.

"**2025 Notes**" means any 6.50% Green Convertible Senior Notes due 2025 of the Company outstanding as of the Rate Reset Date, after giving effect to the issuance of the Second Lien Notes and certain warrants in exchange for certain 2025 Notes, that were issued originally in $200.0 million aggregate principal amount under an indenture dated July 17, 2020 between the Company and Deutsche Bank Trust Company Americas, as trustee (the "**2025 Convertible Bonds Indenture**").

"Additional Notes" means additional notes that may be issued pursuant to **Section 3.12(G)**, which, for the avoidance of doubt, have the same terms and conditions of the Notes (including the benefit of the Subsidiary Guarantees and the Collateral) in all respects except for the issue date, issue price, the date of the first payment of interest.

"**Affiliate**" has the meaning set forth in Rule 144 as in effect on the Issue Date.

"**Amended 2029 First Lien Notes**" means $207 million Variable-Rate First Lien Senior Secured Convertible Notes due 2029 of the Company, which is evidenced by an amendment of the Company's $207 million 7.50% Convertible First Lien Senior Secured Notes due 2027 pursuant to the Amended 2029 First Lien Notes Indenture, and any additional notes which may be issued pursuant to and in accordance with the terms of the Amended 2029 First Lien Notes Indenture, as may be further amended and supplemented from time to time.

"**Amended 2029 First Lien Notes Collateral Trustee**" means DB Trustees (Hong Kong) Limited, as the collateral trustee for the Amended 2029 First Lien Notes, and/or any successor collateral trustee, additional collateral trustee, Amended 2029 First Lien Notes Philippine Supplemental Collateral Trustee, or any other supplemental collateral trustee appointed pursuant to the terms of the Amended 2029 First Lien Notes Indenture.

"**Amended 2029 First Lien Notes Indenture**" means the indenture entered into among the Company, the Guarantors named therein, the Amended 2029 First Lien Notes Trustee, the Amended 2029 First Lien Notes Collateral Trustee and the Amended 2029 First Lien Notes Philippine Supplemental Collateral Trustee, as amended and supplemented by a supplemental indenture dated June 20, 2024, in relation to the Amended 2029 First Lien Notes, as may be further amended and supplemented from time to time.

"**Amended 2029 First Lien Notes Philippine Supplemental Collateral Trustee**" means RCBC Trust Corporation as collateral trustee with respect to the Philippine Collateral (as defined in the Amended 2029 First Lien Notes Indenture), in such capacity and solely with respect to such collateral.

"**Amended 2029 First Lien Notes Trustee**" means Deutsche Bank Trust Company Americas, a New York Banking Corporation, as trustee for the Amended 2029 First Lien Notes or its successors or assignees appointed pursuant to the terms of the Amended 2029 First Lien Notes Indenture.

"Appropriated Instruments Holders" means the Secured Parties (or their Affiliates) in their capacity as holders of any Charged Property as a result of an Appropriation of such Charged Property.

"**Appropriation**" means the appropriation (or similar process) of the shares or financial securities issued by the Company or any of the Company's Subsidiaries by the Collateral Trustee (or any receiver or delegate) which is effected (to the extent permitted and subject to any requirements under the relevant Security Document and applicable law) by enforcement of the security interest created under any Security Document (including, in respect of French Security Documents, pursuant to a *pacte commissoire* or a foreclosure (*attribution judiciaire*)).

"**Authorized Denomination**" means, with respect to a Note, a principal amount thereof equal to $1,000 or any integral multiple of $1.00 in excess thereof.

"**Average Life**" means, at any date of determination with respect to any Indebtedness, the quotient obtained by dividing (1) the sum of the products of (a) the number of years from such date of determination to the dates of each successive scheduled principal payment of such Indebtedness and (b) the amount of such principal payment by (2) the sum of all such principal payments.

"**Bankruptcy Law**" means Title 11, United States Code, or any similar U.S. federal or state or non-U.S. law for the relief of debtors.

"**Board of Directors**" means the board of directors of the Company or a committee of such board duly authorized to act on behalf of such board.

"**Business Day**" means any day other than a Saturday, a Sunday, or any day on which banking institutions in The City of New York, Hong Kong or Singapore (or in any other place in which payments on the Notes are to be made) are authorized by law or governmental regulation to close.

"**Capital Expenditures**" means with respect to the Company and the Subsidiaries for any period, the aggregate amount, without duplication, of (a) all expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized as a capital lease) that would, in accordance with U.S. GAAP, be included as additions to property, plant and equipment, (b) other capital expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized as capital leases) that are reported in the Company's consolidated statement of cash flows for such period and (c) other capital expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized as capital leases, including, without limitation, any capitalized bonus payment).

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

"**Change in Tax Law**" means any change or amendment in the laws, rules or regulations of a Relevant Taxing Jurisdiction, or any change in an official written interpretation, administration or application of such laws, rules or regulations by any legislative body, court, governmental taxing authority or regulatory or administrative authority of such Relevant Taxing Jurisdiction (including the enactment of any legislation and the publication of any judicial decision or regulatory or administrative interpretation or determination) affecting taxation, which change or amendment (A) had not been publicly announced before; and (B) becomes effective on or after the Issue Date (or, if the Relevant Taxing Jurisdiction was not a Relevant Taxing Jurisdiction on such date, the date on which such Relevant Taxing Jurisdiction became a Relevant Taxing Jurisdiction).

"**Charged Property**" means all of the assets which from time to time are, or are expressed to be, the subject of any security interest created under a French Security Document.

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

"**Closing Security Documents**" means the Security Documents set forth in Schedule III hereto.

"**Collateral**" means, other than the Excluded Assets, all of the property and assets now owned or at any time hereafter acquired by the Company and Restricted Subsidiaries or in which the Company or any Restricted Subsidiary now has or at any time in the future may acquire any right, title or interest wherever located, upon which a Lien is granted or purported to be granted by the Company or the relevant Restricted Subsidiary as security for all or any part of the Obligations in accordance with the terms of this Indenture, the relevant Security Documents and the Intercreditor Agreement.

"**Collections**" means (i) all cash net proceeds (including all cash net proceeds received in the form of checks, credit card slips or receipts, notes, instruments, and other items of payment) from Sales Contracts of the Company Indenture Parties (including cash net proceeds from any Receivable Financing permitted under **Section 3.12(X)** to the extent such Receivable Financing is entered into with respect to any Sales Contract) but not including any revenue from any Sales Contract which constitutes Receivable Financing Assets) and (ii) all net cash proceeds from Dispositions permitted under **Sections 3.15(A**), **Section 3.15(B)**, **Section 3.15(E)**, **Section 3.15(O)** and **Section 3.15(S)** to the extent such Dispositions are by any of the Company Indenture Parties.

"**Company**" means the Person named as such in the first paragraph of this Indenture and, subject to **Article 6**, its successors and assigns.

"**Company Indenture Parties**" means, collectively, the Company and each Guarantor and each of them is a "**Company Indenture Party**".

"**Company Order**" means a written request or order signed on behalf of the Company by one (1) of its Officers and delivered to the Trustee.

"**Consolidated EBITDA**" means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period plus, without duplication, to the extent the same was deducted in calculating Consolidated Net Income:

(1) Consolidated Taxes; plus

(2) Consolidated Interest Expense; plus

(3) Consolidated Non-cash Charges; plus

(4) any costs or expenses realized or resulting from stock option plans, or grants or sales of stock, stock appreciation or similar rights, stock options, restricted stock, preferred stock or other rights;

(5) any loss contingency or losses for any extraordinary and nonrecurring charges, expenses or litigation not occurred in the ordinary course of such Person's business; plus

(6) any impairment charges or asset write-offs; plus

(7) any net after-tax losses (less all fees and expenses or charges relating thereto) attributable to the early extinguishment of indebtedness, Hedging Agreements or other derivative instruments; plus

(8) any net after-tax losses attributable to the mark-to-market remeasurement of any equity forward contracts, Hedging Agreements or other derivative instruments; plus

(9) any expenses or charges related to any issuance of Capital Stock, securities convertible into or exchangeable into such Capital Stock, Investment, acquisition, Disposition, recapitalization or the incurrence or repayment of Indebtedness (including a refinancing thereof) (whether or not successful), including but not limited to such fees, expenses or charges related to the offering and issuance, or any amendment or modifications, of (i) the First Lien Notes and the Second Lien Notes and the Ordinary Shares issued upon the conversion of any such First Lien Notes or Second Lien Notes, (ii) the TZE Warrant and the Ordinary Shares issued upon the exercise of any such TZE Warrant, (iii) Ordinary Shares in partial exchange for the 2025 Notes, and (iv) the FPA Shares; plus

(10) project start-up costs, business optimization expenses and other restructuring charges, reserves, fees or expenses (which, for the avoidance of doubt, shall include the effect of inventory optimization programs, facility closures, facility consolidations, retention, systems establishment costs, contract termination costs, future lease commitments and excess pension charges); plus

(11) any non-cash charges arising from a change in the accounting principles applied by the Company or any of its Subsidiaries; plus

(12) any currency translation losses related to currency remeasurements of Indebtedness; plus

(13) any other cash and non-cash charges that are deemed by the Chief Financial Officer and the Board of Directors of the Company not to be part of the ordinary course of business and not necessary to reflect the regular, ongoing operations of the Company and its Subsidiaries; plus

(14) any other non-cash items decreasing Consolidated Net Income for such period, (excluding an accrual or reserve for anticipated cash charges in any future period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period); plus

less, without duplication,

(15) any net after-tax gains (less all fees and expenses or charges relating thereto) attributable to the early extinguishment of indebtedness, Hedging Agreements or other derivative instruments; less

(16) any net after-tax gains attributable to the mark-to-market remeasurement of any equity forward contracts, Hedging Agreements or other derivative instruments; less

(17) any non-cash gains arising from a change in the accounting principles applied by the Company or any of its Subsidiaries; less

(18) any currency translation gains related to currency remeasurements of Indebtedness; less

(19) any other cash and non-cash gains that are deemed by the Chief Financial Officer and the Board of Directors of the Company not to be part of the normal course of business and not necessary to reflect the regular, ongoing operations of the Company and its Subsidiaries; less

(20) any other non-cash items increasing Consolidated Net Income for such period (excluding the recognition of deferred revenue or any items that represent the reversal of any accrual of, or cash reserve for, anticipated cash charges that reduced Consolidated EBITDA in any prior period and any items for which cash was received in a prior period).

"**Consolidated Interest Expense**" means, with respect to any Person for any period, the amount that would be included in gross interest expense on a consolidated income statement prepared in accordance with U.S. GAAP for such period of such Person and its Subsidiaries, minus interest income for such period, and plus, to the extent not included in such gross interest expense, and to the extent incurred, accrued or payable during such period by such Person and its Subsidiaries, without duplication, (1) interest expense attributable to finance leases, (2) amortization of debt issuance costs and original issue discount expense and non-cash interest payments in respect of any Indebtedness, (3) the interest portion of any deferred payment obligation, (4) all commissions, discounts and other fees and charges with respect to letters of credit or similar instruments issued for financing purposes or in respect of any Indebtedness, (5) the net costs associated with Hedging Agreement (including the amortization of fees, taking no account of any unrealized gains or losses or financial instruments other than any derivative instruments which are accounted for on a hedge accounting basis), (6) interest accruing on Indebtedness of any other Person that is guaranteed by, or secured by a Lien on any asset of, such Person or any of its Subsidiaries, and (7) any capitalized interest.

"**Consolidated Leverage Ratio**" means, with respect to any Person, at any date, the ratio of (i) the amount of Indebtedness of such Person and its Subsidiaries, as of such date of calculation (determined on a consolidated basis in accordance with U.S. GAAP) less the amount of Total Liquidity of such Person and its Subsidiaries (determined on a consolidated basis in accordance with U.S. GAAP) as of such date of determination; to (ii) the amount of Consolidated EBITDA of such Person and its Subsidiaries for the four consecutive fiscal quarters for which internal financial statements are available immediately preceding such date.

For purposes of making the computation referred to above, Investments, acquisitions, Dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with U.S. GAAP), in each case with respect to a business, a division or an operating unit of a business, as applicable, and any operational changes that the Company or any of its Subsidiaries has determined to make and/or made subsequent to the commencement of the period for which the Consolidated Leverage Ratio is being calculated but on or prior to the relevant Consolidated Leverage Calculation Date shall be calculated on a *pro forma* basis as if that all such Investments, acquisitions, Dispositions, mergers, amalgamations, consolidations, discontinued operations and other operational changes (and the change of any associated Indebtedness and the change in Consolidated EBITDA resulting therefrom) had occurred on the first day of the applicable four-quarter period. If since the beginning of such period, any Person that subsequently became a Subsidiary of the Company, or was merged with or into the Company or any Subsidiary of the Company, as the case may be, has made any Investment, acquisition, Disposition, merger, consolidation, amalgamation, discontinued operation or operational change, in each case with respect to a business, a division or an operating unit of a business, as applicable, that would have required adjustment pursuant to this definition, then the Consolidated Leverage Ratio shall be calculated giving *pro forma* effect thereto for such period as if such Investment, acquisition, Disposition, merger, amalgamation, consolidation, discontinued operation or operational change had occurred on the first day of the applicable four-quarter period.

For purposes of this definition, whenever *pro forma* effect is to be given to any event, the *pro forma* calculations shall be made in good faith by a responsible financial or accounting officer of the Company. Any such *pro forma* calculation may include adjustments appropriate, in the reasonable good faith determination of the Company, as set forth in an Officer's Certificate, to reflect operating expense reductions and other operating improvements or synergies reasonably expected to result from the applicable event.

"**Consolidated Leverage Ratio Calculation Date**" means March 31, June 30, September 30 and December 31 of each year, commencing (and including) on December 31, 2025 and ending on (and including) December 31, 2027.

"**Consolidated Leverage Ratio Target**" means, with respect to each Consolidated Leverage Ratio Calculation Date, the ratio specified next to such date in the table below:

Consolidated Leverage Calculation Date	Maximum Consolidated Leverage Ratio
December 31, 2025, March 31, 2026, June 30, 2026 and September 30, 2026	8.0x
December 31, 2026, March 31, 2027, June 30, 2027 and September 30, 2027	3.0x
December 31, 2027	2.0x

"**Consolidated Net Income**" means, with respect to any Person for any period, the net income (loss) of such Person and its Subsidiaries from continuing operations, determined in accordance with U.S. GAAP, *provided*, *however*, that the Consolidated Net Income of any Person shall be calculated without deducting the income attributable to, or adding the losses attributable to, the minority equity interests of third parties in any Subsidiary that is not a Wholly Owned Subsidiary, except to the extent of dividends declared or paid in respect of such period on the shares of Capital Stock of such Subsidiary held by such third parties.

"**Consolidated Non-cash Charges**" means, with respect to any Person for any period, the aggregate depreciation, amortization and other non-cash expenses of such Person and its Subsidiaries reducing Consolidated Net Income of such Person for such period on a consolidated basis and otherwise determined in accordance with U.S. GAAP, but excluding any such charge that consists of or requires an accrual of, or cash reserve for, anticipated cash charges for any future period.

"**Consolidated Taxes**" means , with respect to any Person for any period, the provision for taxes based on income, profits or capital, including state, franchise, property and similar taxes and non-U.S. withholding taxes (including penalties and interest related to such taxes or arising from tax examinations), as determined in accordance with U.S. GAAP.

"**Conversion Date**" means, with respect to a Note, the first Business Day on which the requirements set forth in **Section 5.02(A)** to convert such Note are satisfied.

"**Conversion Price**" means, as of any time, an amount equal to (A) one thousand dollars ($1,000) *divided by* (B) the Conversion Rate in effect at such time.

"**Conversion Rate**" means (A) the number of Ordinary Shares equal to (i) one thousand dollars ($1,000) *divided by* (ii) the Initial Pricing VWAP, or (B) upon the occurrence of Forward Purchase Adjustment Event, the number of Ordinary Shares equal to (i) one thousand dollars ($1,000) *divided by* (ii) the FPA VWAP, whichever is greater; *provided*, *however*, that the Conversion Rate is subject to adjustment pursuant to **Article 5**; *provided*, *further*, that whenever this Indenture refers to the Conversion Rate as of a particular date without setting forth a particular time on such date, such reference will be deemed to be to the Conversion Rate immediately after the Close of Business on such date.

"**Conversion Share**" means any Ordinary Share issued or issuable upon conversion of any Note.

"**Daily Cash Amount**" means, with respect to any VWAP Trading Day, the lesser of (A) the applicable Daily Maximum Cash Amount; and (B) the Daily Conversion Value for such VWAP Trading Day.

"**Daily Conversion Value**" means, with respect to any VWAP Trading Day, one-thirtieth (1/30th) of the product of (A) the Conversion Rate on such VWAP Trading Day; and (B) the Daily VWAP per Ordinary Share on such VWAP Trading Day.

"**Daily Maximum Cash Amount**" means, with respect to the conversion of any Note, the quotient obtained by dividing (A) the Specified Dollar Amount applicable to such conversion by (B) thirty (30).

"**Daily Share Amount**" means, with respect to any VWAP Trading Day, the quotient obtained by dividing (A) the excess, if any, of the Daily Conversion Value for such VWAP Trading Day over the applicable Daily Maximum Cash Amount by (B) the Daily VWAP for such VWAP Trading Day. For the avoidance of doubt, the Daily Share Amount will be zero for such VWAP Trading Day if such Daily Conversion Value does not exceed such Daily Maximum Cash Amount.

"**Daily VWAP**" means, for any VWAP Trading Day, the per share volume-weighted average price of the Ordinary Shares as displayed under the heading "Bloomberg VWAP" on Bloomberg page identified by "MAXN" (or such other ticker symbol for such Ordinary Shares) appended by the suffix "<EQUITY> AQR" (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such VWAP Trading Day (or, if such volume- weighted average price is unavailable, the market value of one Ordinary Share on such VWAP Trading Day, reasonably determined, using a volume-weighted average price method, by a nationally recognized independent investment banking firm selected by the Company. The Daily VWAP will be determined without regard to after-hours trading or any other trading outside of the regular trading session.

"**Default**" means any event that is (or, after notice, passage of time or both, would be) an Event of Default.

"**Default Settlement Method**" means Combination Settlement with a Specified Dollar Amount of $1,000 per $1,000 principal amount of Notes; *provided*, *however*, that subject to **Section 5.03(A)(ii)**, the Company may, from time to time, change the Default Settlement Method by sending notice of the new Default Settlement Method to the Holders, the Trustee and the Conversion Agent.

"**Depositary**" means The Depository Trust Company or its successor.

"**Depositary Participant**" means any member of, or participant in, the Depositary.

"**Depositary Procedures**" means, with respect to any conversion, transfer, exchange or transaction involving a Global Note or any beneficial interest therein, the rules and procedures of the Depositary applicable to such conversion, transfer, exchange or transaction.

"**Disposition**" with respect to any Person, any sale, transfer, exclusive license, exclusive sub-license, lease, sale and leaseback, contribution conveyance or other disposition (including by way of merger, consolidation, Sale/Leaseback Transaction, condemnation, casualty event or division of a limited liability company) of any of such Person's or any of such Person's Subsidiaries' assets or properties, or the issuance of equity interest by any Subsidiary of the Company, in each case, to any other Person in a single transaction or series of transactions. "**Dispose**" shall have a correlative meaning consistent with the foregoing.

"**Enforcement Action**" means any action or decision taken in connection with the exercise of remedial rights of the Holders of the Notes and the Trustee and/or Collateral Trustee, representing the interests of the Holders of the Notes (including in respect of the Collateral pursuant to the Security Documents) following the occurrence and during the continuation of an Event of Default in accordance with the terms of this Indenture, the Intercreditor Agreement and/or the relevant Security Documents, as the case may be.

"**Environmental Law**" means any applicable law in any jurisdiction in which the Company or any Restricted Subsidiary conducts its business, which relates to the pollution or protection of the environment or harm to or the protection of human health or the health of animals or plants.

"**Ex-Dividend Date**" means, with respect to an issuance, dividend or distribution on the Ordinary Shares, the first date on which Ordinary Shares trade on the applicable exchange or in the applicable market, regular way, without the right to receive such issuance, dividend or distribution (including pursuant to due bills or similar arrangements required by the relevant stock exchange). For the avoidance of doubt, any alternative trading convention on the applicable exchange or market in respect of the Ordinary Shares under a separate ticker symbol or CUSIP number will not be considered "regular way" for this purpose.

"**Exchange Act**" means the U.S. Securities Exchange Act of 1934, as amended.

"**Excluded Accounts**" means a deposit or securities account (i) which is used for the sole purpose of (x) making payroll and other employee wage and benefit payments and accrued and unpaid employee compensation (including salaries, wages, benefits and expense reimbursements) and/or (y) making payments to applicable government authorities or bodies, including with respect to withholding, sales and other taxes or duties and utilities, (ii) is a zero balance account, (iii) constituting a custodian, trust, fiduciary or other escrow account established for the benefit of third parties in the ordinary course of business in connection with transactions permitted hereunder, (iv) the incurrence of a Lien in favor the Collateral Trustee over which is prohibited under applicable laws, rules or regulations; (v) the creation of any Lien on which would restrict the use of funds in the ordinary course of business any time prior to the time when such Lien becomes enforceable, or have a material adverse effect on the normal operations of the relevant Company Indenture Party in its ordinary course of business; (vi) which constitutes Receivable Financing Assets; (vii) the Company's account that is pledged to secure the Indebtedness under the SCB Agreement or any refinancing thereof in accordance with **Section 3.12(F)**; and (viii) which, together with other accounts (other than those identified in clauses (i) through (vii)), collectively has average daily closing balances for any fiscal quarter of less than the equivalent of $5,000,000 in the aggregate.

"**Excluded Assets**" means:

(A) shares in SunPower Corporation Mexico, S. de R.L. de C.V. and dividends and other related rights in respect of such shares; and

(B) solely in respect to any property in the United States, the property and assets described in the definition of "Excluded Property," as such term is defined in the security agreement, dated as of June 20, 2024, by and between the Company, each grantor party thereto, and the Collateral Trustee.

"**Fair Market Value**" means the price that would be paid in an arm's-length transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy, as determined in good faith by the Board of Directors.

"**Final Discharge Date**" means the first date on which all Obligations have been fully and finally discharged in accordance with the terms of this Indenture, whether or not as the result of an enforcement, and the Secured Parties (in that capacity) are under no further obligation to provide financial accommodation to the Company or any of the Guarantors under the Indenture Documents.

"**First Lien Notes**" means, collectively, the Notes and the Amended 2029 First Lien Notes.

*"***First Lien Notes Collateral Trustees**" means, collectively, the Collateral Trustee and the Amended 2029 First Lien Notes Collateral Trustee.

"**First Lien Notes Indentures**" means, collectively, this Indenture and the Amended 2029 First Lien Notes Indenture.

"**First Lien Notes Philippine Supplemental Collateral Trustee**" means, collectively, the Philippine Supplemental Collateral Trustee and the Amended 2029 First Lien Notes Philippine Supplemental Collateral Trustee.

"**Forward Purchase Adjustment Event**" occurs, as soon as practicable after the FPA VWAP is known to the Company, if the Company has determined, in good faith, that the FPA VWAP is less than the Initial Pricing VWAP.

"**Forward Purchase Agreement**" means that certain forward purchase agreement, dated June 14, 2024,by and between the Company and Zhonghuan Singapore Investment and Development Pte. Ltd. (in such capacity, the "**Forward Purchaser**"), pursuant to which the Forward Purchaser agrees to purchase certain Ordinary Shares for an aggregate purchase price of $100,000,000 (the "**FPA Shares**"), subject to the terms and conditions therein. The closing of the issuance, sale and purchase of the FPA Shares pursuant to the terms and conditions of the Forward Purchase Agreement is hereinafter referred to as "**Forward Purchase Closing**."

"**FPA VWAP**" means the average of the Daily VWAP for 10 consecutive Trading Days used in calculating the per share price that the Forward Purchaser will pay for each FPA Share at the Forward Purchase Closing, as determined pursuant to the terms and conditions of the Forward Purchase Agreement.

"**French Civil Code**" means the French *Code civil.*

"**French Security Documents**" means any Security Document governed by the laws of France.

"**Fundamental Change**" means any of the following events:

(A) a "person" or "group" (within the meaning of Section 13(d)(3) of the Exchange Act), other than the Company or its Wholly Owned Subsidiaries, or their respective employee benefit plans), files a Schedule TO (or any successor schedule, form or report) or any report under the Exchange Act disclosing that such person or group has become the direct or indirect "beneficial owner" (as defined below) of Ordinary Shares representing more than fifty percent (50%) of the voting power of all of the Ordinary Shares; *provided*, *however*, that, for purposes of this **clause (A)**, no person or group will be deemed to be a beneficial owner of any securities tendered pursuant to a tender offer or exchange offer made by or on behalf of such person or group until such tendered securities are accepted for purchase or exchange in such offer;

(B) the consummation of (i) any sale, lease or other transfer, in one transaction or a series of transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person, other than solely to one or more of the Company's Wholly Owned Subsidiaries; or (ii) any transaction or series of related transactions in connection with which (whether by means of merger, consolidation, share exchange, combination, reclassification, recapitalization, acquisition, liquidation or otherwise) (other than changes solely resulting from a subdivision or combination of the Ordinary Shares or solely a change in the par value or nominal value of the Ordinary Shares) all of the Ordinary Shares are exchanged for, converted into, acquired for, or constitute solely the right to receive, other securities, cash or other property; *provided*, *however*, that any transaction described in **clause (B) (ii)** above pursuant to which the Persons that directly or indirectly "beneficially owned" (as defined below) all classes of the Company's common equity immediately before such transaction directly or indirectly "beneficially own," immediately after such transaction, more than fifty percent (50%) of all classes of common equity of the surviving, continuing or acquiring company or other transferee, as applicable, or the parent thereof, in substantially the same proportions vis-à-vis each other as immediately before such transaction will be deemed not to be a Fundamental Change pursuant to this **clause (B)** ;

(C) the Company's shareholders approve any plan or proposal for the liquidation or dissolution of the Company; or

(D) at any time after Issue Date, the Ordinary Shares are not listed on any of The New York Stock Exchange, The NASDAQ Global Market or The NASDAQ Global Select Market (or any of their respective successors) (each, a "**Stock Exchange**");

provided, *however*, that a transaction or event described in **clause (A)** or **(B)** above will not constitute a Fundamental Change if (i) at least ninety percent (90%) of the consideration received or to be received by the holders of Ordinary Shares (excluding cash payments for fractional shares or pursuant to dissenters rights), in connection with such transaction or event, consists of ordinary shares or shares of common stock or other corporate common equity listed on any of the Stock Exchanges, or that will be so listed when issued or exchanged in connection with such transaction or event, and such transaction or event constitutes an Ordinary Share Change Event whose Reference Property consists of such consideration; or (ii) such a transaction or event occurs as a result of (w) TZE's beneficial ownership of any First Lien Notes or any of the Second Lien Notes or the Ordinary Shares such First Lien Notes or Second Lien Notes are convertible into, (x) TZE's exercise of its right to convert any First Lien Notes or Second Lien Notes beneficially owned by it pursuant to the terms of the First Lien Notes Indentures or the Second Lien Notes Indenture, (y) the receipt by TZE of any Ordinary Shares issued by the Company in payment of interest due and payable on any First Lien Notes or the Second Lien Notes pursuant to the terms of the First Lien Notes Indentures or the Second Lien Notes Indenture, as the case may be, (z) the receipt by TZE of FPA Shares at the Forward Purchase Closing, (aa) the receipt by TZE of any Ordinary Shares in connection with any exercise under the TZE Warrant, and/or (bb) any other transaction entered into or action taken by TZE, to the extent the TZE is a holder or a beneficial owner of any First Lien Notes or any of the Second Lien Notes, or pursuant to other agreements and/instruments existing on the Issue Date, through which TZE acquires Capital Stock of the Company or options, warrants, convertible notes or other securities convertible or exercisable into Capital Stock of the Company.

For the purposes of this definition, (x) any transaction or event described in both **clause (A)** and in **clause (B)** above (without regard to the proviso in **clause (B)**) will be deemed to occur solely pursuant to **clause (B)** above (subject to such proviso); and (y) whether a Person is a "**beneficial owner**" and whether shares are "**beneficially owned**" will be determined in accordance with Rule 13d-3 under the Exchange Act.

"**Fundamental Change Repurchase Date**" means the date fixed for the repurchase of any Notes by the Company pursuant to a Repurchase Upon Fundamental Change.

"**Fundamental Change Repurchase Notice**" means a notice (including a notice substantially in the form of the "Fundamental Change Repurchase Notice" set forth in **Exhibit A**) containing the information, or otherwise complying with the requirements, set forth in **Section 4.02(F)(i)** and **Section 4.02(F)(ii)**.

"**Fundamental Change Repurchase Price**" means the cash price payable by the Company to repurchase any Note upon its Repurchase Upon Fundamental Change, calculated pursuant to **Section 4.02(D)**.

"**German Security Documents**" means any Security Document governed by the laws of Germany.

"**Global Note**" means a Note that is represented by a certificate substantially in the form set forth in **Exhibit A**, registered in the name of the Depositary or its nominee, duly executed by the Company and authenticated by the Trustee, and deposited with the Trustee, as custodian for the Depositary.

"**Global Note Legend**" means a legend substantially in the form set forth in **Exhibit B-2**.

"**Guaranteed Obligations**" shall have the meaning specified in **Section 12.01(A)(ii).**

"**Guarantors**" means SunPower Corporation Limited, SunPower Energy Corporation Limited, SunPower Systems International Limited, SunPower Manufacturing Corporation Limited, Maxeon Rooster HoldCo, Ltd., Maxeon Solar Pte. Ltd., SunPower Bermuda Holdings, SunPower Technology Ltd., SunPower Philippines Manufacturing Ltd., Rooster Bermuda DRE, LLC, SunPower Systems Sàrl and any Person that hereafter provides a guarantee hereunder pursuant to a joinder (or supplemental indenture) to this Indenture, and each of them is a "**Guarantor**."

"**Hedging Agreement**" means any rate protection agreement, foreign currency exchange agreement, commodity price protection agreement or other interest or currency exchange rate or commodity price hedging agreement or agreement designed to protect a Person against fluctuations in interest rates, current exchange or commodity prices.

"**Holder**" means a person in whose name a Note is registered on the Registrar's books.

"**Indebtedness**" means as to any Person, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments and all reimbursement or other obligations in respect of letters of credit, bankers acceptances or other financial products, (c) all obligations or liabilities of such Person to pay the deferred purchase price of assets (other than trade payables incurred in the ordinary course of business and repayable in accordance with customary trade practices), (d) all obligations of such Person owing under Hedging Agreements (which amount shall be calculated based on the amount that would be payable by such Person if the Hedging Agreement were terminated on the date of determination), (e) all obligations or liabilities of others secured by a Lien on the assets of such Person, irrespective of whether such obligation or liability is assumed; *provided* that the amount of such Indebtedness shall be the lesser of the (y) the fair market value of such asset at such date of determination and (z) the amount of such Indebtedness, (f) all finance leases that appear as a liability on such Person's consolidated balance sheet (excluding the footnotes thereto), and any obligation of such Person guarantying or intended to guaranty (whether directly or indirectly) any obligation of any other Person that constitutes Indebtedness under clauses (a) through (f) above.

The amount of Indebtedness of any Person at any date shall be the outstanding balance at such date of all unconditional obligations as described above and, with respect to contingent obligations, the maximum liability upon the occurrence of the contingency giving rise to the obligation; provided that:

(A) the amount outstanding at any time of any Indebtedness issued with original issue discount is the face amount of such Indebtedness less the remaining unamortized portion of the original issue discount of such Indebtedness at such time as determined in conformity with the applicable accounting principles; and

(B) money borrowed and set aside at the time of the incurrence of any Indebtedness in order to prefund the payment of the interest on such Indebtedness shall not be deemed to be "Indebtedness" so long as such money is held to secure the payment of such interest.

"**Indenture**" means this Indenture, as amended or supplemented from time to time.

"**Indenture Documents**" means this Indenture, the Notes, the Intercreditor Agreement, the Security Documents, the Registration Rights Agreement, the Subsidiary Guarantees, and any other instrument or agreement entered into, now or in the future, by any Company Indenture Party or any of its Subsidiaries or the Collateral Trustee and/or Trustee in connection with the Indenture.

"**Initial Pricing VWAP**" means $1.6422.

"**Intellectual Property**" means any patents, trademarks, service marks, designs, business and trade names, copyrights, database rights, design rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered, and the benefit of all applications and rights to use such assets, of the Company and/or its Subsidiaries.

"**Intercreditor Agreement**" means the 1L/2L Intercreditor Agreement, the Pari Passu Intercreditor Agreement, and any Additional Intercreditor Agreement that may be entered into at any time or from time to time after the Issue Date in respect of the Obligations.

"**Interest Payment Date**" means, with respect to a Note, each June 20 and December 20 of each year, commencing on December 20, 2024 (or commencing on such other date specified in the certificate representing such Note).

For the avoidance of doubt, the Maturity Date is an Interest Payment Date.

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

"**Inventory**" means, with respect to any Person, any and all "goods" (as defined in the UCC) which shall at any time constitute "inventory" (as defined in the UCC) of such Person, wherever located (including without limitation, goods in transit and goods in the possession of third parties), or which from time to time are held for sale, lease or consumption in such Person's business, furnished under any contract of service or held as raw materials, work in process, finished inventory or supplies (including without limitation, packaging and/or shipping materials).

"**Investment**" means, relative to any Person, (a) any loan, advance or extension of credit made by such Person to any other Person, including the purchase by such first Person of any bonds, notes, debentures or other debt securities of any such other Person; (b) the incurrence of contingent liabilities or guarantees in favor of any other Person and (c)(i) the acquisition of, or capital contribution in respect of, any equity interest held by such Person in any other Person and (ii) the acquisition of other assets for consideration from such other Person. The amount of any Investment at any time shall be the original principal or capital amount thereof less all returns of principal or equity or capital thereon received (in cash or in the same form as the Investment) on or before such time and shall, if made by the transfer or exchange of property other than cash, be deemed to have been made in an original principal or capital amount equal to the Fair Market Value of such property at the time of such Investment.

"**Issue Date**" means June 20, 2024.

"**Last Reported Sale Price**" of the Ordinary Shares for any Trading Day means the closing sale price per Ordinary Share (or, if no closing sale price is reported, the average of the last bid price and the last ask price per Ordinary Share or, if more than one in either case, the average of the average last bid prices and the average last ask prices per Ordinary Share) on such Trading Day as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed. If the Ordinary Shares are not listed on a U.S. national or regional securities exchange on such Trading Day, then the Last Reported Sale Price will be the last quoted bid price per Ordinary Share on such Trading Day in the over-the-counter market as reported by OTC Markets Group Inc. or a similar organization. If the Ordinary Shares are not so quoted on such Trading Day, then the Last Reported Sale Price will be the average of the mid-point of the last bid price and the last ask price per Ordinary Share on such Trading Day from each of at least three (3) nationally recognized independent investment banking firms selected by the Company. Neither the Trustee nor the Conversion Agent will have any duty to determine the Last Reported Sale Price.

"**Lien**" means any statutory or other lien, security interest, mortgage, pledge, charge, hypothecation, assignment for collateral purposes, encumbrance, option, purchase right, call right, easement, right-of-way, restriction (including zoning restrictions), defect, preferential arrangement, preference, priority, exception or material irregularity in title or similar charge or encumbrance, including any agreement to give any of the foregoing, any conditional sale or other title retention agreement or any lease in the nature thereof; *provided* that in no event shall an operating lease be deemed to constitute a Lien.

"**Majority Holders**" means, at any applicable time, Holders owning more than 50.0% of the aggregate principal amount of the Notes then outstanding.

"**Make-Whole Event**" means (A) a Fundamental Change (determined after giving effect to the proviso immediately after **clause (D)** of the definition thereof, but without regard to the proviso to **clause (B)(ii)** of such definition) (an event referred to in this **clause (A)**, a "**Make-Whole Fundamental Change**"); or (B) the sending of a Redemption Notice pursuant to **Section 4.03(G)** in respect of a Provisional Redemption or a Tax Redemption; *provided*, *however*, that the sending of a Redemption Notice for a Provisional Redemption of less than all of the outstanding Notes will constitute a Make-Whole Event only with respect to the Notes called (or deemed to be called pursuant to **Section 4.03(K)**) for Provisional Redemption pursuant to such Redemption Notice and not with respect to any other Notes. For the avoidance of doubt, the sending of any Redemption Notice for a Tax Redemption will constitute a Make-Whole Event with respect to all outstanding Notes.

"**Make-Whole Event Conversion Period**" has the following meaning:

(A) in the case of a Make-Whole Event pursuant to **clause (A)** of the definition thereof, the period from, and including, the Make-Whole Event Effective Date of such Make-Whole Event to, and including, the thirty fifth (35th) Trading Day after such Make-Whole Event Effective Date (or, if such Make-Whole Event also constitutes a Fundamental Change, to, but excluding, the related Fundamental Change Repurchase Date); and

(B) in the case of a Make-Whole Event pursuant to **clause (B)** of the definition thereof, the period from, and including, the Redemption Notice Date for the related Redemption to, and including, the second (2nd) Business Day immediately before the related Redemption Date;

provided, *however*, that if the Conversion Date for the conversion of a Note that has been called (or deemed, pursuant to **Section 4.03(K)**, to be called) for Redemption occurs during the Make- Whole Event Conversion Period for both a Make-Whole Fundamental Change occurring pursuant to **clause (A)** of the definition of "Make-Whole Event" and a Make-Whole Event resulting from such Redemption pursuant to **clause (B)** of such definition, then, notwithstanding anything to the contrary in **Section 5.07**, solely for purposes of such conversion, (x) such Conversion Date will be deemed to occur solely during the Make-Whole Event Conversion Period for the Make-Whole Event with the earlier Make-Whole Event Effective Date; and (y) the Make-Whole Event with the later Make-Whole Event Effective Date will be deemed not to have occurred.

"**Make-Whole Event Effective Date**" means (A) with respect to a Make-Whole Event pursuant to **clause (A)** of the definition thereof, the date on which such Make-Whole Event occurs or becomes effective; and (B) with respect to a Make-Whole Event pursuant to **clause (B)** of the definition thereof, the applicable Redemption Notice Date.

"**Make-Whole Fundamental Change**" has the meaning set forth in the definition of Make-Whole Event.

"**Make-Whole Table**" means the table set forth in Section 5.07(B), as amended from time to time, pursuant to the terms of this Indenture.

"**Market Disruption Event**" means, with respect to any date, the occurrence or existence, during the one-half hour period ending at the scheduled close of trading on such date on the principal U.S. national or regional securities exchange or other market on which the Ordinary Shares are listed for trading or trades, of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Ordinary Shares or in any options contracts or futures contracts relating to the Ordinary Shares.

"**Material Adverse Effect**" means a material adverse effect on the business, properties, financial condition, prospects or results of operations of the Company and the Guarantors, taken as a whole.

"**Maturity Date**" means June 20, 2029.

"**Non-recourse Receivable Financing**" means Receivable Financing (i) under which none of the Company nor the Restricted Subsidiaries (other than pursuant to Standard Non-recourse Receivable Financing Undertakings) provides guarantee or recourse with respect to the Receivable Financing Assets, undertakes to repurchase any Receivable Financing Assets, subjects any of its properties or assets, directly or indirectly, contingently or otherwise, to the satisfaction of any obligation related to the Receivable Financing Assets or undertakes to maintain or preserve the financial condition or operating results of the entity that purchases or otherwise receives the Receivable Financing Assets and (ii) is not reflected as liability on the consolidated balance sheet of the Company.

"**Note Agent**" means any Registrar, Paying Agent or Conversion Agent.

"**Notes**" means the Initial Notes, following the issuance of any Additional Notes pursuant to the terms of this Indenture, such Additional Notes, and the PIK Notes, treated as a single class.

"**Obligations**" means (a) obligations of the Company and the other Company Indenture Parties from time to time to pay (and otherwise arising under or in respect of the due and punctual payment of) (i) principal, interest (including interest accruing during the pendency of any insolvency proceeding, regardless of whether allowed or allowable in such proceeding) and all other obligations under the Indenture Documents (including, without limitation, any applicable premium) of the Company and the other Company Indenture Parties under this Indenture, the Notes issued hereunder and the other Indenture Documents when and as due, whether at maturity, by acceleration, upon one or more dates set for redemption or otherwise (including, for the avoidance of doubt, the "Parallel Debt", the "Collateral Trustee Claim" and any similar defined term as defined in this Indenture (or the equivalent provision thereof), including all Parallel Debt and the Collateral Trustee Claim described in Section 11 of this Indenture), and (ii) all other monetary obligations, including fees, costs, expenses and indemnities, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any insolvency proceeding, regardless of whether allowed or allowable in such proceeding), of the Company and the other Company Indenture Parties under this Indenture and the other Indenture Documents, and (b) the due and punctual performance of all covenants, agreements, obligations and liabilities of the Company and the other Company Indenture Parties under or pursuant to this Indenture and the other Indenture Documents.

"**Observation Period**" means, with respect to any Note to be converted, (A) subject to **clause (B)** below, if the Conversion Date for such Note occurs on or before the thirty fifth (35th) Scheduled Trading Day immediately before the Maturity Date, the thirty (30) consecutive VWAP Trading Days beginning on, and including, the third (3rd) VWAP Trading Day immediately after such Conversion Date; (B) if such Conversion Date occurs on or after the date the Company has sent a Redemption Notice calling all or any Notes for Provisional Redemption or Tax Redemption pursuant to **Section 4.03(G)** and before the related Redemption Date, the thirty (30) consecutive VWAP Trading Days beginning on, and including, the thirty first (31st) Scheduled Trading Day immediately before such Redemption Date; and (C) subject to **clause (B)** above, if such Conversion Date occurs after the thirty fifth (35th) Scheduled Trading Day immediately before the Maturity Date, the thirty (30) consecutive VWAP Trading Days beginning on, and including, the thirty first (31st) Scheduled Trading Day immediately before the Maturity Date.

"**Officer**" means any member of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Group Treasurer, any Treasury Director, the Controller, the Secretary or any Vice-President of the Company.

"**Officer's Certificate**" means a certificate that is signed on behalf of the Company by one (1) of its Officers and that meets the requirements of **Section 13.03**.

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

"**Opinion of Counsel**" means an opinion, from legal counsel (including an employee of, or counsel to, the Company or any of its Subsidiaries) reasonably acceptable to the Trustee, and, when applicable, the Collateral Trustee, that meets the requirements of **Section 13.03**, subject to customary qualifications and exclusions.

"**Ordinary Shares**" means the ordinary shares of the Company, subject to **Section 5.09**.

"**Pari Passu Intercreditor Agreement**" means the intercreditor agreement, dated on or about June 20, 2024, made between, among others, the Company, the Guarantors, the Trustee, the Collateral Trustee, the Philippine Supplemental Collateral Trustee, the Amended 2029 First Lien Notes Trustee, the Amended 2029 First Lien Notes Collateral Trustee and the Amended 2029 First Lien Notes Philippine Supplemental Collateral Trustee and the other parties named therein, as amended, restated or otherwise modified or varied from time to time.

"**Person**" or "**person**" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or other agency or political subdivision thereof. Any division or series of a limited liability company, limited partnership or trust will constitute a separate "person" under this Indenture.

"**Philippine Collateral**" means the Collateral governed by a supplemental "first ranking" Philippine law governed security agreement to be entered into by the Philippine Supplemental Collateral Trustee and SunPower Philippines Manufacturing Ltd. as may be amended or supplemented from time to time (the "**Philippine Security Document**").

"**Physical Note**" means a Note (other than a Global Note) that is represented by a certificate substantially in the form set forth in **Exhibit A**, registered in the name of the Holder of such Note and duly executed by the Company and authenticated by the Trustee.

"**Post-Closing Security Documents**" means the security documents and all other security and/or other collateral documents to be entered into in connection with the Indenture and the Notes listed on **Schedule 1.01** and each of the other agreements, instruments or documents entered into or to be entered into in connection with such security documents that create or purport to create a Lien in favor of the Collateral Trustee, on behalf of and for the benefit of the Secured Parties, which shall include, among others, the Holders, the Trustee and the Collateral Trustee.

"**PP&E**" means, as of any date, the total consolidated property, plant and equipment of the Company and its Subsidiaries measured in accordance with U.S. GAAP as of the last date of the most recent fiscal quarter for which consolidated financial statements of the Company (which the Company will use its reasonable best efforts to compile in a timely manner) are available (which may be internal consolidated financial statements).

"**Receivable Financing**" means any financing transaction or series of financing transactions that have been or may be entered into by any of the Company and the Restricted Subsidiaries pursuant to which the Company or such Restricted Subsidiary, as the case may be, may sell, convey or otherwise transfer to another Person, or may grant a security interest in, any receivables, royalty, other revenue streams or interests therein (including without limitation, all security interests in goods financed thereby (including equipment and property), the proceeds of such receivables, and other assets which are customarily sold or in respect of which security interests are customarily granted in connection with securitization or factoring transactions involving such assets) for credit or liquidity management purposes (including discounting, securitization or factoring transactions) either (i) in the ordinary course of business or (ii) by way of selling securities that are, or are capable of being, listed on any stock exchange or in any securities market and are offered using an offering memorandum or similar offering document.

"**Receivable Financing Assets**" means assets that are underlying and are sold, conveyed or otherwise transferred or pledged in a Receivable Financing.

"**Redemption**" means a Provisional Redemption or a Tax Redemption.

"**Redemption Date**" means the date fixed, pursuant to **Section 4.03(E)**, for the settlement of the repurchase of any Notes by the Company pursuant to a Provisional Redemption or a Tax Redemption.

"**Redemption Notice Date**" means, with respect to a Provisional Redemption or a Tax Redemption, the date on which the Company sends the Redemption Notice for such Redemption pursuant to **Section 4.03(G)**.

"**Redemption Price**" means in the case of a Provisional Redemption or Tax Redemption, the cash price determined and payable by the Company to redeem any Note upon its Redemption, calculated pursuant to **Section 4.03(F)**.

"**Registration Rights Agreement**" means the Amended and Restated Registration Rights Agreement, dated as of June 20, 2024, among the Company and TZE, as amended from time to time in accordance with its terms.

"**Regular Record Date**" has the following meaning with respect to an Interest Payment Date: (A) if such Interest Payment Date occurs on June 20, the immediately preceding June 5; and (B) if such Interest Payment Date occurs on December 20, the immediately preceding December 5.

"**Relevant Cash Interest Rate**" means 6.00% per annum.

"**Relevant PIK Interest Rate**" means 3.00% per annum.

"**Repurchase Upon Fundamental Change**" means the repurchase of any Note by the Company pursuant to **Section 4.02**.

"**Responsible Officer**" means (A) any officer within the Corporate Trust Administration of the Trustee (or any successor group of the Trustee) having direct responsibility for the administration of this Indenture; and (B) with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his or her knowledge of, and familiarity with, the particular subject.

"**Restricted Collateral Subsidiary**" means, SunPower Systems Sàrl, SunPower Philippines Manufacturing Ltd., SunPower Energy Solutions France SAS, or to the extent it is not a Guarantor, SunPower Malaysia Manufacturing Sdn Bhd, or any successor thereof.

"**Restricted Note Legend**" means a legend substantially in the form set forth in **Exhibit B-1**.

"**Restricted Payment**" means, with respect to any Person, the voluntary or optional payment of principal of, or premium or interest on, any Indebtedness contractually subordinated in right of payment to the Obligations prior to the scheduled repayment or scheduled maturity thereof, as the case may be, unless such payment is permitted under the terms of the subordination agreement applicable thereto.

"**Restricted Share Legend**" means, with respect to any Conversion Share, a legend substantially to the effect that the offer and sale of such Conversion Share have not been registered under the Securities Act and that such Conversion Share cannot be sold or otherwise transferred except pursuant to a transaction that is registered under the Securities Act or that is exempt from, or not subject to, the registration requirements of the Securities Act.

"**Restricted Subsidiary**" means any Subsidiary of the Company other than an Unrestricted Subsidiary.

"**Right of First Offer**" means the right, but not the obligations, of TZE to acquire all of the Permitted Pari Passu Secured Indebtedness issued, offered or sold by the Company, pursuant to the terms and conditions of the Securities Purchase Agreement.

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

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

"**Sale/Leaseback Transaction**" means an arrangement relating to property now owned or acquired after the Issue Date by the Company or any Restricted Subsidiary whereby the Company or such Restricted Subsidiary transfers such property to a Person and the Company or such Restricted Subsidiary contemporaneously lease it from such Person pursuant to a lease on reasonable market terms.

"**Sales Contract**" means contracts or agreements pursuant to which any Company Indenture Party provides services or goods to their respective customers.

"**SCB Agreement**" means the revolving credit agreement dated February 15, 2018 between SunPower Malaysia Manufacturing Sdn. Bhd. and Standard Chartered Bank Malaysia Berhad, as amended or supplemented from time to time.

"**Scheduled Trading Day**" means any day that is scheduled to be a Trading Day on the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed or, if the Ordinary Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Ordinary Shares are then traded. If the Ordinary Shares are not so listed or traded, then "Scheduled Trading Day" means a Business Day.

"**SDA**" means that certain Separation and Distribution Agreement dated November 8, 2019 by and between SunPower Corporation, a Delaware corporation, and the Company, as amended, restated, modified and/or supplemented from time to time.

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

"**Second Lien Notes**" $204,019,403 Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028 issued by the Company.

"**Second Lien Notes Collateral Trustee**" means DB Trustees (Hong Kong) Limited, as the collateral trustee for the Second Lien Notes, and/or any successor collateral trustee, additional collateral trustee, the Second Lien Notes Philippine Supplemental Collateral Trustee or supplemental collateral trustee appointed pursuant to the terms of Second Lien Notes Indenture.

"**Second Lien Notes Indenture**" means an indenture dated June 20, 2024 by and among the Company, the guarantors named therein, the Second Lien Notes Trustee, the Second Lien Notes Collateral Trustee and the Second Lien Notes Philippine Supplemental Collateral Trustee, in relation to the Second Lien Notes, as may be amended and supplemented from time to time.

"**Second Lien Notes Philippine Supplemental Collateral Trustee**" means RCBC Trust Corporation as collateral trustee with respect to the Philippine Collateral (as defined in the Second Lien Notes Indenture), in such capacity and solely with respect to such collateral.

"**Second Lien Notes Trustee**" means Deutsche Bank Trust Company Americas, a New York Banking Corporation, as trustee for Second Lien Notes or its successors or assignees appointed pursuant to the terms of Second Lien Notes Indenture.

"**Secured Parties**" means, collectively, the Collateral Trustee (or any receiver and delegate appointed by the Collateral Trustee on any Security Document), the Trustee and the Holders.

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

"**Security**" means any Note or Conversion Share.

"**Security Documents**" means all security and/or other collateral documents that create or purport to create a Lien in favor of the Collateral Trustee for the benefit of itself and of the Secured Parties and entered into in connection with the Indenture and the Notes (including the Closing Security Documents and Post-Closing Security Documents), as amended, restated, modified and/or supplemented in accordance with the provisions hereof.

"**Security Property**" means:

(A) the security interest over the Collateral expressed to be granted in favor of the Collateral Trustee for the benefit of itself and of the Secured Parties, which shall include Holders, the Trustee and the Collateral Trustee;

(B) all obligations expressed to be undertaken by any grantor of the security interest over the Collateral to pay amounts in respect of the Obligations to the Collateral Trustee for the benefit of itself and of the Secured Parties, which shall include Holders, the Trustee and the Collateral Trustee; or

(C) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Collateral Trustee is required by the terms of the Indenture Documents to hold as trustee on trust for the Secured Parties or as agent in favor of the Secured Parties.

"**Securities Purchase Agreement**" means that certain securities purchase agreement, dated May 30, 2024, by and among the Company, the guarantors named therein and TZE.

"**Settlement Method**" means Cash Settlement, Physical Settlement or Combination Settlement.

"**Share Price**" has the following meaning for any Make-Whole Event: (A) if the holders of the Ordinary Shares receive only cash in consideration for their Ordinary Shares in such Make- Whole Event and such Make-Whole Event is pursuant to **clause (B)** of the definition of "Fundamental Change," then the Share Price is the amount of cash paid per Ordinary Share in such Make-Whole Event; and (B) in all other cases, the Share Price is the average of the Last Reported Sale Prices per Ordinary Share for the five consecutive Trading Days ending on, and including, the Trading Day immediately before the Make-Whole Event Effective Date of such Make-Whole Event.

"**Significant Subsidiary**" has the meaning set forth in Article I, Rule 1-02(w) of Regulation S-X promulgated by the SEC (or any successor rule); *provided*, *however*, that if a Subsidiary that meets the criteria of clause (3) of such rule but not clause (1) or (2) thereof, in each case as such rule is in effect on the Issue Date, then such Subsidiary will not be deemed to be a Significant Subsidiary unless such Subsidiary's income (or loss) from continuing operations before income taxes, exclusive of amounts attributable to any non-controlling interests, for the last completed fiscal year prior to the date of determination exceeds twenty five million dollars ($25,000,000) (with such amount calculated pursuant to Rule 1-02(w) as in effect on the Issue Date). For the avoidance of doubt, a Subsidiary that satisfies the condition set forth in the proviso to the preceding sentence will not be deemed to be a "Significant Subsidiary" unless such Subsidiary also constitutes a "Significant Subsidiary" within the meaning set forth in Article I, Rule 1-02(w) of Regulation S-X promulgated by the SEC (or any successor rule).

"**Soulte**" means, in relation to any enforcement of any Security Document occurring by way of Appropriation (including pursuant to a pacte commissoire or a foreclosure (attribution judiciaire) or any similar enforcement mechanism) or judicial foreclosure of any French Security Document, the amount by which the value of the Charged Property (as determined on the date of the relevant Appropriation by a valuation expert in accordance with the provisions of the relevant Security Document) appropriated or foreclosed pursuant to that enforcement exceeds the amount of obligations secured by that security interest which is discharged as a result of that enforcement being carried out.

"**Special Interest**" means any interest that accrues on any Note pursuant to **Section 7.03**.

"**Specified Disposition Entity**" means Maxeon Power Inc., a Delaware corporation.

"**Specified Dollar Amount**" means, with respect to the conversion of a Note to which Combination Settlement applies, the maximum cash amount per $1,000 principal amount of such Note deliverable upon such conversion (excluding cash in lieu of any fractional Ordinary Share).

"**Standard Non-recourse Receivable Financing Undertakings**" means representations, warranties, undertakings, covenants and indemnities entered into by the Company or any Restricted Subsidiary which the Company or such Restricted Subsidiary has determined in good faith to be customary for a seller or servicer of assets in Non-recourse Receivable Financings.

"**Stated Maturity**" means, (1) with respect to any Indebtedness, the date specified in such debt security as the fixed date on which the final installment of principal of such Indebtedness is due and payable as set forth in the documentation governing such Indebtedness and (2) with respect to any scheduled installment of principal of or interest on any Indebtedness, the date specified as the fixed date on which such installment is due and payable as set forth in the documentation governing such Indebtedness, and shall not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

"**Subsidiary**" means, with respect to any Person, (A) any corporation, association or other business entity (other than a partnership or limited liability company) of which more than fifty percent (50%) of the total voting power of the Capital Stock entitled (without regard to the occurrence of any contingency, but after giving effect to any voting agreement or shareholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees, as applicable, of such corporation, association or other business entity is owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person; and (B) any partnership or limited liability company where (i) more than fifty percent (50%) of the capital accounts, distribution rights, equity and voting interests, or of the general and limited partnership interests, as applicable, of such partnership or limited liability company are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person, whether in the form of membership, general, special or limited partnership or limited liability company interests or otherwise; and (ii) such Person or any one or more of the other Subsidiaries of such Person is a controlling general partner of, or otherwise controls, such partnership or limited liability company.

"**Subsidiary Guarantee**" means the joint and several guarantee pursuant to **Article 12** hereof by a Guarantor of its Guaranteed Obligations.

"**Supermajority Holders**" means, at any applicable time, Holders owning more than 66 ⅔ % of the aggregate principal amount of the Notes then outstanding.

"**Swiss Federal Tax Administration**" means the tax authorities referred to in article 34 of the Swiss Federal Act on Withholding Tax of 13 October 1965 (*Bundesgesetz über die Verrechnungssteuer*).

"**Swiss Withholding Tax**" means any taxes imposed under the Swiss Federal Act on Withholding Tax of 13 October 1965 (*Bundesgesetz über die Verrechnungssteuer*).

"**Tax**" means any tax, duty, levy, impost, assessment or other governmental charge (including penalties and interest and other similar liabilities related thereto).

"**Tax Redemption**" means the Redemption of any Note pursuant to **Section 4.03(C)(i)**.

"**Total Cash**" means, with respect to any Person at any time, the sum of (i) cash and cash equivalents, (ii) restricted cash and restricted cash equivalents, including but not limited to the cash held in account(s) that are subject to an account control agreement or other security pledge pursuant to any Indenture Document, (iii) short-term securities, and (iv) restricted short-term securities, each as determined in accordance with U.S. GAAP.

"**Total Liquidity**" means, with respect to any Person at any time, the sum of Total Cash and the total amount available for drawdown (but undrawn) under the lines of credit extended to such Person and/or its Subsidiaries.

"**Total Revenue"** means the aggregate amount of consolidated revenue, determined in conformity with U.S. GAAP, for the then most recent four fiscal quarters for which consolidated financial statements of the Company (which the Company shall use its reasonable best efforts to compile in a timely manner) are available (which may be internal consolidated financial statements).

"**Total Solarization Agreement**" means the Second Amended and Restated Initial Implementing Agreement, dated February 22, 2021, between the Company and TotalEnergies SE in relation to the supply of certain PV modules to TotalEnergies SE.

"**Trading Day**" means any day on which (A) trading in the Ordinary Shares generally occurs on the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed or, if the Ordinary Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Ordinary Shares are then traded; and (B) there is no Market Disruption Event. If the Ordinary Shares are not so listed or traded, then "Trading Day" means a Business Day.

"**Transfer-Restricted Security**" means any Security that constitutes a "restricted security" (as defined in Rule 144); *provided*, *however*, that such Security will cease to be a Transfer- Restricted Security upon the earliest to occur of the following events:

(A) such Security is sold or otherwise transferred to a Person (other than the Company or an Affiliate of the Company) pursuant to a registration statement that was effective under the Securities Act at the time of such sale or transfer;

(B) such Security is sold or otherwise transferred to a Person (other than the Company or an Affiliate of the Company) pursuant to an available exemption (including Rule 144) from the registration and prospectus-delivery requirements of, or in a transaction not subject to, the Securities Act and, immediately after such sale or transfer, such Security ceases to constitute a "restricted security" (as defined in Rule 144); and

(C) such Security is eligible for resale, by a Person that is not an Affiliate of the Company and that has not been an Affiliate of the Company during the immediately preceding three (3) months, pursuant to Rule 144 without any limitations thereunder as to volume, manner of sale, availability of current public information or notice.

The Trustee is under no obligation to determine whether any Security is a Transfer- Restricted Security and may conclusively rely on an Officer's Certificate with respect thereto.

"**Trust Indenture Act**" means the U.S. Trust Indenture Act of 1939, as amended.

"**Trustee**" means the Person named as such in the first paragraph of this Indenture until a successor replaces it in accordance with the provisions of this Indenture and, thereafter, means such successor.

"**TZE**" means Zhonghuan Singapore Investment and Development Pte. Ltd., and/or its Affiliates.

"**TZE Warrant**" means a warrant of the Company, dated June 20, 2024, issued to TZE.

"**U.S. GAAP**" means the generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time.

"**Unrestricted Subsidiary**" means each of Specified Disposition Entity, SunPower Energy Systems Southern Africa (Pty) Ltd, SunPower Technologies France SAS, SunPower Manufacturing de Vernejoul SAS, Maxeon Americas, Inc, any future Subsidiaries of the Company which is primarily engaged in projects and/or business which are initially primarily funded by Capital Expenditures duly approved by the Board of Directors, as designated from time to time by the Company through delivery of written notices to the Trustee and the Holders, and their respective Subsidiaries.

"**VWAP Market Disruption Event**" means, with respect to any date, (A) the failure by the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed, or, if the Ordinary Shares are not then listed on a U.S. national or regional securities exchange, the principal other market on which the Ordinary Shares are then traded, to open for trading during its regular trading session on such date; or (B) the occurrence or existence, for more than one half hour period in the aggregate, of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Ordinary Shares or in any options contracts or futures contracts relating to the Ordinary Shares, and such suspension or limitation occurs or exists at any time before 1:00 p.m., New York City time, on such date.

"**VWAP Trading Day**" means a day on which (A) there is no VWAP Market Disruption Event; and (B) trading in the Ordinary Shares generally occurs on the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed or, if the Ordinary Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Ordinary Shares are then traded. If the Ordinary Shares are not so listed or traded, then "VWAP Trading Day" means a Business Day.

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

Section 1.02. Other Definitions.

Term	Defined in Section
"Additional Amounts"	**3.05(A)**
"Additional Intercreditor Agreement"	**14.02(A)**
"Additional Shares"	**5.07(A)**
"Applicable Terrorism Law"	**13.11**
"Bank Account Perfection Actions"	**3.18(A)**
"Business Combination Event"	**6.01(B)**
"Cash Settlement"	**5.03(A)**
"Combination Settlement"	**5.03(A)**
"Company Business Combination Event"	**6.01(A)**
"Confidential Information"	**3.02(A)**
"Consolidated Leverage Calculation Date"	**3.11**
"Conversion Agent"	**2.06(A)**
"Conversion Consideration"	**5.03(B)(i)**
"Convertible PPPSI"	**5.05(A)(vi)**
"Default Interest"	**2.05(B)**
"Defaulted Amount"	**2.05(B)**
"Event of Default"	**7.01(A)**
"Executed Documentation"	**13.01**
"Expiration Date"	**5.05(A)(v)**
"Expiration Time"	**5.05(A)(v)**
"FATCA"	**3.05(A)(iv)**
"Freely Disposable Amount"	**12.06(B)(i)**
"Fundamental Change Notice"	**4.02(E)**
"Fundamental Change Repurchase Right"	**4.02(A)**
"Guarantor Business Combination Event"	**6.01(B)**
"Initial Notes"	**2.03(A)**
"Italian Security Documents"	**11.03(D)**
"Ordinary Share Change Event"	**5.09(A)**

"Paying Agent"	**2.06(A)**
"Permitted Disposition"	**3.15**
"Permitted Indebtedness"	**3.12**
"Permitted Investment"	**3.16**
"Permitted Junior Secured Indebtedness"	**3.20(B)**
"Permitted Liens"	**3.13**
"Permitted Pari Passu Secured Indebtedness"	**3.20(A)**
"Permitted Refinancing Indebtedness"	**3.12(F)**
"Permitted Secured Indebtedness"	**3.20(B)**
"Physical Settlement"	**5.03(A)**
"PIK Interest"	**2.05(D)(i)**
"PIK Notes"	**2.05(D)(i)**
"PIK Payment"	**2.05(D)(i)**
"Provisional Redemption"	**4.03(B)**
"Redemption Notice"	**4.03(G)**
"Reference Property"	**5.09(A)**
"Reference Property Unit"	**5.09(A)**
"Register"	**2.06(B)**
"Registrar"	**2.06(A)**
"Relevant PPPSI Exercise Price"	**5.05(A)(vi)**
"Relevant Taxing Jurisdiction"	**3.05(A)**
"Reporting Event of Default"	**7.03(A)**
"Restricted Obligations"	**12.06(B)(i)**
"Specified Courts"	**13.07**
"Spin-Off"	**5.05(A)(iii)(2)**
"Spin-Off Valuation Period"	**5.05(A)(iii)(2)**
"Stated Interest"	**2.05(A)**
"Successor Corporation"	**6.01(A)(i)**
"Successor Guarantor"	**6.01(B)(i)**
"Successor Person"	**5.09(A)**
"Supplemental Collateral Trustee"	**11.09(A)**
"Swiss Guarantor"	**12.06(B)(i)**
"Tax Redemption Opt-Out Election"	**4.03(C)(ii)**
"Tax Redemption Opt-Out Election Notice"	**4.03(C)(ii)(1)**
"Tender/Exchange Offer Valuation Period"	**5.05(A)(v)**
"Transfer Taxes"	**3.05(B)**
"Underlying Issuer"	**5.09(A)**

Section 1.03. Rules of construction.

For purposes of this Indenture:

(A) "or" is not exclusive;

(B) "including" means "including without limitation";

(C) "will" expresses a command;

(D) the "average" of a set of numerical values refers to the arithmetic average of such numerical values;

(E) a merger involving, or a transfer of assets by, a limited liability company, limited partnership or trust will be deemed to include any division of or by, or an allocation of assets to a series of, such limited liability company, limited partnership or trust, or any unwinding of any such division or allocation;

(F) words in the singular include the plural and in the plural include the singular, unless the context requires otherwise;

(G) "herein," "hereof" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision of this Indenture, unless the context requires otherwise;

(H) references to currency mean the lawful currency of the United States of America, unless the context requires otherwise;

(I) the exhibits, schedules and other attachments to this Indenture are deemed to form part of this Indenture; and

(J) the term "**interest**," when used with respect to a Note, includes any Special Interest, unless the context requires otherwise.

Article 2. THE NOTES

Section 2.01. Form, Dating and Denominations.

The Notes and the Trustee's certificate of authentication and any PIK Notes will be substantially in the form set forth in **Exhibit A**. The Notes will bear the legends required by **Section 2.09** and may bear notations, legends or endorsements required by law, stock exchange rule or usage or the Depositary. Each Note will be dated as of the date of its authentication.

Except to the extent otherwise provided in a Company Order delivered to the Trustee in connection with the issuance and authentication thereof, the Notes will be issued initially in the form of one or more Physical Notes. Physical Notes may be exchanged for Global Notes, and Global Notes may be exchanged for Physical Notes, only as provided in **Section 2.10**.

The Notes will be issuable only in registered form without interest coupons and only in Authorized Denominations.

Each certificate representing a Note will bear a unique registration number that is not affixed to any other certificate representing another outstanding Note.

The terms contained in the Notes constitute part of this Indenture, and, to the extent applicable, the Company and the Trustee, by their execution and delivery of this Indenture, agree to such terms and to be bound thereby; *provided*, *however*, that, to the extent that any provision of any Note conflicts with the provisions of this Indenture, the provisions of this Indenture will control for purposes of this Indenture and such Note.

Section 2.02. Execution, Authentication and Delivery.

(A) *Due Execution by the Company*. At least one (1) duly authorized Officer will sign the Notes on behalf of the Company by manual, electronically or facsimile signature. A Note's validity will not be affected by the failure of any Officer whose signature is on any Note to hold, at the time such Note is authenticated, the same or any other office at the Company.

(B) Authentication by the Trustee and Delivery.

(i) No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually or electronically signs the certificate of authentication of such Note.

(ii) The Trustee will cause an authorized signatory of the Trustee (or a duly appointed authenticating agent) to manually or electronically sign the certificate of authentication of a Note only if (1) the Company delivers such Note to the Trustee; (2) such Note is executed by the Company in accordance with **Section 2.02(A)**; and (3) the Company delivers a Company Order to the Trustee that (a) requests the Trustee to authenticate such Note; and (b) sets forth the name of the Holder of such Note and the date as of which such Note is to be authenticated. If such Company Order also requests the Trustee to deliver such Physical Note to any Holder, then the Trustee will promptly electronically deliver such Note in accordance with such Company Order.

(iii) The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. A duly appointed authenticating agent may authenticate Notes whenever the Trustee may do so under this Indenture, and a Note authenticated as provided in this Indenture by such an agent will be deemed, for purposes of this Indenture, to be authenticated by the Trustee. Each duly appointed authenticating agent will have the same rights to deal with the Company as the Trustee would have if it were performing the duties that the authentication agent was validly appointed to undertake.

Section 2.03. Initial Notes, Additional Notes and PIK Notes

(A) *Initial Notes*. On the Issue Date, there will be originally issued ninety-seven million and five hundred thousand dollars ($97,500,000) aggregate principal amount of Notes, subject to the provisions of this Indenture (including **Section 2.02**). Notes issued pursuant to this **Section 2.03(A)**, and any Notes issued in exchange therefor or in substitution thereof, are referred to in this Indenture as the "**Initial Notes**."

(B) At any time and from time to time after the execution and delivery of this Indenture and in accordance with the terms of this Indenture, the Company may (a) deliver the Additional Notes executed by the Company to the Trustee for authentication, or (b) deliver PIK Notes executed by the Company to the Trustee for authentication, together with a written order of the Company in the form of an Officer's Certificate for the authentication and delivery of such Additional Notes or PIK Notes, as the case may be, and the Trustee in accordance with such written order of the Company shall authenticate and deliver such Notes. The Additional Notes shall have the same terms and conditions of the Notes (including the benefit of the Subsidiary Guarantees and the Collateral) in all respects except for the issue date, issue price and the date of the first payment of interest, and upon issuance, the Additional Notes shall be consolidated with and form a single class with the previously outstanding Notes and vote together as one class on all matters with respect to the Notes.

Section 2.04. Method of Payment.

(A) *Global Notes*. The Company will pay, or cause the Paying Agent to pay, the principal (whether due upon maturity on the Maturity Date, Redemption on a Redemption Date or repurchase on a Fundamental Change Repurchase Date or otherwise) of, cash, interest on, and any cash Conversion Consideration for, any Global Note to the Depositary by wire transfer of immediately available funds no later than the time the same is due as provided in this Indenture.

(B) *Physical Notes*. The Company will pay, or cause the Paying Agent to pay, the principal (whether due upon maturity on the Maturity Date, Redemption on a Redemption Date or repurchase on a Fundamental Change Repurchase Date or otherwise) of, cash, interest on, and any cash Conversion Consideration for, any Physical Note no later than the time the same is due as provided in this Indenture by wire transfer of immediately available funds to an account of the Holder, as specified by the Holder.

(C) *PIK Notes*. PIK Interest on the Notes shall be payable: (i) with respect to Notes represented by one or more Global Notes registered in the name of, or held by, the Depositary (or any successor depository) or its nominee on the relevant record date, by increasing the principal amount of the outstanding Global Notes, effective as of the applicable Interest Payment Date, by an amount equal to the amount of PIK Interest for the applicable interest period (rounded up to the nearest whole dollar) at the request of the Company to increase the principal amount of the outstanding Global Note and (ii) with respect to Physical Notes, if any, by issuing PIK Notes in certificated form, dated as of the applicable Interest Payment Date, in an aggregate principal amount equal to the amount of the PIK Interest for the applicable interest period (rounded up to the nearest whole dollar), and the Trustee will, upon receipt of a Company Order, authenticate and deliver such PIK Notes in certificated form for original issuance to the Holders on the relevant record date, as shown by the records of the register of holders. Following an increase in the principal amount of the outstanding Global Notes as a result of a PIK Payment, the Global Notes will bear interest on such increased principal amount from and after the Interest Payment Date in respect of which such PIK Payment was made. Any PIK Notes issued in certificated form will be dated as of the applicable Interest Payment Date and will bear interest from and after such date. All Notes issued pursuant to a PIK Payment will mature on the same maturity date as the Notes issued on the Issue Date and will be governed by, and subject to the terms, provisions and conditions of, the Indenture and shall have the same rights and benefits as the Notes issued on the Issue Date. Any certificated PIK Notes will be issued with the description "PIK" on the face of such PIK Note.

Section 2.05. Accrual of Interest; Defaulted Amounts; When Payment Date is not a Business Day.

(A) *Accrual of Interest*. Each Note will accrue interest at a rate per annum equal to 9.00% (the "**Stated Interest**"), plus any Special Interest that may accrue pursuant to **Section 7.03**. Stated Interest on each Note will (i) accrue from, and including, the most recent date to which Stated Interest has been paid or duly provided for (or, if no Stated Interest has theretofore been paid or duly provided for, the date set forth in the certificate representing such Note as the date from, and including, which Stated Interest will begin to accrue in such circumstance) to, but excluding, the date of payment of such Stated Interest; and (ii) be, subject to **Sections 4.02(D)**, **4.03(F)** and **5.02(D)** (but without duplication of any payment of interest), payable semi-annually in arrears on each Interest Payment Date, beginning on the first Interest Payment Date set forth in the certificate representing such Note, to the Holder of such Note as of the Close of Business on the immediately preceding Regular Record Date. Stated Interest, and, if applicable, Special Interest, on the Notes will be computed on the basis of a 360-day year comprised of twelve 30-day months.

(B) *Defaulted Amounts*. If the Company fails to pay any amount (a "**Defaulted Amount**") payable on a Note on or before the due date therefor as provided in this Indenture, then, regardless of whether such failure constitutes an Event of Default, (i) such Defaulted Amount will forthwith cease to be payable to the Holder of such Note otherwise entitled to such payment; (ii) to the extent lawful, interest ("**Default Interest**") will accrue on such Defaulted Amount at a rate per annum equal to the rate per annum at which Stated Interest accrues, from, and including, such due date to, but excluding, the date of payment of such Defaulted Amount and Default Interest; (iii) such Defaulted Amount and Default Interest will be paid on a payment date selected by the Company to the Holder of such Note as of the Close of Business on a special record date selected by the Company, *provided* that such special record date must be no more than fifteen (15), nor less than ten (10), calendar days before such payment date; and (iv) at least fifteen (15) calendar days before such special record date, the Company will send notice to the Trustee and the Holders that states such special record date, such payment date and the amount of such Defaulted Amount and Default Interest to be paid on such payment date.

(C) *Delay of Payment when Payment Date is Not a Business Day*. If the due date for a payment on a Note as provided in this Indenture is not a Business Day, then, notwithstanding anything to the contrary in this Indenture or the Notes, such payment may be made on the immediately following Business Day and no interest will accrue on such payment as a result of the related delay. Solely for purposes of the immediately preceding sentence, a day on which the applicable place of payment is authorized or required by law or executive order to close or be closed will be deemed not to be a "**Business Day**."

(D) *Issuance of PIK Notes and Notice of PIK Interest*.

(i) From (and including) the Issue Date to (but excluding) June 20, 2026, on each Interest Payment Date, (x) an amount equal to the interest payable at the Relevant Cash Interest Rate as of such Interest Payment Date will be paid solely in cash, and (y) without duplication, an amount equal to the interest payable at the Relevant PIK Interest Rate as of such Interest Payment Date may be paid, at the Company's election, (a) in cash, (b) by increasing the principal amount of the outstanding Notes or if, and in the limited circumstances where, the Notes are no longer held in global form, by issuing Notes ("**PIK Notes**") (rounded up to the nearest $1.00) under this Indenture, having the same terms and conditions as the Notes ("**PIK Interest**") (in each case, a "**PIK Payment**"), or (c) a combination of the forms of payment set forth in sub-clauses (a) and (b) above. On and from June 20, 2026, the interest payable on an Interest Payment Date will be payable solely in cash.

(ii) PIK Interest on the Notes, if elected to be paid, will be payable (x) with respect to Notes represented by one or more global notes registered in the name of, or held by, the Depositary or its nominee on the relevant record date, by increasing the principal amount of the outstanding global Note by an amount equal to the amount of PIK Interest for the applicable interest period (rounded up to the nearest whole dollar) and (y) with respect to Notes represented by certificated notes, by issuing PIK Notes in certificated form in an aggregate principal amount equal to the amount of PIK Interest for the applicable period (rounded up to the nearest whole dollar), and the Trustee will, at the request of the Company, authenticate and deliver such PIK Notes for original issuance to the Holders on the relevant record date, as shown by the records of the register of Holders. Following an increase in the principal amount of the outstanding global notes as a result of a PIK Payment, the global Notes will bear interest on such increased principal amount from and after the date of such PIK Payment. Any PIK Notes issued in certificated form will be dated as of the applicable Interest Payment Date and will bear interest from and after such date. All Notes issued pursuant to a PIK Payment will mature on the Maturity Date and will be governed by, and subject to the terms, provisions and conditions of this Indenture and shall have the same rights and benefits as the Notes issued on the Issue Date. Any certificated PIK Notes will be issued with the description "PIK" on the face of such PIK Note, and references to the "principal" or "principal amount" of the PIK Notes shall include any increase in the principal amount of the outstanding Notes as a result of any PIK Payment.

(iii) PIK Interest will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the Issue Date. The calculation of PIK Interest will be made by the Company or on behalf of the Company by such Person as the Company shall designate, and such calculation and the correctness thereof shall not be a duty or obligation of the Trustee. Notwithstanding anything in this Indenture to the contrary, the payment of accrued interest (including interest that would be PIK Interest when paid) in connection with any redemption of Notes as described in **Sections 4.02** or **4.03** shall be made solely in cash. PIK Interest on the Notes will be paid in denominations of $1.00 and integral multiples of $1.00 in excess thereof.

Section 2.06. Registrar, Paying Agent and Conversion Agent.

(A) *Generally*. The Company will maintain (i) an office or agency in the continental United States where Notes may be presented for registration of transfer or for exchange (the "**Registrar**"); (ii) an office or agency in the continental United States where Notes may be presented for payment (the "**Paying Agent**"); and (iii) an office or agency in the continental United States where Notes may be presented for conversion (the "**Conversion Agent**"). If the Company fails to maintain a Registrar, Paying Agent or Conversion Agent, then the Trustee will act as such. For the avoidance of doubt, the Company or any of its Subsidiaries may act as Registrar, Paying Agent or Conversion Agent.

(B) *Duties of the Registrar*. The Registrar will keep a record (the "**Register**") of the names and addresses of the Holders, the Notes held by each Holder and the transfer, exchange, repurchase, Redemption and conversion of Notes. Absent manifest error, the entries in the Register will be conclusive and the Company and the Trustee may treat each Person whose name is recorded as a Holder in the Register as a Holder for all purposes. The Register will be in written form or in any form capable of being converted into written form reasonably promptly.

(C) *Co-Agents; Company's Right to Appoint Successor Registrars, Paying Agents and Conversion Agents*. The Company may appoint one or more co-Registrars, co-Paying Agents and co-Conversion Agents, each of whom will be deemed to be a Registrar, Paying Agent or Conversion Agent, as applicable, under this Indenture. Subject to **Section 2.06(A)**, the Company may change any Registrar, Paying Agent or Conversion Agent (including appointing itself or any of its Subsidiaries to act in such capacity) without notice to any Holder. The Company will notify the Trustee (and, upon request, any Holder) of the name and address of each Note Agent, if any, not a party to this Indenture and will enter into an appropriate agency agreement with each such Note Agent, which agreement will implement the provisions of this Indenture that relate to such Note Agent.

(D) *Initial Appointments*. The Company appoints the Trustee as the initial Paying Agent, the initial Registrar and the initial Conversion Agent.

Section 2.07. Paying Agent and Conversion Agent to Hold Property in Trust.

The Company will require each Paying Agent or Conversion Agent that is not the Trustee to agree in writing that such Note Agent will (A) hold in trust for the benefit of Holders or the Trustee all money and other property held by such Note Agent for payment or delivery due on the Notes; and (B) notify the Trustee of any default by the Company in making any such payment or delivery. The Company, at any time, may, and the Trustee, while any Default continues, may, require a Paying Agent or Conversion Agent to pay or deliver, as applicable, all money and other property held by it to the Trustee, after which payment or delivery, as applicable, such Note Agent (if not the Company or any of its Subsidiaries) will have no further liability for such money or property. If the Company or any of its Subsidiaries acts as Paying Agent or Conversion Agent, then (A) it will segregate and hold in a separate trust fund for the benefit of the Holders or the Trustee all money and other property held by it as Paying Agent or Conversion Agent; and (B) references in this Indenture or the Notes to the Paying Agent or Conversion Agent holding cash or other property, or to the delivery of cash or other property to the Paying Agent or Conversion Agent, in each case for payment or delivery to any Holders or the Trustee or with respect to the Notes, will be deemed to refer to cash or other property so segregated and held separately, or to the segregation and separate holding of such cash or other property, respectively. Upon the occurrence of any event pursuant to **Section 7.01(A)(x)** or **7.01(A)(xi)** with respect to the Company (or with respect to any Subsidiary of the Company acting as Paying Agent or Conversion Agent), the Trustee will serve as the Paying Agent or Conversion Agent, as applicable, for the Notes.

Section 2.08. Holder Lists.

If the Trustee is not the Registrar, the Company will furnish to the Trustee, no later than seven (7) Business Days before each Interest Payment Date, and at such other times as the Trustee may request, a list, in such form and as of such date or time as the Trustee may reasonably require, of the names and addresses of the Holders.

Section 2.09. Legends.

(A) *Global Note Legend*. Each Global Note will bear the Global Note Legend (or any similar legend, not inconsistent with this Indenture, required by the Depositary for such Global Note).

(B) [Reserved.]

(C) *Restricted Note Legend*. Subject to **Section 2.12**,

(i) each Note that is a Transfer-Restricted Security will bear the Restricted Note Legend; and

(ii) if a Note is issued in exchange for, in substitution of, or to effect a partial conversion of, another Note (such other Note being referred to as the "old Note" for purposes of this **Section 2.09(C)(ii)**), including pursuant to **Section 2.10(B)**, **2.10(C)**, **2.11** or **2.13**, then such Note will bear the Restricted Note Legend if such old Note bore the Restricted Note Legend at the time of such exchange or substitution, or on the related Conversion Date with respect to such conversion, as applicable; *provided*, *however*, that such Note need not bear the Restricted Note Legend if such Note does not constitute a Transfer-Restricted Security immediately after such exchange or substitution, or as of such Conversion Date, as applicable.

(D) *Other Legends*. A Note may bear any other legend or text, not inconsistent with this Indenture, as may be required by applicable law or by any securities exchange or automated quotation system on which such Note is traded or quoted.

(E) *Acknowledgment and Agreement by the Holders*. A Holder's acceptance of any Note bearing any legend required by this **Section 2.09** will constitute such Holder's acknowledgment of, and agreement to comply with, the restrictions set forth in such legend.

(F) Restricted Share Legend.

(i) Each Conversion Share will bear the Restricted Share Legend if the Note upon the conversion of which such Conversion Share was issued was (or would have been had it not been converted) a Transfer-Restricted Security at the time such Conversion Share was issued; *provided*, *however*, that such Conversion Share need not bear the Restricted Share Legend if the Company determines, in its reasonable discretion, that such Conversion Share need not bear the Restricted Share Legend.

(ii) Notwithstanding anything to the contrary in this **Section 2.09(F)**, a Conversion Share need not bear a Restricted Share Legend if such Conversion Share is issued in an uncertificated form that does not permit affixing legends thereto, *provided* the Company takes measures (including the assignment thereto of a "restricted" CUSIP number) that it reasonably deems appropriate to enforce the transfer restrictions referred to in the Restricted Share Legend.

Section 2.10. Transfers and Exchanges; Certain Transfer Restrictions.

(A) *Provisions Applicable to All Transfers and Exchanges*.

(i) Subject to this **Section 2.10**, Physical Notes and beneficial interests in Global Notes may be transferred or exchanged from time to time and the Registrar will record each such transfer or exchange in the Register.

(ii) Each Note issued upon transfer or exchange of any other Note (such other Note being referred to as the "old Note" for purposes of this **Section 2.10(A)(ii)**) or portion thereof in accordance with this Indenture will be the valid obligation of the Company, evidencing the same indebtedness, and entitled to the same benefits under this Indenture, as such old Note or portion thereof, as applicable.

(iii) The Company, the Trustee and the Note Agents will not impose any service charge on any Holder for any transfer, exchange or conversion of Notes, but the Company, the Trustee, the Registrar and the Conversion Agent may require payment of a sum sufficient to cover any transfer tax or similar governmental charge that may be imposed in connection with any transfer, exchange or conversion of Notes, other than exchanges pursuant to **Section 2.11**, **2.17** or **8.05** not involving any transfer.

(iv) Notwithstanding anything to the contrary in this Indenture or the Notes, a Note may not be transferred or exchanged in part unless the portion to be so transferred or exchanged is in an Authorized Denomination.

(v) The Trustee will have no obligation or duty to monitor, determine or inquire as to compliance with any transfer restrictions imposed under this Indenture or applicable law with respect to any Security, other than to require the delivery of such certificates or other documentation or evidence as expressly required by this Indenture and to examine the same to determine substantial compliance as to form with the requirements of this Indenture.

(vi) Each Note issued upon transfer of, or in exchange for, another Note will bear each legend, if any, required by **Section 2.09**.

(vii) Upon satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Note, the Company will cause such transfer or exchange to be effected as soon as reasonably practicable but in no event later than the second (2nd) Business Day after the date of such satisfaction.

(viii) For the avoidance of doubt, and subject to the terms of this Indenture, as used in this **Section 2.10**, an "exchange" of a Global Note or a Physical Note includes (x) an exchange effected for the sole purpose of removing any Restricted Note Legend affixed to such Global Note or Physical Note; and (y) if such Global Note or Physical Note is identified by a "restricted" CUSIP number, an exchange effected for the sole purpose of causing such Global Note or Physical Note to be identified by an "unrestricted" CUSIP number.

(B) *Transfers and Exchanges of Global Notes*.

(i) Subject to the immediately following sentence, no Global Note may be transferred or exchanged in whole except (x) by the Depositary to a nominee of the Depositary; (y) by a nominee of the Depositary to the Depositary or to another nominee of the Depositary; or (z) by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. No Global Note (or any portion thereof) may be transferred to, or exchanged for, a Physical Note; *provided*, *however*, that a Global Note will be exchanged, pursuant to customary procedures, for one or more Physical Notes if:

(1) (x) the Depositary notifies the Company or the Trustee that the Depositary is unwilling or unable to continue as depositary for such Global Note or (y) the Depositary ceases to be a "clearing agency" registered under Section 17A of the Exchange Act and, in each case, the Company fails to appoint a successor Depositary within ninety (90) days of such notice or cessation;

(2) an Event of Default has occurred and is continuing and the Company, the Trustee or the Registrar has received a written request from the Depositary, or from a holder of a beneficial interest in such Global Note, to exchange such Global Note or beneficial interest, as applicable, for one or more Physical Notes; or

(3) the Company, in its sole discretion, permits the exchange of any beneficial interest in such Global Note for one or more Physical Notes at the request of the owner of such beneficial interest.

(ii) Upon satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Global Note (or any portion thereof):

(1) the Trustee will reflect any resulting decrease of the principal amount of such Global Note by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such Global Note (and, if such notation results in such Global Note having a principal amount of zero, the Company may (but is not required to) instruct the Trustee to cancel such Global Note pursuant to Section 2.15);

(2) if required to effect such transfer or exchange, then the Trustee will reflect any resulting increase of the principal amount of any other Global Note by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such other Global Note;

(3) if required to effect such transfer or exchange, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with Section 2.02, a new Global Note bearing each legend, if any, required by Section 2.09; and

(4) if such Global Note (or such portion thereof), or any beneficial interest therein, is to be exchanged for one or more Physical Notes, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with Section 2.02, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Global Note to be so exchanged; (y) are registered in such name(s) as the Depositary specifies (or as otherwise determined pursuant to customary procedures); and (z) bear each legend, if any, required by Section 2.09.

(iii) Each transfer or exchange of a beneficial interest in any Global Note will be made in accordance with the Depositary Procedures.

(C) *Transfers and Exchanges of Physical Notes*.

(i) Subject to this **Section 2.10**, a Holder of a Physical Note may (x) transfer such Physical Note (or any portion thereof in an Authorized Denomination) to one or more other Person(s); (y) exchange such Physical Note (or any portion thereof in an Authorized Denomination) for one or more other Physical Notes in Authorized Denominations having an aggregate principal amount equal to the aggregate principal amount of the Physical Note (or portion thereof) to be so exchanged; and (z) if then permitted by the Depositary Procedures and in any event no earlier than 90 days following the Issue Date, transfer such Physical Note (or any portion thereof in an Authorized Denomination) in exchange for a beneficial interest in one or more Global Notes; *provided*, *however*, that, to effect any such transfer or exchange, such Holder must:

(1) surrender such Physical Note to be transferred or exchanged to the office of the Registrar, together with any endorsements or transfer instruments reasonably required by the Company, the Trustee or the Registrar; and

(2) deliver such certificates, documentation or evidence as may be required pursuant to Section 2.10(D).

(ii) Upon the satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Physical Note (such Physical Note being referred to as the "old Physical Note" for purposes of this **Section 2.10(C)(ii)**) of a Holder (or any portion of such old Physical Note in an Authorized Denomination):

(1) such old Physical Note will be promptly cancelled pursuant to Section 2.15;

(2) if such old Physical Note is to be so transferred or exchanged only in part, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with Section 2.02, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such old Physical Note not to be so transferred or exchanged; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by Section 2.09;

(3) in the case of a transfer:

(a) to the Depositary or a nominee thereof that will hold its interest in such old Physical Note (or such portion thereof) to be so transferred in the form of one or more Global Notes, the Trustee will reflect an increase of the principal amount of one or more existing Global Notes by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such Global Note(s), which increase(s) are in Authorized Denominations and aggregate to the principal amount to be so transferred, and which Global Note(s) bear each legend, if any, required by **Section 2.09**; *provided*, *however*, that if such transfer cannot be so effected by notation on one or more existing Global Notes (whether because no Global Notes bearing each legend, if any, required by **Section 2.09** then exist, because any such increase will result in any Global Note having an aggregate principal amount exceeding the maximum aggregate principal amount permitted by the Depositary or otherwise), then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Global Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so transferred; and (y) bear each legend, if any, required by **Section 2.09**; and

(b) to a transferee that will hold its interest in such old Physical Note (or such portion thereof) to be so transferred in the form of one or more Physical Notes, the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so transferred; (y) are registered in the name of such transferee; and (z) bear each legend, if any, required by **Section 2.09**; and

(4) in the case of an exchange, the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so exchanged; (y) are registered in the name of the Person to whom such old Physical Note was registered; and (z) bear each legend, if any, required by **Section 2.09**.

(D) *Requirement to Deliver Documentation and Other Evidence*. If a Holder of any Note that is identified by a "restricted" CUSIP number or that bears a Restricted Note Legend or is a Transfer-Restricted Security requests to:

(i) cause such Note to be identified by an "unrestricted" CUSIP number;

(ii) remove such Restricted Note Legend; or

(iii) register the transfer of such Note to the name of another Person,

then the Company, the Trustee and the Registrar may refuse to effect such identification, removal or transfer, as applicable, unless there is delivered to the Company, the Trustee and the Registrar such certificates or other documentation or evidence as the Company, the Trustee and the Registrar may reasonably require to determine that such identification, removal or transfer, as applicable, complies with the Securities Act and other applicable securities laws.

(E) *Transfers of Notes Subject to Redemption, Repurchase or Conversion*. Notwithstanding anything to the contrary in this Indenture or the Notes, the Company, the Trustee and the Registrar will not be required to register the transfer of or exchange any Note that (i) has been surrendered for conversion, except to the extent that any portion of such Note is not subject to conversion; (ii) is subject to a Fundamental Change Repurchase Notice validly delivered, and not withdrawn, pursuant to **Section 4.02(F)**, except to the extent that any portion of such Note is not subject to such notice or the Company fails to pay the applicable Fundamental Change Repurchase Price when due; or (iii) has been selected for Redemption pursuant to a Redemption Notice, except to the extent that any portion of such Note is not subject to Redemption or the Company fails to pay the applicable Redemption Price when due.

Section 2.11. Exchange and Cancellation of Notes to be Converted or to be Repurchased Pursuant to a Repurchase Upon Fundamental Change or Redemption.

(A) *Partial Conversions of Physical Notes and Partial Repurchases of Physical Notes Pursuant to a Repurchase Upon Fundamental Change or Redemption*. If only a portion of a Physical Note of a Holder is to be converted pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, as soon as reasonably practicable after such Physical Note is surrendered for such conversion or repurchase, as applicable, the Company will cause such Physical Note to be exchanged, pursuant and subject to **Section 2.10(C)**, for (i) one or more Physical Notes that are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be so converted or repurchased, as applicable, and deliver such Physical Note(s) to such Holder; and (ii) a Physical Note having a principal amount equal to the principal amount to be so converted or repurchased, as applicable, which Physical Note will be converted or repurchased, as applicable, pursuant to the terms of this Indenture; *provided*, *however*, that the Physical Note referred to in this **clause (ii)** need not be issued at any time after which such principal amount subject to such conversion or repurchase, as applicable, is deemed to cease to be outstanding pursuant to **Section 2.18**.

(B) *Cancellation of Notes that Are Converted and Notes that Are Repurchased Pursuant to a Repurchase Upon Fundamental Change or Redemption*.

(i) *Physical Notes*. If a Physical Note (or any portion thereof that has not theretofore been exchanged pursuant to **Section 2.11(A)**) of a Holder is to be converted pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, promptly after the later of the time such Physical Note (or such portion) is deemed to cease to be outstanding pursuant to **Section 2.18** and the time such Physical Note is surrendered for such conversion or repurchase, as applicable, (1) such Physical Note will be cancelled pursuant to **Section 2.15**; and (2) in the case of a partial conversion or repurchase, as applicable, the Company will issue, execute and deliver to such Holder, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be so converted or repurchased, as applicable; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by **Section 2.09**.

(ii) *Global Notes*. If a Global Note (or any portion thereof) is to be converted pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, promptly after the time such Note (or such portion) is deemed to cease to be outstanding pursuant to **Section 2.18**, the Trustee will reflect a decrease of the principal amount of such Global Note in an amount equal to the principal amount of such Global Note to be so converted or repurchased, as applicable, by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such Global Note (and, if the principal amount of such Global Note is zero following such notation, cancel such Global Note pursuant to **Section 2.15**).

Section 2.12. Removal of Transfer Restrictions.

Without limiting the generality of any other provision of this Indenture (including **Section 3.04**), the Restricted Note Legend affixed to any Note will be deemed, pursuant to this **Section 2.12** and the footnote to such Restricted Note Legend, to be removed therefrom upon the Company's delivery to the Trustee of notice, signed on behalf of the Company by one (1) of its Officers, to such effect (and, for the avoidance of doubt, such notice need not be accompanied by an Officer's Certificate or an Opinion of Counsel in order to be effective to cause such Restricted Note Legend to be deemed to be removed from such Note). If such Note bears a "restricted" CUSIP or ISIN number at the time of such delivery, then, upon such delivery, such Note will be deemed, pursuant to this **Section 2.12** and the footnotes to the CUSIP and ISIN numbers set forth on the face of the certificate representing such Note, to thereafter bear the "unrestricted" CUSIP and ISIN numbers identified in such footnotes; *provided*, *however*, that if such Note is a Global Note and the Depositary thereof requires a mandatory exchange or other procedure to cause such Global Note to be identified by "unrestricted" CUSIP and ISIN numbers in the facilities of such Depositary, then (i) the Company will effect such exchange or procedure as soon as reasonably practicable; and (ii) for purposes of **Section 3.04**, such Global Note will not be deemed to be identified by "unrestricted" CUSIP and ISIN numbers until such time as such exchange or procedure is effected.

Section 2.13. Replacement Notes.

If a Holder of any Note claims that such Note has been mutilated, lost, destroyed or wrongfully taken, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, a replacement Note upon surrender to the Trustee of such mutilated Note, or upon delivery to the Trustee of evidence of such loss, destruction or wrongful taking reasonably satisfactory to the Trustee and the Company. In the case of a lost, destroyed or wrongfully taken Note, the Company and the Trustee may require the Holder thereof to provide such security or indemnity that is reasonably satisfactory to the Company and the Trustee to protect the Company and the Trustee from any loss that any of them may suffer if such Note is replaced.

Every replacement Note issued pursuant to this **Section 2.13** will be an additional obligation of the Company and will be entitled to all of the benefits of this Indenture equally and ratably with all other Notes issued under this Indenture.

Section 2.14. Registered Holders; Certain Rights with Respect to Global Notes.

Only the Holder of a Note will have rights under this Indenture as the owner of such Note. Without limiting the generality of the foregoing, Depositary Participants will have no rights as such under this Indenture with respect to any Global Note held on their behalf by the Depositary or its nominee, or by the Trustee as its custodian, and the Company, the Trustee and the Note Agents, and their respective agents, may treat the Depositary as the absolute owner of such Global Note for all purposes whatsoever; *provided*, *however*, that (A) the Holder of any Global Note may grant proxies and otherwise authorize any Person, including Depositary Participants and Persons that hold interests in Notes through Depositary Participants, to take any action that such Holder is entitled to take with respect to such Global Note under this Indenture or the Notes; and (B) the Company and the Trustee, and their respective agents, may give effect to any written certification, proxy or other authorization furnished by the Depositary.

Section 2.15. Cancellation.

The Company may at any time deliver Notes to the Trustee for cancellation. The Registrar, the Paying Agent and the Conversion Agent will forward to the Trustee each Note duly surrendered to them for transfer, exchange, payment or conversion. The Trustee will promptly cancel all Notes so surrendered to it in accordance with its customary procedures. Without limiting the generality of **Section 2.03(B)**, the Company may not originally issue new Notes to replace Notes that it has paid or that have been cancelled upon transfer, exchange, payment or conversion.

Section 2.16. Notes Held by the Company or its Affiliates.

Without limiting the generality of **Section 2.18**, in determining whether the Holders of the required aggregate principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or any of its Affiliates (other than TZE and its Affiliates) will be deemed not to be outstanding; *provided*, *however*, that, for purposes of determining whether the Trustee is protected in relying on any such direction, waiver or consent, only Notes that the Trustee knows are so owned will be so disregarded.

Section 2.17. Temporary Notes.

Until definitive Notes are ready for delivery, the Company may issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, temporary Notes. Temporary Notes will be substantially in the form of definitive Notes but may have variations that the Company considers appropriate for temporary Notes. The Company will promptly prepare, issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, definitive Notes in exchange for temporary Notes. Until so exchanged, each temporary Note will in all respects be entitled to the same benefits under this Indenture as definitive Notes.

Section 2.18. Outstanding Notes.

(A) *Generally*. The Notes that are outstanding at any time will be deemed to be those Notes that, at such time, have been duly executed and authenticated, excluding those Notes (or portions thereof) that have theretofore been (i) cancelled by the Trustee or delivered to the Trustee for cancellation in accordance with **Section 2.15**; (ii) assigned a principal amount of zero by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of any a Global Note representing such Note; (iii) paid in full (including upon conversion) in accordance with this Indenture; or (iv) deemed to cease to be outstanding to the extent provided in, and subject to, **clause (B)**, **(C)** or **(D)** of this **Section 2.18**.

(B) *Replaced Notes*. If a Note is replaced pursuant to **Section 2.13**, then such Note will cease to be outstanding at the time of its replacement, unless the Trustee and the Company receive proof reasonably satisfactory to them that such Note is held by a "protected purchaser" under applicable law.

(C) *Maturing Notes and Notes Called for Redemption or Subject to Repurchase*. If, on a Redemption Date, a Fundamental Change Repurchase Date or the Maturity Date, the Paying Agent holds money sufficient to pay the aggregate Redemption Price, Fundamental Change Repurchase Price or principal amount, respectively, together, in each case, with the aggregate interest, in each case due on such date, then (unless there occurs a Default in the payment of any such amount) (i) the Notes (or portions thereof) to be redeemed or repurchased, or that mature, on such date will be deemed, as of such date, to cease to be outstanding, except to the extent provided in **Section 4.02(D)**, **4.03(F)** or **5.02(D)**; and (ii) the rights of the Holders of such Notes (or such portions thereof), as such, will terminate with respect to such Notes (or such portions thereof), other than the right to receive the Redemption Price, Fundamental Change Repurchase Price or principal amount, as applicable, of, and accrued and unpaid interest on, such Notes (or such portions thereof), in each case as provided in this Indenture.

(D) *Notes to Be Converted*. At the Close of Business on the Conversion Date for any Note (or any portion thereof) to be converted, such Note (or such portion) will (unless there occurs a Default in the delivery of the Conversion Consideration or interest due, pursuant to **Section 5.03(B)** or **Section 5.02(D)**, upon such conversion) be deemed to cease to be outstanding, except to the extent provided in **Section 5.02(D)** or **Section 5.08**.

(E) *Cessation of Accrual of Interest*. Except as provided in **Section 4.02(D)**, **4.03(F)** or **5.02(D)**, interest will cease to accrue on each Note from, and including, the date that such Note is deemed, pursuant to this **Section 2.18**, to cease to be outstanding, unless there occurs a default in the payment or delivery of any cash or other property due on such Note.

Section 2.19. Repurchases by the Company.

Without limiting the generality of **Section 2.15**, the Company may, from time to time, repurchase Notes in open market purchases or in negotiated transactions without delivering prior notice to Holders. The Company may, to the extent permitted by applicable law, and directly or indirectly (regardless of whether such Notes are surrendered to the Company), repurchase Notes in the open market or otherwise, whether by the Company or the Company's Subsidiaries or through a private or public tender or exchange offer or through counterparties pursuant to private agreements, including cash-settled swaps or other derivatives, in each case, without prior notice to, or consent of, the Holders. The Company may, at its option and to the extent permitted by applicable law, reissue, resell or surrender to the Trustee for cancellation any Notes that the Company may repurchase, *provided* that, in the case of any reissuance or resale, the Notes do not constitute "restricted securities" (as defined in Rule 144) and are fungible for U.S. federal income tax purposes with the other Notes issued under this Indenture upon such reissuance or resale, as applicable. Any Notes that the Company may repurchase will be considered "outstanding" under this Indenture (except as provided in **Section 2.16**) unless and until such time the Company causes them to be surrendered to the Trustee for cancellation, and, upon receipt of a written order from the Company, the Trustee will cancel all Notes so surrendered.

Section 2.20. CUSIP and ISIN Numbers.

Subject to **Section 2.12**, the Company may use one or more CUSIP or ISIN numbers to identify any of the Notes, and, if so, the Company and the Trustee will use such CUSIP or ISIN number(s) in notices to Holders; *provided*, *however*, that (i) the Trustee makes no representation as to the correctness or accuracy of any such CUSIP or ISIN number; and (ii) the effectiveness of any such notice will not be affected by any defect in, or omission of, any such CUSIP or ISIN number. The Company will promptly notify the Trustee, in writing, of any change in the CUSIP or ISIN number(s) identifying any Notes.

Article 3. COVENANTS

Section 3.01. Payment on Notes.

(A) *Generally*. The Company will pay or cause to be paid (or as applicable by increasing the principal amount of the Notes or issuing PIK Notes) all the principal of, the Fundamental Change Repurchase Price and Redemption Price for, interest on, and other amounts due with respect to, the Notes on the dates and in the manner set forth in this Indenture.

(B) *Deposit of Funds*. Before 10:00 A.M., New York City time, on each Redemption Date, Fundamental Change Repurchase Date or Interest Payment Date, and on the Maturity Date or any other date on which any cash amount is due on the Notes, the Company will deposit, or will cause there to be deposited, with the Paying Agent cash, in funds immediately available on such date, sufficient to pay the cash amount due on the applicable Notes on such date. All the funds provided to the Paying Agent must be in U.S. dollars. The Paying Agent will return to the Company, as soon as practicable, any money not required for such purpose. PIK Interest shall be considered paid on the date due if on such date, the Trustee has received delivery of a Company Order on or prior to the date the payment is due of any PIK Notes to be authenticated and delivered or written direction as provided in **Section 2.05(D)** for any increased principal amount of the applicable Global Notes in amount equal to all PIK Interest then due.

Section 3.02. Exchange Act Reports.

(A) *Generally*. The Company will send to the Trustee and the Collateral Trustee copies of all reports that the Company is required to file with the SEC pursuant to Section 13(a) or 15(d) of the Exchange Act within fifteen (15) calendar days after the date that the Company is required to file the same (after giving effect to all applicable grace periods under the Exchange Act); *provided*, *however*, that the Company need not send to the Trustee and the Collateral Trustee any material or information for which the Company has received, or is seeking in good faith and has not been denied, confidential treatment by the SEC or which the Company has redacted in accordance with the applicable rules and regulations of the SEC, or any correspondence with the SEC (such material or information, "**Confidential Information**"). Any report that the Company files with the SEC through the EDGAR system (or any successor thereto) will be deemed to be sent to the Trustee and the Collateral Trustee at the time such report is so filed via the EDGAR system (or such successor) and notice thereof has been provided to the Trustee and the Collateral Trustee. Upon the request of any Holder, the Trustee and the Collateral Trustee will provide to such Holder a copy of any report that the Company has sent the Trustee and the Collateral Trustee pursuant to this **Section 3.02(A)**, other than a report that is deemed to be sent to the Trustee and the Collateral Trustee pursuant to the preceding sentence.

(B) *Confidential Information*. To the extent any Holder requests in writing from the Company any document or material which contains Confidential Information and such document or material is, in the Company's reasonable judgment, of the type that such Holder is entitled to receive under the terms of this Indenture, the Company shall make such document or material available to such Holder; *provided* that such Holder shall have executed and delivered to the Company a confidentiality agreement in form and substance satisfactory to the Company, acting reasonably. The Company shall not be obligated to deliver any Confidential Information to any Holder which has not executed and delivered to the Company a confidentiality agreement in form and substance satisfactory to the Company, acting reasonably.

(C) *Trustee's Disclaimer*. The Trustee and the Collateral Trustee need not determine whether the Company has filed any material via the EDGAR system (or such successor). The sending or filing of reports pursuant to **Section 3.02(A)** will not be deemed to constitute constructive notice to the Trustee and/or Collateral Trustee of any information contained, or determinable from information contained, therein, including the Company's compliance with any of its covenants under this Indenture. Any such reports delivered or filed by the Company with the Trustee and Collateral Trustee shall be considered for informational purposes only and the Trustee's and Collateral Trustee's receipt of such reports shall not constitute notice or actual knowledge of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on an Officer's Certificate).

Section 3.03. Rule 144A Information.

If the Company is not subject to Section 13 or 15(d) of the Exchange Act at any time when any Notes or Ordinary Shares issuable upon conversion of the Notes are outstanding and constitute "restricted securities" (as defined in Rule 144), then the Company (or its successor) will promptly provide, to the Trustee and, upon written request, to any Holder, beneficial owner or prospective purchaser of such Notes or shares, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act to facilitate the resale of such Notes or shares pursuant to Rule 144A.

Section 3.04. Rule 144 Information.

The Company shall timely file any report that is required in order for the Company to satisfy the requirements set forth in Rule 144(c)(1) (after giving effect to all grace periods permitted thereunder).

Section 3.05. Additional Amounts.

(A) *Requirement to Pay Additional Amounts*. All payments and deliveries made by, or on behalf of, the Company or any successor to the Company under or with respect to the Notes (including payment of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any premium or interest (including any Special Interest) on, or the delivery of any Conversion Consideration due upon conversion of, any Note (together with payments of cash for any fractional share)) will be made without withholding or deduction for, or on account of, any present or future Taxes, unless such withholding or deduction is required by law or regulation or by governmental policy having the force of law. The Company or any successor to the Company and any applicable withholding agent is authorized to (a) liquidate a portion of any non-cash payment to be made under the Notes to generate sufficient funds to pay applicable withholding Taxes or (b) take such other actions as are reasonably appropriate to make the Company or any successor to the Company or any applicable withholding agent whole for any previously-paid "cashless" withholding Tax in respect of the Notes. If any Taxes imposed or levied by or on behalf of Singapore, or any other jurisdiction (or any political subdivision or taxing authority thereof or therein) in which the Company or any successor to the Company is, for tax purposes, organized or resident or doing business or through which payment or delivery is made or deemed to be made (each such jurisdiction, subdivision or authority, as applicable, a "**Relevant Taxing Jurisdiction**") are required to be withheld or deducted from any payments or deliveries made under or with respect to the Notes, then, subject to **Section 4.03(C)(ii)**, the Company or any successor to the Company, as applicable, will (i) make such withholding or deduction, (ii) remit the full amount deducted or withheld to the relevant authority in accordance with applicable law, and (iii) pay or deliver to the Holder of each Note such additional amounts (the "**Additional Amounts**") as may be necessary to ensure that the net amount received by the beneficial owner of such Note after such withholding or deduction (and after withholding or deducting any Taxes on the Additional Amounts) will equal the amounts that would have been received by such beneficial owner had no such withholding or deduction been required; *provided*, *however*, that such obligation to pay Additional Amounts will not apply to:

(i) any Tax that would not have been imposed but for:

(1) the existence of any present or former connection between the Holder or beneficial owner of such Note (or between a fiduciary, settlor, beneficiary, member or shareholder of, or possessor of power over, the relevant holder or beneficial owner, if the relevant holder or beneficial owner (or such fiduciary, settlor, beneficiary, member or shareholder) is an estate, nominee, trust, partnership, limited liability company or corporation) and the Relevant Taxing Jurisdiction (other than merely holding or being a beneficial owner of such Note or the receipt of payments or enforcement of rights thereunder), including such Holder or beneficial owner being or having been a national, domiciliary or resident, or treated as a resident, of, or being or having been physically present or engaged in a trade or business, or having had a permanent establishment, in, such Relevant Taxing Jurisdiction;

(2) in cases where presentation of such Note is required to receive such payment or delivery, the presentation of such Note after a period of thirty (30) days after the later of (x) the date on which such payment or delivery became due and payable or deliverable, as applicable, pursuant to the terms of this Indenture and (y) the date such payment or delivery was made or duly provided for, except, in each case, to the extent that such Holder or beneficial owner would have been entitled to Additional Amounts if it presented such Note for payment or delivery, as applicable, at the end of such thirty (30) day period; or

(3) the failure of such Holder or beneficial owner to comply with a timely written request from the Company or the Successor Corporation, addressed to such Holder or beneficial owner, to (x) provide certification, information, documentation or other evidence concerning such Holder's or beneficial owner's nationality, residence, identity or connection with such Relevant Taxing Jurisdiction; or (y) make any declaration or satisfy any other reporting requirement relating to such matters, in each case if and to the extent that such Holder or beneficial owner is legally entitled and due and timely compliance with such request is required by statute, regulation or government policy of such Relevant Taxing Jurisdiction in order to reduce or eliminate such withholding or deduction;

(ii) any estate, inheritance, gift, use, sale, transfer, personal property or similar Tax or excise tax imposed on transfer of the Notes;

(iii) any Tax that is payable other than by withholding or deduction from payments or deliveries under or with respect to the Notes;

(iv) any withholding or deduction required by (x) sections 1471 through 1474 of the Internal Revenue Code, as of the date of this Indenture (or any amended or successor version that is substantively comparable and not materially more burdensome to comply with) and any current or future U.S. Treasury Regulations or rulings promulgated thereunder ("**FATCA**"); (y) any inter-governmental agreement between the United States and any other non-U.S. jurisdiction to implement FATCA or any law enacted by such other jurisdiction to give effect to such agreement; or (z) any agreement with the U.S. Internal Revenue Service pursuant to Section 1471(b)(1) of the Internal Revenue Code;

(v) any taxes imposed on or with respect to any payment by the Company to such Holder if such Holder is a fiduciary, partnership or person other than the sole beneficial owner of such payment, to the extent that such payment would be required, under the laws of such Relevant Taxing Jurisdiction, to be included for tax purposes in the income of a beneficiary or settlor with respect to such fiduciary, a partner or member of such partnership, or a beneficial owner, who would not have been entitled to such Additional Amounts had such beneficiary, settlor, partner, member or beneficial owner been the Holder thereof; or

(vi) any combination of items referred to in the preceding **clauses (i)** through **(v)**, inclusive, above.

(B) *Indemnification for Transfer Taxes*. The Company or any successor to the Company will, jointly and severally, pay and indemnify each Holder and beneficial owner of Notes for any present or future stamp, issue, registration, value added, transfer, court or documentary Taxes, or any other excise, property or similar Taxes (including penalties, interest and any other reasonable expenses related thereto) ("**Transfer Taxes**") levied by any Relevant Taxing Jurisdiction (and in the case of enforcement, any jurisdiction) on or in connection with the execution, delivery, registration, issuance or enforcement of any of the Notes, this Indenture or any other document or instrument referred to herein or the receipt of any payments or deliveries with respect to the Notes (including the receipt of shares (together with payment of cash for any fractional Share) or other Conversion Consideration).

(C) *Special Provision Regarding Interest*. For the avoidance of doubt, if any Note is called for a Tax Redemption and the Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, then the Company's obligation to pay Additional Amounts will apply to the interest payment due on such Note on such Interest Payment Date unless such Note is subject to a Tax Redemption Opt-Out Election Notice (as defined below).

(D) *Tax Receipts*. If the Company or any successor to the Company is required to make any deduction or withholding from any payments or deliveries with respect to the Notes, then the (i) Company or such successor to the Company will deliver to the Trustee official tax receipts (or, if, after expending reasonable efforts, the Company is unable to obtain such receipts, an Officer's Certificate reasonably satisfactory to each Holder evidencing the payment of any applicable Taxes so deducted or withheld) evidencing the remittance to the relevant tax authorities of the amounts so withheld or deducted; and (ii) the Trustee or the Company or such successor to the Company will provide a copy of such receipts or evidence, as applicable, to any Holder or beneficial owner of any Notes upon request.

(E) *Interpretation of Indenture and Notes*. All references in this Indenture or the Notes to any payment on, or delivery with respect to, the Notes (including payment of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any premium or interest (including Special Interest) on, or the delivery of any Conversion Consideration due upon conversion of, any Note (together with payments of cash for any fractional share)) will, to the extent that Additional Amounts are payable in respect thereof, be deemed to include the payment of such Additional Amounts.

(F) *Survival of Obligations*. The obligations set forth in this **Section 3.05** will survive any termination, defeasance or discharge of this Indenture and any transfer of Notes by a Holder (or, in the case of a Global Note, a holder of a beneficial interest therein).

Section 3.06. Compliance and Default Certificates.

(A) *Annual Compliance Certificate*. Within one hundred twenty (120) days after the earlier of (x) the end of the fiscal year of 2024 and each fiscal year of the Company thereafter, and (y) January 5 of the following year, the Company will deliver an Officer's Certificate to the Trustee and the Collateral Trustee stating (i) that the signatory thereto has supervised a review of the activities of the Company Indenture Parties during such fiscal year with a view towards determining whether any Default or Event of Default has occurred; and (ii) whether, to such signatory's knowledge, a Default or Event of Default has occurred or is continuing (and, if so, describing all such Defaults or Events of Default and what action any Company Indenture Party is taking or proposes to take with respect thereto).

(B) *Default Certificate*. If a Default or Event of Default occurs, then the Company will, within thirty (30) days after its occurrence, deliver an Officer's Certificate to the Trustee and the Collateral Trustee describing the same and what action the Company or any Company Indenture Party is taking or proposes to take with respect thereto; *provided, however*, that such notice will not be required if such Default or Event of Default has been cured or waived before the date the Company is required to deliver such notice.

Section 3.07. Stay, Extension and Usury Laws.

To the extent that it may lawfully do so, each of the Company Indenture Party (A) agrees that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law (wherever or whenever enacted or in force) that may affect the covenants or the performance of this Indenture; and (B) expressly waives all benefits or advantages of any such law and agrees that it will not, by resort to any such law, hinder, delay or impede the execution of any power granted to the Trustee by this Indenture, but will suffer and permit the execution of every such power as though no such law has been enacted.

Section 3.08. Corporate Existence.

Subject to **Article 6**, each Company Indenture Party will cause to preserve and keep in full force and effect:

(A) its corporate existence in accordance with the organizational documents of the Company; and

(B) the material rights (charter and statutory), licenses and franchises of each Company Indenture Party and their respective Subsidiaries;

provided, *however*, that each Company Indenture Party need not preserve or keep in full force and effect any such license or franchise if the Board of Directors determines that (x) the preservation thereof is no longer desirable in the conduct of the business of the Company Indenture Parties, taken as a whole; and (y) the loss thereof is not, individually or in the aggregate, materially adverse to the Holders or the Collateral Trustee.

Section 3.09. Acquisition of Notes by the Company and its Affiliates.

Without limiting the generality of **Section 2.18**, Notes that the Company or any of its Subsidiaries have purchased or otherwise acquired will be deemed to remain outstanding (except to the extent provided in **Section 2.16**) until such time as such Notes are delivered to the Trustee for cancellation. The Company will use commercially reasonable efforts to prevent any of its controlled Affiliates (other than TZE) from acquiring any Note (or any beneficial interest therein).

Section 3.10. Further Instruments and Acts.

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

Section 3.11. Financial Covenants.

(A) *Leverage Ratio.* With respect to each Consolidated Leverage Calculation Date, the Company shall not permit the Consolidated Leverage Ratio of the Company as of such date exceeds the applicable Consolidated Leverage Ratio Target.

(B) *Liquidity.* With respect to each full fiscal quarter commencing with the fiscal quarter ending March 31, 2025, the Company shall not permit the Total Liquidity of the Company as of the last Business Day of such fiscal quarter to be less than $40 million.

Section 3.12. Limitation on Indebtedness.

The Company will not, and will cause the Restricted Subsidiaries not to, directly or indirectly, create, incur, issue, assume, guarantee, suffer to exist or otherwise become directly or indirectly liable, contingently or otherwise with respect to any Indebtedness, except for the following Indebtedness (collectively, "**Permitted Indebtedness**"):

(A) Indebtedness in respect of the Obligations (excluding the Obligations in respect of any Additional Notes);

(B) Indebtedness existing as of the Issue Date (other than the Indebtedness described in the **clauses (C)** and **(D)** below);

(C) (i) Indebtedness incurred pursuant to the 2025 Convertible Bonds Indenture; (ii) Indebtedness incurred pursuant to the SCB Agreement; (iii) Indebtedness incurred pursuant to the Amended 2029 First Lien Notes Indenture; and (iv) Indebtedness incurred pursuant to the Second Lien Notes Indenture (including any additional Second Lien Notes issued pursuant to the Second Lien Notes Indenture as Indebtedness incurred to refinance (as defined below) the 2025 Notes (including any premium, interest accrued and unpaid and/or any other amount payable thereon));

(D) Indebtedness incurred pursuant to repayment obligations under the Total Solarization Agreement and any Indebtedness of the Company or any Restricted Subsidiary issued in exchange for, or the net proceeds of which are used to refinance or refund, replace, exchange, renew, repay, redeem, defease, discharge or extend, in full or in part, such repayment obligations (including premiums, accrued interest, fees and expenses), in an amount not to exceed the amount so refinanced or refunded;

(E) Indebtedness of the Company or any Restricted Subsidiary owed to the Company or any Restricted Subsidiary; *provided* that (i) any event which results in (x) any Restricted Subsidiary to which such Indebtedness is owed ceasing to be a Restricted Subsidiary or (y) any subsequent transfer of such Indebtedness (other than to the Company or any other Restricted Subsidiary) shall be deemed, in each case, to constitute an incurrence of such Indebtedness not permitted by this **Section 3.12(E)**; and (ii) if the Company or any Guarantor is the obligor on such Indebtedness, such Indebtedness must be unsecured and be expressly subordinated in right of payment to the Notes or the Subsidiary Guarantee, as the case may be;

(F) Indebtedness of the Company or any Restricted Subsidiary issued in exchange for, or the net proceeds of which are used to refinance or refund, replace, exchange, renew, repay, redeem, defease, discharge or extend (collectively, "refinance," "refinances," "refinancing" and "refinanced" shall have a correlative meaning) ("**Permitted Refinancing Indebtedness"),** then outstanding Indebtedness (or Indebtedness repaid substantially concurrently with, but in any case before, the incurrence of such Permitted Refinancing Indebtedness) incurred under **Sections 3.12(A), 3.12(B), 3.12(C), 3.12(G), 3.12(H), 3.12(I), 3.12(X)** and **3.12(W)** of this covenant and any refinancing thereof in an amount not to exceed the amount so refinanced or refunded (plus premiums, accrued interest, fees and expenses); *provided* that (i) Indebtedness the proceeds of which are used to refinance or refund the Notes or Indebtedness that is *pari passu* with, or subordinated in right of payment to, the Notes shall only be permitted under this Section 3.12(F) if (y) in case the Notes are refinanced in part or the Indebtedness to be refinanced is *pari passu* with the Notes, such new Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which such new Indebtedness is outstanding, is expressly made *pari passu* with, or subordinate in right of payment to, the remaining Notes, if any, as applicable, or (z) in case the Indebtedness to be refinanced is subordinated in right of payment to the Notes, such new Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which such new Indebtedness is issued or remains outstanding, is expressly made subordinate in right of payment to the Notes at least to the extent and in the same manner that the Indebtedness to be refinanced is subordinated to the Notes, (ii) such new Indebtedness, determined as of the date of incurrence of such new Indebtedness, does not mature prior to the Stated Maturity of the Indebtedness to be refinanced, and the Average Life of such new Indebtedness is at least equal to the remaining Average Life of the Indebtedness to be refinanced, (iii) such new Indebtedness will not have additional obligors or greater (including higher ranking priority) guarantees; and (iv) in no event may unsecured Indebtedness of the Company be refinanced pursuant to this clause with secured Indebtedness (other than for the purposes of repaying the Notes in full);

(G) Indebtedness of the Company or any Company Indenture Party not to exceed US$50,000,000 (including any Additional Notes); *provided* that such Indebtedness shall not constitute refinancing Indebtedness;

(H) Indebtedness incurred (i) in connection with the acquisition, lease, construction, repair, replacement or improvement of property (real or personal) or equipment (whether through the direct purchase of assets or the Capital Stock of any Person owning such assets) or (ii) in respect of Sale/Leaseback Transactions of equipment and property of the Company or any Restricted Subsidiary, in an aggregate amount in the case of (i) and (ii), at any time outstanding (together with refinancing thereof) not to exceed an amount equal to 25.0% of PP&E;

(I) Indebtedness incurred by the Company or any Restricted Subsidiary with a maturity of one year or less for working capital in an aggregate principal amount at any one time outstanding (together with any refinancings thereof, including any Permitted Refinancing Indebtedness under **Section 3.12(F)** (which must for such purposes have a maturity of one year or less and be for working capital)) of all Indebtedness incurred under this **Section 3.12(I)**, together with the aggregate principal amount at such time outstanding of any Indebtedness incurred (i) pursuant to the SCB Agreement and (ii) pursuant to any Receivable Financing (other than Non-recourse Receivable Financing) under **Section 3.12(X)**, not to exceed 15.0% of Total Revenue (or the Dollar equivalent thereof);

(J) the guarantee by the Company or any Restricted Subsidiary of Indebtedness of the Company or any Restricted Subsidiary that is permitted to be incurred by another provision of this **Section 3.12**;

(K) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently, except in the case of daylight overdrafts, drawn against insufficient funds in the ordinary course of business; *provided*, however, that this Indebtedness is extinguished within five Business Days;

(L) Indebtedness arising from agreements of the Company or any of its Subsidiaries providing for indemnification, adjustment of purchase price, or other similar obligations, in each case incurred or assumed in connection with the disposition of any business or assets of the Company or such Subsidiary, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of any of such business or assets for the purpose of financing such acquisition; *provided*, *however*, that the maximum assumable liability in respect of all this Indebtedness shall at no time exceed the gross proceeds actually received by Company or the relevant Subsidiary in connection with the disposition;

(M) Indebtedness (i) owed to any Person providing worker's compensation, health, disability or other employee benefits or property, casualty or liability insurance to the Company or any of its Subsidiaries incurred in connection with such Person providing such benefits or insurance pursuant to customary reimbursement or indemnification obligations to such Person and (ii) appeal or similar bonds, or bonds with respect to worker's compensation claims

(N) Indebtedness incurred in the ordinary course of business by the Company or any Restricted Subsidiary to finance the payment of insurance premiums of the Company or any of its Subsidiaries, so long as the amount of such Indebtedness is not in excess of the amount of the unpaid cost of, and shall be incurred only to defer the cost of, such insurance premiums;

(O) obligations with respect to trade letters of credit, bank guarantee, performance and surety bonds and completion or performance guarantees provided by the Company or any Restricted Subsidiary securing obligations, entered into in the ordinary course of business, to the extent the letters of credit, bank guarantee, bonds or guarantees are not drawn upon or, if and to the extent drawn upon is honored in accordance with its terms and, if to be reimbursed, is reimbursed in accordance with the terms of demand following receipt of a demand for reimbursement following payment on the letter of credit, bond or guarantee;

(P) to the extent constituting Indebtedness, contingent obligations arising under indemnity agreements to title insurance companies to cause such title insurers to issue title insurance policies in the ordinary course of business with respect to the real property of the Company or any of its Subsidiaries;

(Q) to the extent constituting Indebtedness, unfunded pension fund and other employee benefit plan obligations and liabilities to the extent they are permitted to remain unfunded under applicable law;

(R) cash management obligations and Indebtedness incurred by the Company or any Restricted Subsidiary in respect of netting services, treasury management services, check drawing services, automated payment services (including depository, overdraft, controlled disbursement, ACH transactions, return items and interstate depository network services), employee credit card programs (to the extent used for corporate purposes) and cash pooling services and any similar arrangements, in each case entered into in the ordinary course of business in connection with cash management, including among the Company and its Subsidiaries, and deposit accounts;

(S) to the extent constituting Indebtedness, guarantees in the ordinary course of business of the obligations of suppliers, customers, franchisees and licensees of the Company or any of its Subsidiaries;

(T) capital commitments, deposits and advance payments received from customers in connection with manufacturing capacity reservation or in the ordinary course of business or any contingent obligations to refund payments (including deposits) to customers in connection with manufacturing capacity reservation or for goods and services purchased in the ordinary course of business;

(U) Indebtedness arising in connection with Hedging Agreements entered into in the ordinary course of business (and not for speculative purposes) (a) to hedge or mitigate risks to which the Company or any of its Subsidiaries has actual or potential exposure (other than those in respect of equity interest of the Company or any of its Subsidiaries), including to hedge or mitigate foreign currency and commodity price risks and (b) to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability of the Company or any of its Subsidiaries;

(V) to the extent constituting Indebtedness take or pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(W) other unsecured Indebtedness of the Company or any Restricted Subsidiary in an aggregate principal amount at any time outstanding (together with any refinancing thereof, including any Permitted Refinancing Indebtedness under **Section 3.12(F)**) not to exceed $50,000,000;

(X) Indebtedness of the Company or any Restricted Subsidiary in respect of (i) Receivable Financing (other than Non-recourse Receivable Financing) in an aggregate principal amount any time outstanding (together with any refinancing thereof, including any Permitted Refinancing Indebtedness under Section 3.12(F) not to exceed $15,000,000 and (ii) Non-recourse Receivable Financing;

(Y) [Reserved];

(Z) Indebtedness incurred to finance Capital Expenditures duly approved by the Board of Directors, so long as such Capital Expenditures are not funded by proceeds of the Notes; and

(AA) Indebtedness incurred as (i) obligations in respect of taxes, workers' compensation claims, early retirement or termination obligations or social security or wage taxes or contributions or similar claims, obligations or contributions, (ii) obligations arising from the endorsement of negotiable instruments in the ordinary course of business, (iii) obligations recorded as warranty reserves accrued in the ordinary course of business, (iv) any earn-out obligations, purchase price adjustments, deferred purchase money amounts, milestone and/or bonus payments (whether performance or time-based), and royalty, licensing, revenue and/or profit sharing arrangements, in each case, characterized as such and arising expressly out of purchase and sale contracts, development arrangements or, in each case only if such transaction as conducted on an arm's length basis consistent with customary industry practices, (v) to the extent it constitutes Indebtedness, deposit securing Sale/Leaseback Transactions, or (vi) any lease of property which would be considered an operating lease under U.S. GAAP and any guarantee given by such Person in the ordinary course of business solely in connection with, or in respect of, the obligations of such Person under any operating lease.

For purposes of determining compliance with this **Section 3.12**, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Indebtedness described in clauses (A) through (AA) above, the Company will be permitted to classify such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this Section 3.12. The accrual of interest, the accretion or amortization of original issue discount and the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms will not be deemed to be an incurrence of Indebtedness for purposes of this **Section 3.12**. Notwithstanding any other provision of this **Section 3.12**, the maximum amount of Indebtedness that the Company Indenture Parties or any of its Restricted Subsidiaries may incur pursuant to this **Section 3.12** shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

Further, for purposes of determining compliance with this covenant, to the extent the Company or any of its Restricted Subsidiaries guarantees Indebtedness of a direct or indirect parent entity to the extent otherwise permitted by this covenant, the on-loan by such direct or indirect parent entity to the Company or such Restricted Subsidiary of all or a portion of the principal amount of such Indebtedness will not be double counted.

Section 3.13. Limitation on Liens.

The Company will not, and will cause the Restricted Subsidiaries not to, directly or indirectly, create, incur, assume or suffer to exist any Lien upon any property or assets of any kind (real or personal, tangible or intangible) of any such Person (including its equity interest), whether now owned or hereafter acquired, except for the following Liens (collectively, "**Permitted Liens**"):

(A) Liens securing payment of the Obligations (excluding the Obligations in respect of any Additional Notes);

(B) (i) Liens securing pension obligations that arise in the ordinary course of business and (ii) pledges and deposits made in the ordinary course of business (A) in connection with workers' compensation, health, disability or other employee benefits, unemployment insurance and other social security laws or regulations (excluding Liens arising under ERISA), property, casualty or liability insurance or premiums related thereto or self-insurance obligations or (B) to secure letters of credit, bank guarantees or similar instruments posted to support payment of items set forth in the foregoing **clause (i)**; *provided* that such letters of credit, bank guarantees or instruments are issued in compliance with **Section 3.12**;

(C) Liens existing as of the Issue Date; *provided*, that no such Lien shall encumber any additional property not encumbered as of the Issue Date;

(D) Liens in favor of the Company or any Restricted Subsidiary;

(E) Liens arising from the rendering of a final judgment or order against the Company or any Restricted Subsidiary that do not give rise to an Event of Default;

(F) Liens securing Indebtedness incurred under **Sections 3.12(C)(iii), 3.12(C)(iv), 3.12(D)** and **3.12(G)**, subject, in the case of 3.12(D) and 3.12(G), to Section 3.20;

(G) Liens securing Indebtedness incurred under **Section 3.12(F)**; *provided*, that such Liens (i) do not extend to or cover any property or assets of the Company or any Restricted Subsidiary other than the property or assets securing the Indebtedness being refinanced, (ii) do not rank higher in priority than the Liens on such property or assets securing the secured Indebtedness being refinanced, whether by priority of such Lien or the priority of payment on enforcement of such Lien and (iii) secure Indebtedness that is otherwise permitted to be secured by a Lien pursuant to another provision of this Section 3.13;

(H) Liens securing Indebtedness incurred under **Section 3.12(H)**; *provided*, that no such Lien shall be permitted to exist on any portion of the Collateral; *provided further*, that such Lien secures only the assets that are the subject of the Indebtedness referred to in Section 3.12(H)

(I) Liens securing Indebtedness incurred under **Section 3.12(I)**;

(J) Liens securing Indebtedness incurred under **Section 3.12(U)**; *provided* that such Liens are encumbering customary initial deposits or margin deposits or are otherwise within the general parameters customary in the industry and incurred in the ordinary course of business;

(K) Liens incurred with respect to obligations that do not exceed $10,000,000 at any one time outstanding; *provided* that no such Lien shall be permitted to exist on any portion of the Collateral or the assets of any Restricted Collateral Subsidiary;

(L) Liens securing Indebtedness incurred under **Section 3.12(Z)**; *provided*, that no such Lien shall be permitted to exist on any portion of the Collateral and such Lien secures only the assets that are the subject of the Indebtedness referred to in Section 3.12(Z).

(M) Liens arising by operation of law in favor of carriers, warehousemen, mechanics, materialmen and landlords incurred in the ordinary course of business for amounts not yet overdue by more than sixty (60) days or being properly contested in good faith by appropriate proceedings and for which adequate reserves shall have been established on its books, which reserves shall be in conformity with U.S. GAAP, consistently applied;

(N) Liens incurred or deposits made to secure (i) worker's compensation, unemployment insurance or other form of governmental insurance or benefit, the performance of tenders, bids, leases, statutory or regulatory obligations, bankers' acceptances, completion guarantees, surety and appeal bonds, government contracts, performance and return-of-money bonds; (ii) reimbursement obligations with respect to letters of credit, performance and surety bonds and completion guarantees and other obligations of a similar nature; (iii) liability for premiums to insurance carriers; and (iv) posted cash as collateral for guarantees, (in each case in this **Section 3.13(N)** incurred in the ordinary course of business and exclusive of obligations for the payment of borrowed money, as applicable);

(O) Liens on property of, or on shares of Capital Stock or Indebtedness of, any Person existing at the time such Person is merged with or into or consolidated with the Company or any Restricted Subsidiary; *provided* that such merger or consolidation is permitted hereunder and such Liens do not extend to or cover any then-existing property or assets of the Company or any Restricted Subsidiary other than the property or assets of such Person or the property or assets acquired by the Company or any Restricted Subsidiary in connection with such merger or consolidation;

(P) recorded or unrecorded easements, rights-of-way, covenants, conditions, restrictions, non-exclusive licenses, reservations, zoning restrictions, and other charges, encumbrances, defects, imperfections or irregularities in title of any kind and other similar encumbrances that do not interfere in any material respect with the value or current use of the property to which such Lien is attached, all Liens, encumbrances and other matters disclosed in any title policy with respect to real property issued as of the Issue Date;

(Q) security provided, or caused to be provided in the ordinary course of business (and not in connection with the borrowing of money or the obtaining of credit) to a public utility or any municipality or governmental or other public authority when required by such utility or municipality or governmental or other authority in connection with the operations the Company or any of its Subsidiaries;

(R) Liens for taxes, customs, assessments or other governmental charges or levies not yet due and payable, or that are being properly contested in good faith by appropriate proceedings where the execution or enforcement of such Lien has been stayed and for which adequate reserves shall have been established on its books, which reserves shall be in conformity with U.S. GAAP, consistently applied;

(S) Liens on the assets or Capital Stock of the Specified Disposition Entity;

(T) leases, licenses, subleases or sublicenses (including, for the avoidance of doubt, licenses or sublicenses of any technology or other Intellectual Property made on an exclusive basis), (i) existing on the date hereof, (ii) entered into by, or assigned to, the Company or any of its Restricted Subsidiaries, or (iii) between or among the Company and its Restricted Subsidiaries;

(U) any interest or title of a lessor, licensor, sublessor or sublicensor under any lease, non-exclusive license or sublease entered into by the Company or any of its Subsidiaries (i) prior to the date hereof, or (ii) in the ordinary course of business, in each case, covering only the assets so leased, subleased, licensed or sublicensed;

(V) Liens of sellers of goods to such Person arising under applicable law in the ordinary course of business, covering only the goods sold or securing only the unpaid purchase price of such goods and related expenses to the extent such Indebtedness is permitted under this Indenture;

(W) Liens relating to purchase orders and other agreements entered into with customers or supplier of the Company or any of its Subsidiaries in the ordinary course of business;

(X) Liens securing the performance of, or granted in lieu of, contracts with trade creditors, contracts (other than in respect of debt for borrowed money), leases, bids, statutory obligations, customs, surety, stay, appeal and performance bonds, performance and completion guarantees and other obligations of a like nature (including those to secure health, safety and environmental obligations), in each case, incurred in the ordinary course of business or consistent with industry practice and deposits securing letters of credit, bank guarantees or similar instruments posted to support payment of the items set forth in this **clause (X)**; *provided* that such letters of credit, bank guarantees or similar instruments are issued in compliance with **Section 3.12**;

(Y) Liens (i) in favor of a banking institution arising as a matter of law encumbering deposits or other funds maintained with financial institutions (including the right of set–off) and (ii) arising in connection with pooled deposit or sweep accounts, cash netting, deposit accounts or similar arrangements of the Company or any of its Subsidiaries and consisting of the right to apply the funds held therein to satisfy overdraft or similar obligations incurred in the ordinary course of business of such Person, in each case, which are within the general parameters customary in the banking industry;

(Z) Liens on accounts receivables and other assets of the type specified in the definition of "Receivable Financing" to the extent the Indebtedness under such Receivable Financing is permitted under **Section 3.12(X) and Section 3.12(I)**;

(AA) Liens on assets or securities deemed to arise in connection with and solely as a result of the execution, delivery or performance or contracts to sell or otherwise dispose of such assets or securities if such sale or disposition is otherwise permitted under this Indenture;

(BB) Liens on any Excluded Assets; and

(CC) Liens (i) in favor of customs and revenue authorities arising as a matter of law in the ordinary course of business to secure payment of customs duties that (a) are not overdue by more than sixty (60) days or, if more than sixty (60) days overdue, are being contested in good faith or (b) with respect to which the failure to make payment could not reasonably be expected to have a Material Adverse Effect and (ii) on specific items of Inventory or other goods and proceeds thereof of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such Inventory or such other goods in the ordinary course of business.

Section 3.14. [Reserved].

Section 3.15. Limitation on Dispositions.

The Company will not, and will cause the Restricted Subsidiaries not to, make any Disposition, except for a Disposition that (each, a "**Permitted Disposition**"):

(A) is of obsolete, worn out or surplus property or property (other than equity interest or the business of any Person) not used or useful in such Person's business at the time of such Disposition, is Disposed of for Fair Market Value and to the extent the Disposition is by a Company Indenture Party, the relevant Company Indenture Party causes any proceeds arising therefrom to be deposited into a deposit account that is subject to Bank Account Perfection Actions;

(B) is for Fair Market Value and meets the following conditions:

(i) the aggregate Fair Market Value of Dispositions made in reliance on this **clause (B)** during any fiscal year of the Company and the Restricted Subsidiaries taken as a whole does not exceed 2.0% of PP&E;

(ii) immediately prior to and immediately after giving effect to such Disposition, no Default or Event of Default shall have occurred and be continuing or would result therefrom;

(iii) to the extent the Disposition is by a Company Indenture Party, the relevant Company Indenture Party causes any cash proceeds arising therefrom to be deposited into a deposit account that is subject to Bank Account Perfection Actions;

(iv) no less than seventy-five percent (75%) of the consideration received for such sale, transfer, lease, contribution or conveyance is received in cash; and

(i) the Disposition is not made to an Unrestricted Subsidiary.

(C) is a sale of Inventory in the ordinary course of business;

(D) is the leasing, assignment or sublease of real or personal property not used or useful in such Person's business or is otherwise in the ordinary course of business;

(E) is a sale, transfer, license, sub-license, grant, assignment, lease and sub-lease (as seller, transferor, lessee, sublessee, lessor, sublessor, licensee, sublicensee, licensor, sublicensor or grantee) of software, patents, trademarks, know-how or any other intellectual property, general intangibles or other property (including real or tangible property) for Fair Market Value; *provided* that, to the extent the Disposition is by a Company Indenture Party, the relevant Company Indenture Party causes any cash proceeds arising therefrom to be deposited into a deposit account that is subject to Bank Account Perfection Actions;

(F) is a sale or disposition of equipment or other assets, to the extent that such equipment is exchanged for credit against the purchase price of similar replacement equipment or assets or the proceeds of such Dispositions are reasonably promptly applied to the purchase price of similar replacement equipment, all in the ordinary course of business;

(G) is an abandonment, allowing to lapse, failure to renew, or other Disposition of any Intellectual Property that are not material to the conduct of the business of the Company and Guarantors or are otherwise not economically practicable to maintain;

(H) is by the Company to a Restricted Subsidiary, or by a Restricted Subsidiary to the Company or another Restricted Subsidiary;

(I) is a (i) Disposition of all or substantially all of the assets of the Company or any Restricted Subsidiary in the manner permitted under **Article 6** and in the case of any Restricted Subsidiary, the Disposition of all or substantially all of its assets to the holders of its Capital Stock on a *pro rata* basis or on a basis that is more favorable to the Company or any other Restricted Subsidiary, or (ii) any Disposition that constitutes a Fundamental Change;

(J) is a transfer of accounts receivable and related assets in the ordinary course of business and of the type specified in the definition of "Receivables Financing" (or a fractional undivided interest therein) in a Receivables Financing;

(K) is an exchange of assets for assets of comparable or greater market value or usefulness to the business of the Company and its subsidiaries as a whole, as determined in good faith by the Company, and, to the extent such assets are Collateral, the assets received by the Company pursuant to an exchange permissible under this **Section 3.15(K)** shall continue to be Collateral;

(L) is a Disposition of any Excluded Asset to the Specified Disposition Entity; *provided* that such Disposition is for Fair Market Value and meets the following conditions:

(i) such Disposition is duly approved by the Board of Directors;

(ii) immediately prior to and immediately after giving effect to such Disposition, no Default or Event of Default shall have occurred and be continuing or would result therefrom; and

(iii) to the extent the Disposition is by a Company Indenture Party, the relevant Company Indenture Party causes any cash proceeds arising therefrom to be deposited into a deposit account that is subject to Bank Account Perfection Actions; and

(iv) is made on an arm's length basis consistent with customary industry practices;

(M) is a Disposition of any asset or Capital Stock of the Specified Disposition Entity; *provided* that such Disposition is for Fair Market Value and meets the following conditions:

(i) such Disposition is duly approved by the Board of Directors;

(ii) immediately prior to and immediately after giving effect to such Disposition, no Default or Event of Default shall have occurred and be continuing or would result therefrom;

(iii) to the extent the Disposition is by a Company Indenture Party, the relevant Company Indenture Party causes any cash proceeds arising therefrom to be deposited into a deposit account that is subject to Bank Account Perfection Actions;

(iv) no less than seventy-five percent (75%) of the consideration received for such sale, transfer, lease, contribution or conveyance is received in cash;

(v) the Disposition is not made to the Company or any of its Subsidiaries; and

(vi) is made on an arm's length basis consistent with customary industry practices;

(N) is any financing transaction with respect to property built or acquired by the Company or any Restricted Subsidiary after the Issue Date in the ordinary course of business, including any Sale/Leaseback Transaction or asset securitization, permitted by this Indenture;

(O) is a Disposition constituting Permitted Liens;

(P) is a Disposition of Capital Stock of a subsidiary of any Company Indenture Party pursuant to an agreement or other obligation with or to a Person (other than any Company Indenture Party) from whom such subsidiary was acquired or from whom such subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), made as part of such acquisition and in each case comprising all or a portion of the consideration in respect of such sale or acquisition;

(Q) is a Disposition of assets in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements, *provided that*, to the extent the Disposition is by a Company Indenture Party, the relevant Company Indenture Party causes any cash proceeds arising therefrom to be deposited into a deposit account that is subject to Bank Account Perfection Actions;

(R) a Disposition that constitutes a Permitted Investment or a Restricted Payment that is permitted under this Indenture;

(S) is a transfer, termination, unwinding or other disposition in accordance with the terms of Hedging Agreements;

(T) is a surrender, expiration or waiver of contract rights or settlement, release, recovery on or surrender of contract, tort or other claims in the ordinary course of business;

(U) is a transfer resulting from any casualty or condemnation of property, *provided that*, to the extent such transfer is by a Company Indenture Party, the relevant Company Indenture Party causes any cash proceeds arising therefrom to be deposited into a deposit account that is subject to Bank Account Perfection Actions.

Section 3.16. Limitation on Investments.

The Company Indenture Parties will not purchase, make, incur, assume or permit to exist any Investment in any Restricted Subsidiary that is not a Company Indenture Party, and the Company and its Restricted Subsidiaries will not purchase, make, incur, assume or permit to exist any Investment in any Unrestricted Subsidiary, except for the following Investments (each, a "**Permitted Investment**"):

(A) any Investment in a Person which is, will be, or will be merged or consolidated with or into, or transfer or convey all or substantially all its assets to, any Company Indenture Party or any Restricted Subsidiary;

(B) to the extent it constitutes an Investment, provision of corporate and management services, including but not limited to any shared services arrangements, payroll or other compensations or benefits for employees of any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary, or of the Company and its Restricted Subsidiaries which provide services to such Restricted Subsidiary or Unrestricted Subsidiary and operating expenses in the ordinary course of business;

(C) to the extent it constitutes an Investment, provision of treasury management services, payroll payment services, employee credit card programs (to the extent used for corporate purposes), cash pooling services and other services of a similar nature, in each case, in the ordinary course of business.

(D) any existing Investment in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary in existence on the Issue Date, and any Investment consisting of an extension of the term, renewal or replacement of any Investment in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary existing on, or made pursuant to a binding commitment existing on the Issue Date.

(E) any Indebtedness owed to the Company or any Restricted Subsidiary by any Restricted Subsidiary that is not a Company Indenture Party to the extent such Indebtedness is permitted under **Section 3.12** and the repayment, retirement or redemption thereof to the extent such repayment, retirement or redemption is permitted under this Indenture;

(F) any Investment in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary in connection with the incurrence of Indebtedness permitted under **Sections 3.12(F), 3.12(M), 3.12(N), 3.12(O), 3.12(P), 3.12(Q), 3.12(R), 3.12(S), 3.12(T), 3.12(U),** 3**.12(V), 3.12(X) and 3.12(AA)**.

(G) to the extent it constitutes and Investment, any guarantee permitted under **Section 3.12(J)**;

(H) Investments in any Restricted Subsidiary that is not a Company Indenture Party with the proceeds of Indebtedness incurred by any Company Indenture Party or any Unrestricted Subsidiary as permitted under **Section 3.12**, to the extent that such Restricted Subsidiary or Unrestricted Subsidiary is a co-obligor of such Indebtedness;

(I) any Investment in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary in connection with Capital Expenditures duly approved by the Board of Directors;

(J) payroll, travel and similar advances made to any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary, or the directors, officers and/or employees of such Restricted Subsidiary or Unrestricted Subsidiary in the ordinary course of business.

(K) Investments consisting of consideration received by any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary in connection with a Disposition that is permitted or not prohibited under this Indenture.

(L) loans or advances to any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary to the extent such Restricted Subsidiary or Unrestricted Subsidiary is acting in the capacity of a vendor, contractor, supplier, distributor or service provider to any Company Indenture Party, including advance payments for equipment and machinery made to the manufacturer or supplier thereof, in the ordinary course of business and dischargeable in accordance with customary trade terms.

(M) any Investment pursuant to a Hedging Agreement entered into in the ordinary course of business (and not for speculation) designed solely to the Company or any Subsidiaries against fluctuations in commodity prices, interest rates or foreign currency exchange rates, to the extent such Hedging Agreement is entered into with any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary;

(N) Investments in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary consisting of the non-exclusive licensing or sublicensing of Intellectual Property that is otherwise permitted or not prohibited under this Indenture;

(O) Investments in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary consisting of endorsement of negotiable instruments and documents in the ordinary course of business;

(P) notes payable, receivables, trade credits or other current assets owing to the Company Indenture Party by any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary in the ordinary course of business;

(Q) (i) pledges or deposits made on behalf of or for the benefit of any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary by any Company Indenture Party in the ordinary course of business with respect to leases or utility contracts or in favor of tax, customs and revenue authorities or (ii) Investments in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary consisting of earnest money deposits or escrowed money required in connection with any acquisition, joint venture or acquisition of assets not otherwise prohibited by the Indenture;

(R) an acquisition of assets used in the ordinary course of business of any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary by any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary for consideration to the extent such consideration consists solely of Capital Stock of the Company;

(S) Investments in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary in connection with the incurrence of Liens permitted under **Sections 3.13(B), 3.13(C), 3.13(M), 3.13(N), 3.13(O)** (except where the Person which is merged with or into or consolidated with any Company Indenture Party is an Unrestricted Subsidiary), **3.13(P), 3.13(Q), 3.13(R), 3.13(S), 3.13(T), 3.13(U), 3.13(V), 3.13(X), 3.13(Y), 3.13(Z), 3.13(AA), 3.13(BB)** and **3.13(CC)**, in each case to the extent such incurrence of Liens constitutes an Investment;

(T) any transfer pricing arrangements or other tax planning arrangements for the purpose of complying with applicable laws, rules and regulation in the ordinary course of business;

(U) any Investment in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary with the proceeds from the issue or sale of Capital Stock of the Company;

(V) [Reserved];

(W) the establishment, incorporation or organization of Subsidiaries of the Company in connection of any of the Investments otherwise permitted under this **Section 3.16**;

(X) any Investment in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary in the ordinary course of business for the purpose of complying with applicable laws, rules and regulations in relation to corporate existence and good standing (or equivalent);

(Y) any Investment in any Restricted Subsidiary that is not a Company Indenture Party or any Unrestricted Subsidiary, which, together with other Investments made in reliance on this **Section 3.16(Y)** during any fiscal year, in an aggregate amount not exceeding $3,000,000 during such fiscal year; *provided* that the aggregate amount of Investments made in reliance on this **Section 3.16(Y)** shall not exceed $10,000,000; and

(Z) notwithstanding any provision to the contrary, no Investment in any Unrestricted Subsidiary may be made pursuant to this **Section 3.16** unless such Investment has been provided for in a budget that has been presented to and approved by the Board of Directors or has been otherwise approved by the Board of Directors.

Section 3.17. Restricted Payments.

The Company will not, and will cause the Restricted Subsidiaries not to, make any Restricted Payment, except for:

(A) any Restricted Payment by any Company Indenture Party to any other Company Indenture Party, or by any Restricted Subsidiary which is not a Guarantor to any Company Indenture Party; any Restricted Payment the consideration for which is payable solely in the Capital Stock of the Company;

(B) any Restricted Payment made under any Hedging Agreement for purposes of minimizing losses; or

(C) any Restricted Payment that constitutes a Permitted Disposition or a Permitted Investment.

Section 3.18. Accounts; Control Agreements.

(A) Subject to **clause (B)** below, the Company Indenture Parties shall cause their respective accounts maintained, or opened at any time after the Issue Date, at any bank or financial institution (other than any Excluded Accounts) to be subject to an account control agreement or its equivalent or shall take such other actions necessary to create a Lien over any such account in favor of the Collateral Trustee for the benefit of the Secured Parties pursuant to applicable law, including providing notice to the bank or financial institution with which any such account is held of the Liens granted in favor of the Collateral Trustee for the benefit of the Secured Parties over such account pursuant to applicable law (collectively, the "**Bank Account Perfection Actions**"), and shall cause all Collections to be deposited in an account that is subject to an account control agreement or other Bank Account Perfection Actions; *provided*, *however*, that, so long as no Event of Default has occurred and is continuing, any Company Indenture Party may open new accounts at any bank or financial institution; *provided* that, within forty-five (45) days after opening each such account, the relevant Company Indenture Party shall have delivered to the Collateral Trustee an account control agreement with respect to such account (or taken such other Bank Account Perfection Actions) (other than any Excluded Account) (but, with respect to any such accounts opened after the Issue Date, shall not deposit or transfer funds into such account prior to taking such Bank Account Perfection Actions).

(B) Neither the deposit account control agreement or its equivalent nor any Bank Account Perfection Actions shall restrict the Company Indenture Parties' ability to freely receive, withdraw or otherwise transfer any credit balance from time to time on such any account prior to the occurrence of an Event of Default; *provided that* following the occurrence of an Event of Default any Company Indenture Party that receives or otherwise has dominion over or control of any Collections, such Company Indenture Party shall hold such Collections in trust for the Collateral Trustee and shall not commingle such Collections with any other funds of any Company Indenture Party or other Person (unless otherwise instructed by the Collateral Trustee).

Section 3.19. Intellectual Property.

(A) Notwithstanding anything to the contrary contained herein, Maxeon Solar Pte. Ltd. shall hold ownership of or an exclusive license in all Intellectual Property, which are material to the conduct of the business or operation of the Company or its Subsidiaries taken as a whole and shall not be permitted to dispose of any such Intellectual Property except to the extent permitted pursuant to **Section 3.15(E)**.

(B) The Company Indenture Parties shall cause any Intellectual Property, that is assigned to the Company or any of its Subsidiaries in accordance with the SDA to be registered in the name of Maxeon Solar Pte. Ltd. in relevant jurisdictions as soon as practicable.

(C) The Company Indenture Parties shall take or cause to be taken all commercial reasonable actions to preserve, renew, and keep in full force and effect the legal existence of all Intellectual Property, except for any Intellectual Property that constitutes Excluded Assets, which are material to the conduct of the business or operation of the Company and its Subsidiaries taken as a whole.

Section 3.20. Permitted Secured Indebtedness.

(A) On or after the Issue Date, the Company and any Company Indenture Party may create Liens on the Collateral *pari passu* with the Lien for the benefit of the Holders to secure Indebtedness of the Company (including Additional Notes) (such Indebtedness of the Company or any Company Indenture Party, "**Permitted Pari Passu Secured Indebtedness**"); *provided* that the Company or such Company Indenture Party was permitted to incur such Indebtedness under **Section 3.12(G)**. The Trustee and/or the Collateral Trustee, as the case may be, will be permitted and authorized, without the consent of any Holder, to effectuate any amendments to the Security Documents, the Intercreditor Agreement, or this Indenture and take any other action necessary to permit the creation and registration of Liens on the Collateral to secure Permitted Pari Passu Secured Indebtedness in accordance with this **Section 3.20(A)** and the terms of this Indenture (including, without limitation, the appointment of any security agent under the Intercreditor Agreement to hold the Collateral on behalf of the Holders, and the holders of Permitted Pari Passu Secured Indebtedness).

(B) On or after the Issue Date, the Company and any Company Indenture Party may create Liens on the Collateral on a basis that is junior to the Lien for the benefit of the Holders to secure Indebtedness of the Company (such Indebtedness of the Company or any Company Indenture Party, "**Permitted Junior Secured Indebtedness**", and together with Permitted Pari Passu Secured Indebtedness, the "**Permitted Secured Indebtedness**"); *provided* that the Company or such Company Indenture Party was permitted to incur such Indebtedness under **Section 3.12(D)**. The Trustee and/or the Collateral Trustee, as the case may be, will be permitted and authorized, without the consent of any Holder, to effectuate any amendments to the Security Documents, the Intercreditor Agreement, or this Indenture and take any other action necessary to permit the creation and registration of Liens on the Collateral to secure Permitted Junior Secured Indebtedness on a basis that is junior to the Lien for the benefit of the Holders in accordance with this **Section 3.20(B)** and the terms of this Indenture (including, without limitation, the appointment of any security agent under the Intercreditor Agreement to hold the Collateral on behalf of the Holders, and the holders of Permitted Pari Passu Secured Indebtedness).

(C) In executing any amendment to the Security Documents, the Intercreditor Agreement (including any Additional Intercreditor Agreement), or this Indenture in accordance with this **Section 3.20**, the Trustee and/or the Collateral Trustee, as the case may be will be entitled to receive, and (subject to **Sections 10.01** and **10.02**) will be fully protected in relying on, an Officer's Certificate and an Opinion of Counsel, provided in accordance with **Section 13.02**, each stating that (A) the execution and delivery of such amendment is authorized or permitted by this Indenture; and (B) in the case of the Opinion of Counsel, such amendments is valid, binding and enforceable against the Company in accordance with its terms.

(D) Except for certain Permitted Liens, the First Lien Notes, the Second Lien Notes, the Permitted Pari Passu Secured Indebtedness (if any), and the Permitted Junior Secured Indebtedness (if any), the Company and any Company Indenture Party will not be permitted to incur any other Indebtedness secured by all or any portion of the Collateral without the consent of the Majority Holders.

Section 3.21. Limitation on Transactions with Affiliates

The Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly (whether by merger, consolidation, amendment, recapitalization or otherwise) make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction or series of transactions, contract, agreement, understanding, loan (including intercompany loans), advance or guarantee with, or for the benefit of, any Affiliate of the Company (other than the Company, its Subsidiaries, TZE and its Affiliates) involving aggregate consideration in excess of $5,000,000 (each of the foregoing, an "**Affiliate Transaction**"), unless (i) such Affiliate Transaction is on terms that are not materially less favorable to the Company or the relevant Subsidiary than those that could have been obtained in a comparable transaction by the Company or such Subsidiary with an unrelated Person on an arm's length basis, and (ii) the Company delivers to the Trustee (x) a resolution adopted by the Board of Directors, including a majority of the disinterested directors with respect to such transaction, approving such Affiliate Transaction, or (y) an opinion issued to the Board of Directors by an accounting, appraisal or investment banking firm of nationally recognized standing as to the fairness to the Company or such Subsidiary of such Affiliate Transaction from a financial point of view or that the terms of such Affiliate Transaction are no less favorable to the Company or the relevant Subsidiary, taken as a whole, than those that could have been obtained in a comparable arm's-length transaction by the Company or such Subsidiary with a Person that is not an Affiliate of the Company, except for the following transactions:

(A) transactions with a joint venture in which one or more of the Company and any of its Restricted Subsidiaries is a participant (whether in the form of a partnership, limited liability company or other entity) for the purchase or sale of goods, equipment and services, in each case, entered into in the ordinary course of business and on an arm's length basis;

(B) any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, equity purchase agreements, stock options and stock ownership plans or similar employee benefit plans approved by the Board of Directors in good faith;

(C) (i) any employment agreements entered into by the Company or any of its Subsidiaries in the ordinary course of business; (ii) any subscription agreement or similar agreement pertaining to the repurchase of Capital Stock pursuant to put/call rights or similar rights with employees, officers or directors; and (iii) any employee compensation, benefit plan or arrangement, any health, disability or similar insurance plan which covers employees, and any reasonable employment contract and transactions pursuant thereto;

(D) any Restricted Payment permitted under the First Lien Notes Indentures, or any Permitted Investment;

(E) transactions with customers, clients, suppliers, or purchasers or sellers of goods or services, in each case, in the ordinary course of business and otherwise in compliance with the terms of this Indenture that are fair to the Company and its Subsidiaries;

(F) any contribution to the capital of the Company;

(G) the existence of, or the performance by the Company or any Subsidiary of its obligations under the terms of, any agreement as in effect as of the Issue Date or any amendment thereto (so long as any such agreement together with all amendments thereto, taken as a whole, is not more disadvantageous to the holders of the Notes in any material respect than the original agreement as in effect on the Issue Date, as determined in good faith by the Company) or any transaction contemplated thereby; and

(H) payment of reasonable and customary fees and reimbursement of expenses paid to, and indemnity provided on behalf of, officers, directors, employees or consultants of the Company or any of its Subsidiaries.

Section 3.22. Environmental Compliance.

The Company and its Restricted Subsidiaries shall comply in all material respects with all Environmental Law and obtain and maintain any permits and take all reasonable steps in anticipation of known or expected future changes to or obligations under the same, except where failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.23. Compliance with Laws

Each Company Indenture Party shall comply with the requirements of all applicable laws, rules, regulations, and orders of any governmental authority, other than laws, rules, regulations, and orders except where the failure to so comply, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.24. Post-Closing Obligations.

The Company Indenture Parties shall use commercially best efforts to satisfy their respective obligations described on **Schedule 3.24**, in each case, within the time periods set forth therein with respect to the relevant obligations.

Section 3.25. Additional Collateral.

Not later than sixty (60) days (or such longer date as may be reasonably agreed by the Collateral Trustee upon receiving written instruction, advice or concurrence of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture, subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction, as it deems appropriate) after the acquisition or creation by any Restricted Collateral Subsidiary of any asset (including Intellectual Property but only to the extent that a first priority perfected Lien would have been required under the terms of the Security Documents granted by Maxeon Solar Pte. Ltd. had such Intellectual Property been registered under the name of Maxeon Solar Pte. Ltd.), except for any asset that constitutes Excluded Assets, that is material to the business or operations of the Company and its Subsidiaries taken as a whole, which asset would not automatically be subject to the Collateral Trustee's first priority perfected Lien pursuant to pre-existing Security Documents due to restrictions under applicable laws or regulations, the applicable Restricted Collateral Subsidiary shall, to the extent practicable under applicable law cause such asset to be subject to a first priority perfected Lien (subject to Permitted Liens, any limitations required under the applicable law and/or, if applicable, the exclusions set forth in the relevant Security Document(s)) in favor of the Collateral Trustee for the benefit of the Secured Parties and take such actions as shall be necessary or reasonably requested by the Collateral Trustee to grant and perfect or record such first priority Lien, in each case to the extent practicable under the applicable law and any such documentation memorializing such actions shall be based on the Security Documents in effect at such time; *provided* that this **Section 3.25** shall not apply to the extent such assets are of the type over which Liens are permitted under **Section 3.13(H)**, **Section 3.13(K), Section 3.13(L)** or **Section 3.13(BB)**.

Section 3.26. Amendments to Junior Lien Debt Documents.

The Junior Lien Debt Documents (as defined in the Intercreditor Agreement) shall not be amended, restated, supplemented, waived or otherwise modified, except in a manner that is expressly permitted under the Intercreditor Agreement.

Article 4. REPURCHASE AND REDEMPTION

Section 4.01. No Sinking Fund.

No sinking fund is required to be provided for the Notes.

Section 4.02. Right of Holders to Require the Company to Repurchase Notes Upon a Fundamental Change.

(A) *Right of Holders to Require the Company to Repurchase Notes Upon a Fundamental Change*. Subject to the other terms of this **Section 4.02**, if a Fundamental Change occurs, then each Holder will have the right (the "**Fundamental Change Repurchase Right**") to require the Company to repurchase such Holder's Notes (or any portion thereof in an Authorized Denomination) on the Fundamental Change Repurchase Date for such Fundamental Change for a cash purchase price equal to the Fundamental Change Repurchase Price.

(B) *Repurchase Prohibited in Certain Circumstances*. If the principal amount of the Notes has been accelerated and such acceleration has not been rescinded on or before the Fundamental Change Repurchase Date for a Repurchase Upon Fundamental Change (including as a result of the payment of the related Fundamental Change Repurchase Price, and any related interest pursuant to the proviso to **Section 4.02(D)**, on such Fundamental Change Repurchase Date), then (i) the Company may not repurchase any Notes pursuant to this **Section 4.02**; and (ii) the Company will cause any Notes theretofore surrendered for such Repurchase Upon Fundamental Change to be returned to the Holders thereof (or, if applicable with respect to Global Notes, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interest in such Notes in accordance with the Depositary Procedures).

(C) *Fundamental Change Repurchase Date*. The Fundamental Change Repurchase Date for any Fundamental Change will be a Business Day of the Company's choosing that is no more than thirty-five (35), nor less than twenty (20), Business Days after the date the Company sends the related Fundamental Change Notice pursuant to **Section 4.02(E)**.

(D) *Fundamental Change Repurchase Price*. The Fundamental Change Repurchase Price for any Note to be repurchased upon a Repurchase Upon Fundamental Change following a Fundamental Change is an amount in cash equal to one hundred percent (100%) of the principal amount of such Note plus accrued and unpaid interest on such Note to, but excluding, the Fundamental Change Repurchase Date for such Fundamental Change; *provided*, *however*, that if such Fundamental Change Repurchase Date is after a Regular Record Date and on or before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Repurchase Upon Fundamental Change, to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Fundamental Change Repurchase Date is before such Interest Payment Date); and (ii) the Fundamental Change Repurchase Price will not include accrued and unpaid interest on such Note to, but excluding, such Fundamental Change Repurchase Date. For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of **Section 2.05(C)** and such Fundamental Change Repurchase Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest on Notes to, but excluding, such Interest Payment Date will be paid, in accordance with **Section 2.05(C)**, on the next Business Day to Holders as of the Close of Business on the immediately preceding Regular Record Date; and (y) the Fundamental Change Repurchase Price will include interest on Notes to be repurchased from, and including, such Interest Payment Date.

(E) *Fundamental Change Notice*. On or before the twentieth (20th) calendar day after the effective date of a Fundamental Change, the Company will send to each Holder, the Trustee and the Paying Agent a notice of such Fundamental Change (a "**Fundamental Change Notice**"). Substantially contemporaneously, the Company will issue a press release through such national newswire service as the Company then uses (or publish the same through such other widely disseminated public medium as the Company then uses, including its website) containing the information set forth in the Fundamental Change Notice.

Such Fundamental Change Notice must state:

(i) briefly, the events causing such Fundamental Change;

(ii) the effective date of such Fundamental Change;

(iii) the procedures that a Holder must follow to require the Company to repurchase its Notes pursuant to this **Section 4.02**, including the deadline for exercising the Fundamental Change Repurchase Right and the procedures for submitting and withdrawing a Fundamental Change Repurchase Notice;

(iv) the Fundamental Change Repurchase Date for such Fundamental Change;

(v) the Fundamental Change Repurchase Price per $1,000 principal amount of Notes for such Fundamental Change (and, if such Fundamental Change Repurchase Date is after a Regular Record Date and on or before the next Interest Payment Date, the amount, manner and timing of the interest payment payable pursuant to the proviso to **Section 4.02(D)**);

(vi) the name and address of the Paying Agent and the Conversion Agent;

(vii) the Conversion Rate in effect on the date of such Fundamental Change Notice and a description and quantification of any adjustments to the Conversion Rate that may result from such Fundamental Change (including pursuant to **Section 5.07**);

(viii) that Notes for which a Fundamental Change Repurchase Notice has been duly tendered and not duly withdrawn must be delivered to the Paying Agent for the Holder thereof to be entitled to receive the Fundamental Change Repurchase Price;

(ix) that Notes (or any portion thereof) that are subject to a Fundamental Change Repurchase Notice that has been duly tendered may be converted only if such Fundamental Change Repurchase Notice is withdrawn in accordance with this Indenture; and

(x) the CUSIP and ISIN numbers, if any, of the Notes.

Neither the failure to deliver a Fundamental Change Notice nor any defect in a Fundamental Change Notice will limit the Fundamental Change Repurchase Right of any Holder or otherwise affect the validity of any proceedings relating to any Repurchase Upon Fundamental Change.

(F) *Procedures to Exercise the Fundamental Change Repurchase Right*.

(i) *Delivery of Fundamental Change Repurchase Notice and Notes to Be Repurchased*. To exercise its Fundamental Change Repurchase Right for a Note following a Fundamental Change, the Holder thereof must deliver to the Paying Agent:

(1) before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date (or such later time as may be required by law), a duly completed, written Fundamental Change Repurchase Notice with respect to such Note; and

(2) such Note, duly endorsed for transfer (if such Note is a Physical Note) or by book-entry transfer (if such Note is a Global Note).

The Paying Agent will promptly deliver to the Company a copy of each Fundamental Change Repurchase Notice that it receives.

(ii) *Contents of Fundamental Change Repurchase Notices*. Each Fundamental Change Repurchase Notice with respect to a Note must state:

(1) if such Note is a Physical Note, the certificate number of such Note;

(2) the principal amount of such Note to be repurchased, which must be an Authorized Denomination; and

(3) that such Holder is exercising its Fundamental Change Repurchase Right with respect to such principal amount of such Note;

provided, *however*, that if such Note is a Global Note, then such Fundamental Change Repurchase Notice must comply with the Depositary Procedures (and any such Fundamental Change Repurchase Notice delivered in compliance with the Depositary Procedures will be deemed to satisfy the requirements of this **Section 4.02(F)**).

(iii) *Withdrawal of Fundamental Change Repurchase Notice*. A Holder that has delivered a Fundamental Change Repurchase Notice with respect to a Note may withdraw such Fundamental Change Repurchase Notice by delivering a written notice of withdrawal to the Paying Agent at any time before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date. Such withdrawal notice must state:

(1) if such Note is a Physical Note, the certificate number of such Note;

(2) the principal amount of such Note to be withdrawn, which must be an Authorized Denomination; and

(3) the principal amount of such Note, if any, that remains subject to such Fundamental Change Repurchase Notice, which must be an Authorized Denomination;

provided, *however*, that if such Note is a Global Note, then such withdrawal notice must comply with the Depositary Procedures (and any such withdrawal notice delivered in compliance with the Depositary Procedures will be deemed to satisfy the requirements of this **Section 4.02(F)**).

Upon receipt of any such withdrawal notice with respect to a Note (or any portion thereof), the Paying Agent will (x) promptly deliver a copy of such withdrawal notice to the Company; and (y) if such Note is surrendered to the Paying Agent, cause such Note (or such portion thereof in accordance with **Section 2.11**, treating such Note as having been then surrendered for partial repurchase in the amount set forth in such withdrawal notice as remaining subject to repurchase) to be returned to the Holder thereof (or, if applicable with respect to any Global Note, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interest in such Note in accordance with the Depositary Procedures).

(G) *Payment of the Fundamental Change Repurchase Price*. Without limiting the Company's obligation to deposit the Fundamental Change Repurchase Price within the time proscribed by **Section 3.01(B)**, the Company will cause the Fundamental Change Repurchase Price for a Note (or portion thereof) to be repurchased pursuant to a Repurchase Upon Fundamental Change to be paid to the Holder thereof on or before the later of (i) the applicable Fundamental Change Repurchase Date; and (ii) the date (x) such Note is delivered to the Paying Agent (in the case of a Physical Note) or (y) the Depositary Procedures relating to the repurchase, and the delivery to the Paying Agent, of such Holder's beneficial interest in such Note to be repurchased are complied with (in the case of a Global Note). For the avoidance of doubt, interest payable pursuant to the proviso to **Section 4.02(D)** on any Note to be repurchased pursuant to a Repurchase Upon Fundamental Change must be paid pursuant to such proviso regardless of whether such Note is delivered or such Depositary Procedures are complied with pursuant to the first sentence of this **Section 4.02(G)**.

(H) *Repurchase by Third Party*. Notwithstanding anything to the contrary in this **Section 4.02**, the Company will be deemed to satisfy its obligations under this **Section 4.02** if (i) one or more third parties conduct any Repurchase Upon Fundamental Change and related offer to repurchase Notes otherwise required by this **Section 4.02** in a manner that would have satisfied the requirements of this **Section 4.02** if conducted directly by the Company; and (ii) an owner of a beneficial interest in any Note repurchased by such third party or parties will not (after giving effect to the payment of any Additional Amounts pursuant to **Section 3.05**) receive a lesser amount as a result of withholding or similar taxes than such owner would have received had the Company repurchased such Note.

(I) *Compliance with Applicable Securities Laws*. To the extent applicable, the Company will comply with all federal and state securities laws in connection with a Repurchase Upon Fundamental Change (including complying with Rules 13e-4 and 14e-1 under the Exchange Act and filing any required Schedule TO, to the extent applicable) so as to permit effecting such Repurchase Upon Fundamental Change in the manner set forth in this Indenture; *provided*, *however*, that, to the extent that any securities laws or regulations enacted after the Issue Date conflict with the **Section 4.02**, the Company will comply with such securities laws and regulations and will not be deemed to have breached its obligations under this **Section 4.02** by virtue of such conflict.

(J) *Repurchase in Part*. Subject to the terms of this **Section 4.02**, Notes may be repurchased pursuant to a Repurchase Upon Fundamental Change in part, but only in Authorized Denominations. Provisions of this **Section 4.02** applying to the repurchase of a Note in whole will equally apply to the repurchase of a permitted portion of a Note.

Section 4.03. Right of the Company to Redeem the Notes.

(A) *No Right to Redeem Before June 20, 2026*. The Company may not redeem the Notes at any time before June 20, 2026, except pursuant to a Tax Redemption.

(B) *Right to Redeem the Notes on or after June 20, 2026*. Subject to the terms of this **Section 4.03**, the Company has the right, at its election, to redeem (a "**Provisional Redemption**") all, or any portion in an Authorized Denomination, of the Notes, at any time, and from time to time, on a Redemption Date on or after June 20, 2026 and on or before the sixtieth (60th) Scheduled Trading Day immediately before the Maturity Date, for a cash purchase price equal to the Redemption Price, but only if the Last Reported Sale Price per Ordinary Share exceeds one hundred and thirty percent (130%) of the Conversion Price on each of at least twenty (20) Trading Days (whether or not consecutive) during the thirty (30) consecutive Trading Days ending on, and including, the Trading Day immediately before the Redemption Notice Date for such Redemption. For the avoidance of doubt, the calling of any Notes for Provisional Redemption will constitute a Make- Whole Event with respect to such Notes pursuant to **clause (B)** of the definition thereof.

(C) *Right to Redeem the Notes After a Change in Tax Law*.

(i) *Generally.* Subject to the terms of this **Section 4.03**, and without limiting the Company's right to redeem any Notes pursuant to **Section 4.03(B)**, the Company has the right, at its election, to redeem (a "**Tax Redemption**") all, but not less than all, of the Notes, at any time (subject to **Section 4.03(H)**), on a Redemption Date before the Maturity Date, for a cash purchase price equal to the Redemption Price, but only if (i) the Company has (or, on the next Interest Payment Date, would) become obligated to pay any Additional Amounts to Holders as a result of any Change in Tax Law; (ii) the Company cannot avoid such obligation by taking reasonable measures available to the Company; and (iii) the Company delivers to the Trustee (1) an Opinion of Counsel of outside legal counsel of recognized standing in the Relevant Taxing Jurisdiction attesting to **clause (i)** above; and (2) an Officer's Certificate attesting to **clauses (i)** and **(ii)** above. For the avoidance of doubt, the calling of any Notes for a Tax Redemption will constitute a Make-Whole Event pursuant to **clause (B)** of the definition thereof.

(ii) *Tax Redemption Opt-Out Election*. If the Company calls the Notes for a Tax Redemption, then, notwithstanding anything to the contrary in this **Section 4.03** or in **Section 3.05**, each Holder will have the right to elect (a "**Tax Redemption Opt-Out Election**") not to have such Holder's Notes (or any portion thereof in an Authorized Denomination) redeemed pursuant to such Tax Redemption, in which case, from and after the Redemption Date for such Tax Redemption (or, if the Company fails to pay the Redemption Price due on such Redemption Date in full, from and after such time as the Company pays such Redemption Price in full), the Company will no longer have any obligation to pay any Additional Amounts with respect to such Notes solely as a result of such Change in Tax Law, and all future payments (other than any payment or delivery of any Conversion Consideration (including payments of cash in lieu of any fractional shares)) with respect to such Notes will be subject to the deduction or withholding of such Relevant Taxing Jurisdiction's taxes required by law to be deducted or withheld as a result of such Change in Tax Law (it being understood and agreed, for the avoidance of doubt, that if such Holder converts such Notes at any time, then the Company will be obligated to pay Additional Amounts, if any, with respect to such conversion).

(1) *Tax Redemption Opt-Out Notice*. To make a Tax Redemption Opt-Out Election with respect to any Note (or any portion thereof in an Authorized Denomination), the Holder of such Note must deliver a notice (a "**Tax Redemption Opt-Out Election Notice**") to the Paying Agent before the Close of Business on the second (2nd) Business Day immediately before the related Redemption Date, which notice must state: (x) if such Note is a Physical Note, the certificate number of such Note; (y) the principal amount of such Note as to which the Tax Redemption Opt-Out Election will apply, which must be an Authorized Denomination; and (z) that such Holder is making a Tax Redemption Opt-Out Election with respect to such Note (or such portion thereof); *provided*, *however*, that if such Note is a Global Note, then such notice must comply with the Depositary Procedures (and any such notice delivered in compliance with the Depositary Procedures will be deemed to satisfy the requirements of this **Section 4.03(C)(ii)(1)**).

(2) *Withdrawal of Tax Redemption Opt-Out Election Notice*. A Holder that has delivered a Tax Redemption Opt-Out Election Notice with respect to any Note (or any portion thereof in an Authorized Denomination) may withdraw such Tax Redemption Opt-Out Election Notice by delivering a withdrawal notice to the Paying Agent at any time before the Close of Business on the second (2nd) Business Day immediately before the related Redemption Date, which withdrawal notice must state: (x) if such Note is a Physical Note, the certificate number of such Note; (y) the principal amount of such Note as to which the Tax Redemption Opt-Out Election is being withdrawn, which must be an Authorized Denomination; and (z) that such Holder is withdrawing the Tax Redemption Opt-Out Election with respect to such Note (or such portion thereof); *provided*, *however*, that if such Note is a Global Note, then such withdrawal notice must comply with the Depositary Procedures (and any such withdrawal notice delivered in compliance with the Depositary Procedures will be deemed to satisfy the requirements of this **Section 4.03(C)(ii)(2)**).

(iii) *Right to Convert Not Affected*. For the avoidance of doubt, a Tax Redemption will not affect any Holder's right to convert any Notes on or after the Issue Date and the Company's obligation to pay any Additional Amounts with respect to such conversion. For the avoidance of doubt, if a Tax Redemption Opt-Out Election Notice is not delivered (or is delivered but thereafter withdrawn) with respect to any Note as of the Close of Business on the second (2nd) Business Day immediately before the related Redemption Date, then such Note will be redeemed pursuant to the Tax Redemption without any further action.

(D) *Redemption Prohibited in Certain Circumstances*. If the principal amount of the Notes has been accelerated and such acceleration has not been rescinded on or before the Redemption Date (including as a result of the payment of the related Redemption Price, and any related interest pursuant to the proviso to **Section 4.03(F)**, on such Redemption Date), then (i) the Company may not call for Provisional Redemption or Tax Redemption or otherwise redeem any Notes pursuant to this **Section 4.03**; and (ii) the Company will cause any Notes theretofore surrendered for such Redemption to be returned to the Holders thereof (or, if applicable with respect to Global Notes, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interests in such Notes in accordance with the Depositary Procedures).

(E) *Redemption Date*. The Redemption Date for a Tax Redemption will be a Business Day of the Company's choosing that is no more than eighty-five (85), nor less than sixty-five (65), Scheduled Trading Days after the related Redemption Notice Date for such Tax Redemption. The Redemption Date for a Provisional Redemption will be a Business Day of the Company's choosing that is on or before sixty (60) Scheduled Trading Days after the related Redemption Notice Date for such Provisional Redemption.

(F) *Redemption Price*. The Redemption Price for any Note called for Provisional Redemption or Tax Redemption is an amount in cash equal to one hundred percent (100%) of the principal amount of such Note plus accrued and unpaid interest on such Note to, but excluding, the Redemption Date for such Redemption; *provided*, *however*, that if such Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Redemption, to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Redemption Date is before such Interest Payment Date); and (ii) the Redemption Price will not include accrued and unpaid interest on such Note to, but excluding, such Redemption Date. For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of **Section 2.05(C)** and such Redemption Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest on Notes to, but excluding, such Interest Payment Date will be paid, in accordance with **Section 2.05(C)**, on the next Business Day to Holders as of the Close of Business on the immediately preceding Regular Record Date; and (y) the Redemption Price will include interest on Notes to be redeemed from, and including, such Interest Payment Date. For the avoidance of doubt, Additional Amounts will be added to the Redemption Price if, and to the extent, provided for in **Section 3.05**.

(G) *Redemption Notice*. To call any Notes for Provisional Redemption or Tax Redemption, the Company must (i) send to each Holder of such Notes, the Trustee and the Paying Agent a written notice of such Provisional Redemption or Tax Redemption (a "**Redemption Notice**"); and (ii) substantially contemporaneously therewith, either (x) issue a press release through such national newswire service as the Company then uses; (y) publish the same through such other widely disseminated public medium as the Company then uses, including its website; or (z) file or furnish a Form 8-K or Form 6-K (or any successor form) with the SEC, in each case of **clauses (x)**, **(y)** and **(z)**, containing the information set forth in the Redemption Notice.

Such Redemption Notice must state:

(i) that such Notes have been called for Redemption, briefly describing the Company's Redemption right under this Indenture;

(ii) the Redemption Date for such Redemption;

(iii) the Redemption Price per $1,000 principal amount of Notes for such Redemption (and, if the Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, the amount, manner and timing of the interest payment payable pursuant to the proviso to **Section 4.03(F)**);

(iv) the name and address of the Paying Agent and the Conversion Agent;

(v) that Notes called for Redemption may be converted at any time before the Close of Business on the Business Day immediately before the Redemption Date (or, if the Company fails to pay the Redemption Price due on such Redemption Date in full, at any time until such time as the Company pays such Redemption Price in full);

(vi) the Conversion Rate in effect on the Redemption Notice Date for such Redemption and a description and quantification of any adjustments to the Conversion Rate that may result from such Redemption (including pursuant to **Section 5.07**);

(vii) the Settlement Method that will apply to all conversions of Notes with a Conversion Date that occurs on or after such Redemption Notice Date and on or before the second (2nd) Business Day before such Redemption Date; and

(viii) the CUSIP and ISIN numbers, if any, of the Notes.

On or before the Redemption Notice Date, the Company will send a copy of such Redemption Notice to the Trustee and the Paying Agent.

(H) *Special Requirement for Notice of Tax Redemption*. A Redemption Notice relating to a Tax Redemption must be sent pursuant to **Section 4.03(G)** no earlier than one hundred and eighty (180) calendar days before the earliest date on which the Company would have been required to make the related payment or withholding (assuming a payment in respect of the Notes were then due), and the obligation to pay Additional Amounts must be in effect as of the date the Company sends such Redemption Notice and must be expected to remain in effect at the time of the next payment or delivery in respect of the Notes.

(I) *Selection and Conversion of Notes to Be Redeemed in Part*. If less than all Notes then outstanding are called for Redemption, then:

(i) the Notes to be redeemed will be selected by the Company as follows: (1) in the case of Global Notes, in accordance with the Depositary Procedures; and (2) in the case of Physical Notes, pro rata, by lot or by such other method the Company considers fair and appropriate; and

(ii) if only a portion of a Note is subject to Redemption and such Note is converted in part, then the converted portion of such Note will be deemed to be from the portion of such Note that was subject to Redemption.

(J) *Payment of the Redemption Price*. Without limiting the Company's obligation to deposit the Redemption Price by the time proscribed by **Section 3.01(B)**, the Company will cause the Redemption Price for a Note (or portion thereof) subject to Redemption to be paid to the Holder thereof on or before the applicable Redemption Date. For the avoidance of doubt, interest payable pursuant to the proviso to **Section 4.03(F)** on any Note (or portion thereof) subject to Redemption must be paid pursuant to such proviso.

(K) *Special Provisions for Partial Provisional Redemptions*. If the Company elects to redeem less than all of the outstanding Notes pursuant to a Provisional Redemption, and the Holder of any Note, or any owner of a beneficial interest in any Global Note, is reasonably not able to determine, before the Close of Business on the tenth (10th) Scheduled Trading Day immediately before the relevant Redemption Date for such Provisional Redemption, whether such Note or beneficial interest, as applicable, is to be redeemed pursuant to such Provisional Redemption, then such Holder or owner, as applicable, will be entitled to convert such Note or beneficial interest, as applicable, at any time before the Close of Business on the second (2nd) Business Day immediately before such Redemption Date, and each such conversion will be deemed to be of a Note called for Provisional Redemption for purposes of this **Section 4.03** and **5.07**.

Article 5. CONVERSION

Section 5.01. Right to Convert.

(A) *Generally*. Notwithstanding anything to the contrary in this Indenture or the Notes, the Notes will not be convertible on the Issue Date. From and after the Issue Date until the fifth scheduled Trading Day immediately preceding the Maturity Date, subject to the provisions of this **Article 5**, each Holder may, at its option, convert such Holder's Notes into Conversion Consideration.

(B) *Conversions in Part*. Subject to the terms of this Indenture, Notes may be converted in part, but only in Authorized Denominations. Provisions of this **Article 5** applying to the conversion of a Note in whole will equally apply to conversions of a permitted portion of a Note.

(C) When Notes May Be Converted.

(i) [Reserved]

(ii) *Limitations and Closed Periods*. Notwithstanding anything to the contrary in this Indenture or the Notes:

(1) Notes may be surrendered for conversion only after the Open of Business and before the Close of Business on a day that is a Business Day;

(2) in no event may any Note be converted after the Close of Business on the fifth (5th) Scheduled Trading Day immediately before the Maturity Date;

(3) if the Company calls any Note for Redemption pursuant to Section 4.03, then the Holder of such Note may not convert such Note after the Close of Business on the second (2nd) Business Day immediately before the applicable Redemption Date, except to the extent the Company fails to pay the Redemption Price for such Note in accordance with this Indenture; and

(4) if a Fundamental Change Repurchase Notice is validly delivered pursuant to **Section 4.02(F)** with respect to any Note, then such Note may not be converted, except to the extent (a) such Note is not subject to such notice; (b) such notice is withdrawn in accordance with **Section 4.02(F)**; or (c) the Company fails to pay the Fundamental Change Repurchase Price for such Note in accordance with this Indenture.

Section 5.02. Conversion Procedures.

(A) *Generally*.

(i) *Global Notes*. To convert a beneficial interest in a Global Note that is convertible pursuant to **Section 5.01**, the owner of such beneficial interest must (1) comply with the Depositary Procedures for converting such beneficial interest (at which time such conversion will become irrevocable); and (2) pay any amounts due pursuant to **Section 5.02(D)** or **Section 5.02(E)**.

(ii) *Physical Notes*. To convert all or a portion of a Physical Note that is convertible pursuant to **Section 5.01**, the Holder of such Note must (1) complete, manually sign and deliver to the Conversion Agent the conversion notice attached to such Physical Note or a facsimile/email of such conversion notice; (2) deliver such Physical Note to the Conversion Agent (at which time such conversion will become irrevocable); (3) furnish any endorsements and transfer documents that the Company or the Conversion Agent may require; and (4) pay any amounts due pursuant to **Section 5.02(D)** or **Section 5.02(E)**.

(B) *Effect of Converting a Note*. At the Close of Business on the Conversion Date for a Note (or any portion thereof) to be converted, such Note (or such portion) will (unless there occurs a Default in the delivery of the Conversion Consideration or interest due, pursuant to **Section 5.03(B)** or **5.02(D)**, upon such conversion) be deemed to cease to be outstanding (and, for the avoidance of doubt, no Person will be deemed to be a Holder of such Note (or such portion thereof) as of the Close of Business on such Conversion Date), except to the extent provided in **Section 5.02(D)**.

(C) *Holder of Record of Conversion Shares*. The Person in whose name any Ordinary Share is issuable upon conversion of any Note will be deemed to become the holder of record of such share as of the Close of Business on (i) the Conversion Date for such conversion, in the case of Physical Settlement; or (ii) the last VWAP Trading Day of the Observation Period for such conversion, in the case of Combination Settlement.

(D) *Interest Payable upon Conversion in Certain Circumstances*. If the Conversion Date of a Note is after a Regular Record Date and before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such conversion (and, for the avoidance of doubt, notwithstanding anything set forth in the proviso to this sentence), to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date); and (ii) the Holder surrendering such Note for conversion must deliver to the Conversion Agent, at the time of such surrender, an amount of cash equal to the amount of such interest referred to in clause (i) above; *provided*, *however*, that the Holder surrendering such Note for conversion need not deliver such cash (v) if the Company has specified a Redemption Date for a Provisional Redemption or Tax Redemption that is after such Regular Record Date and on or before the second (2nd) Business Day immediately after such Interest Payment Date; (w) if such Conversion Date occurs after the Regular Record Date immediately before the Maturity Date; (x) if the Company has specified a Fundamental Change Repurchase Date that is after such Regular Record Date and on or before the Business Day immediately after such Interest Payment Date; or (y) to the extent of any overdue interest or interest that has accrued on any overdue interest. For the avoidance of doubt, as a result of, and without limiting the generality of, the foregoing, if a Note is converted with a Conversion Date that is after the Regular Record Date immediately before the Maturity Date, then the Company will pay, as provided above, the interest that would have accrued on such Note to, but excluding, the Maturity Date. For the avoidance of doubt, if the Conversion Date of a Note to be converted is on an Interest Payment Date, then the Holder of such Note at the Close of Business on the Regular Record Date immediately before such Interest Payment Date will be entitled to receive, on such Interest Payment Date, the unpaid interest that has accrued on such Note to, but excluding, such Interest Payment Date, and such Note, when surrendered for conversion, need not be accompanied by any cash amount pursuant to the first sentence of this **Section 5.02(D)**.

(E) *Taxes and Duties*. If a Holder converts a Note, the Company will pay any documentary, stamp or similar issue or transfer tax or duty due on the issue or delivery (including, for the avoidance of doubt, pursuant to **Section 5.08**) of any Ordinary Shares upon such conversion; *provided*, *however*, that if any tax or duty is due because such Holder requested such shares to be registered in a name other than such Holder's name, then such Holder will pay such tax or duty.

(F) *Conversion Agent to Notify Company of Conversions*. If any Note is submitted for conversion to the Conversion Agent or the Conversion Agent receives any notice of conversion with respect to a Note, then the Conversion Agent will promptly notify the Company and the Trustee of such occurrence, together with any other information reasonably requested by the Company, and will cooperate with the Company to determine the Conversion Date for such Note.

Section 5.03. Settlement Upon Conversion.

(A) *Settlement Method*. Upon the conversion of any Note, the Company will settle such conversion by paying or delivering, as applicable and as provided in this **Article 5**, either (x) Ordinary Shares, together, if applicable, with cash in lieu of fractional shares as provided in **Section 5.03(B)(i)(1)** (a "**Physical Settlement**"); (y) solely cash as provided in **Section 5.03(B)(i)(2)** (a "**Cash Settlement**"); or (z) a combination of cash and Ordinary Shares, together, if applicable, with cash in lieu of fractional shares as provided in **Section 5.03(B)(i)(3)** (a "**Combination Settlement**").

(i) *The Company's Right to Elect Settlement Method*. The Company will have the right to elect the Settlement Method applicable to any conversion of a Note; *provided*, *however*, that:

(1) if any Notes are called for Redemption, then the Company will specify, in the related Redemption Notice (and, in the case of a Redemption of less than all outstanding Notes, in a notice simultaneously sent to all Holders of Notes not called for Redemption) sent pursuant to Section 4.03(G), the Settlement Method that will apply to all conversions of Notes with a Conversion Date that occurs on or after the related Redemption Notice Date and before the related Redemption Date;

(2) the Company will use the same Settlement Method for all conversions of Notes with the same Conversion Date (and, for the avoidance of doubt, the Company will not be obligated to use the same Settlement Method with respect to conversions of Notes with different Conversion Dates, except as provided in clause (1) above);

(3) if the Company does not timely elect a Settlement Method with respect to the conversion of a Note, then the Company will be deemed to have elected the Default Settlement Method (and, for the avoidance of doubt, the failure to timely make such election will not constitute a Default or Event of Default);

(4) if the Company timely elects Combination Settlement with respect to the conversion of a Note but does not timely notify the Holder of such Note of the applicable Specified Dollar Amount, then the Specified Dollar Amount for such conversion will be deemed to be $1,000 per $1,000 principal amount of Notes (and, for the avoidance of doubt, the failure to timely send such notification will not constitute a Default or Event of Default); and;

(5) the Settlement Method will be subject to **Section 5.09(A)(2).**

(ii) *The Company's Right to Irrevocably Fix the Settlement Method*. The Company will have the right, exercisable at its election by sending notice of such exercise to the Holders (with a copy to the Trustee and the Conversion Agent), to irrevocably fix the Settlement Method that will apply to all conversions of Notes with a Conversion Date that occurs on or after the date such notice is sent to Holders, *provided* that (x) such Settlement Method must be a Settlement Method that the Company is then permitted to elect (for the avoidance of doubt, including pursuant to, and subject to, the other provisions of this **Section 5.03(A)**); (y) no such irrevocable election will affect any Settlement Method theretofore elected (or deemed to be elected) with respect to any Note pursuant to the other provisions of this **Section 5.03(A)**; and (z) upon any such irrevocable election, the Default Settlement Method will automatically be deemed to be set to the Settlement Method so fixed. Such notice, if sent, must set forth the applicable Settlement Method and expressly state that the election is irrevocable and applicable to all conversions of Notes with a Conversion Date that occurs on or after the date such notice is sent to Holders. For the avoidance of doubt, such an irrevocable election, if made, will be effective without the need to amend this Indenture or the Notes, including pursuant to **Section 8.01(G)** (it being understood, however, that the Company may nonetheless choose to execute such an amendment at its option).

(iii) *Requirement to Publicly Disclose the Fixed or Default Settlement Method.* If the Company changes the Default Settlement Method pursuant to **clause (x)** of the proviso to the definition of such term or irrevocably fixes the Settlement Method pursuant to **Section 5.03(A)(i)**, then the Company will either post the Default Settlement Method or fixed Settlement Method, as applicable, on its website or disclose the same in a Current Report on Form 8-K or Form 6-K (or any successor form) that is filed with the SEC.

(B) *Conversion Consideration*.

(i) *Generally*. Subject to **Section 5.03(B)(ii)** and **Section 5.03(B)(iii)**, the type and amount of consideration (the "**Conversion Consideration**") due in respect of each $1,000 principal amount of a Note to be converted will be as follows:

(1) if Physical Settlement applies to such conversion, a number of Ordinary Shares equal to the Conversion Rate in effect on the Conversion Date for such conversion;

(2) if Cash Settlement applies to such conversion, cash in an amount equal to the sum of the Daily Conversion Values for each VWAP Trading Day in the Observation Period for such conversion; or

(3) if Combination Settlement applies to such conversion, consideration consisting of (a) a number of Ordinary Shares equal to the sum of the Daily Share Amounts for each VWAP Trading Day in the Observation Period for such conversion; and (b) an amount of cash equal to the sum of the Daily Cash Amounts for each VWAP Trading Day in such Observation Period.

(ii) *Cash in Lieu of Fractional Shares*. If Physical Settlement or Combination Settlement applies to the conversion of any Note and the number of Ordinary Shares deliverable pursuant to **Section 5.03(B)(i)** upon such conversion is not a whole number, then such number will be rounded down to the nearest whole number and the Company will deliver, in addition to the other consideration due upon such conversion, cash in lieu of the related fractional share in an amount equal to the product of (1) such fraction and (2) (x) the Daily VWAP on the Conversion Date for such conversion (or, if such Conversion Date is not a VWAP Trading Day, the immediately preceding VWAP Trading Day), in the case of Physical Settlement; or (y) the Daily VWAP on the last VWAP Trading Day of the Observation Period for such conversion, in the case of Combination Settlement.

(iii) *Conversion of Multiple Notes by a Single Holder*. If a Holder converts more than one (1) Note on a single Conversion Date, then the Conversion Consideration due in respect of such conversion will (in the case of any Global Note, to the extent permitted by, and practicable under, the Depositary Procedures) be computed based on the total principal amount of Notes converted on such Conversion Date by such Holder.

(iv) *Notice of Calculation of Conversion Consideration*. If Cash Settlement or Combination Settlement applies to the conversion of any Note, then the Company will determine the Conversion Consideration due thereupon promptly following the last VWAP Trading Day of the applicable Observation Period and will promptly thereafter send notice to the Trustee and the Conversion Agent of the same and the calculation thereof in reasonable detail. Neither the Trustee nor the Conversion Agent will have any duty to make any such determination.

(C) *Delivery of the Conversion Consideration*. Except as set forth in **Sections 5.05(D)** and **5.09**, the Company will pay or deliver, as applicable, the Conversion Consideration due upon the conversion of any Note to the Holder as follows: (i) if Cash Settlement or Combination Settlement applies to such conversion, on or before the second (2nd) Business Day immediately after the last VWAP Trading Day of the Observation Period for such conversion; and (ii) if Physical Settlement applies to such conversion, on or before the second (2nd) Business Day immediately after the Conversion Date for such conversion.

(D) *Deemed Payment of Principal and Interest; Settlement of Accrued Interest Notwithstanding Conversion*. If a Holder converts a Note, then the Company will not adjust the Conversion Rate to account for any accrued and unpaid interest on such Note, and, except as provided in **Section 5.02(D)**, the Company's delivery of the Conversion Consideration due in respect of such conversion will be deemed to fully satisfy and discharge the Company's obligation to pay the principal of, and accrued and unpaid interest, if any, on, such Note to, but excluding the Conversion Date. As a result, except as provided in **Section 5.02(D)**, any accrued and unpaid interest on a converted Note will be deemed to be paid in full rather than cancelled, extinguished or forfeited. In addition, subject to **Section 5.02(D)**, if the Conversion Consideration for a Note consists of both cash and Ordinary Shares, then accrued and unpaid interest that is deemed to be paid therewith will be deemed to be paid first out of such cash.

Section 5.04. Reserve and Status of Ordinary Shares Issued upon Conversion.

(A) *Share Reserve*. At all times from and after the Issue Date when any Notes are outstanding, the Company will reserve, out of its share issue mandate, a number of Ordinary Shares sufficient to permit the conversion of all then-outstanding Notes, assuming (x) Physical Settlement will apply to such conversion; and (y) the Conversion Rate is adjusted pursuant to **Section 5.05** or **Section 5.06**, or increased by the maximum amount pursuant to which the Conversion Rate may be increased pursuant to **Section 5.07**.

(B) *Status of Conversion Shares; Listing*. Each Conversion Share, if any, delivered upon conversion of any Note will be a newly issued share (except that any Conversion Share delivered by a designated financial institution pursuant to **Section 5.08** need not be a newly issued share), will be duly and validly issued, fully paid, non-assessable, free from preemptive rights and free of any lien or adverse claim (except to the extent of any lien or adverse claim created by the action or inaction of the Holder of such Note or the Person to whom such Conversion Share will be delivered) and will rank pari passu with the existing Ordinary Shares. If the Ordinary Shares are then listed on any securities exchange, or quoted on any inter-dealer quotation system, then the Company will cause each Ordinary Share to be admitted for listing on such exchange or quotation on such system.

Section 5.05. Adjustments to the Conversion Rate.

(A) *Events Requiring an Adjustment to the Conversion Rate*. The Conversion Rate will be adjusted from time to time as follows:

(i) *Share Dividends, Splits and Combinations*. If the Company issues solely the Ordinary Shares as a dividend or distribution on all or substantially all of the Ordinary Shares, or if the Company effects a split or a combination of the Ordinary Shares (in each case excluding an issuance solely pursuant to an Ordinary Share Change Event, as to which **Section 5.09** will apply), then the Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution, or immediately before the Open of Business on the effective date of such split or combination, as applicable;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date or effective date, as applicable;

OS_0 = the number of Ordinary Shares outstanding immediately before the Open of Business on such Ex-Dividend Date or effective date, as applicable, without giving effect to such dividend, distribution, split or combination; and

OS_1 = the number of Ordinary Shares outstanding immediately after giving effect to such dividend, distribution, split or combination.

If any dividend, distribution, split or combination of the type described in this **Section 5.05(A)(i)** is declared or announced, but not so paid or made, then the Conversion Rate will be readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution or to effect such split or combination, to the Conversion Rate that would then be in effect had such dividend, distribution, split or combination not been declared or announced.

(ii) *Rights, Options and Warrants*. If the Company distributes, to all or substantially all holders of the Ordinary Shares, rights, options or warrants (other than rights issued or otherwise distributed pursuant to a shareholder rights plan, as to which **Sections 5.05(A)(iii)(1)** and **5.05(F)** will apply) entitling such holders, for a period of not more than sixty (60) calendar days after the record date of such distribution, to subscribe for or purchase Ordinary Shares at a price per share that is less than the average of the Last Reported Sale Prices per Ordinary Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced, then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{OS + X}{OS + Y}$$

where:

CR_0	=	the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;
CR_1	=	the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;
OS	=	the number of Ordinary Shares outstanding immediately before the Open of Business on such Ex-Dividend Date;
X	=	the total number of Ordinary Shares issuable pursuant to such rights, options or warrants; and
Y	=	a number of Ordinary Shares obtained by dividing (x) the aggregate price payable to exercise such rights, options or warrants by (y) the average of the Last Reported Sale Prices per Ordinary Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced.

To the extent such rights, options or warrants referred to in this **Section 5.05(A)(ii)** are not so distributed, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the increase to the Conversion Rate for such distribution been made on the basis of only the rights, options or warrants, if any, actually distributed. In addition, to the extent that Ordinary Shares are not delivered after the expiration of such rights, options or warrants (including as a result of such rights, options or warrants not being exercised), the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the increase to the Conversion Rate for such distribution been made on the basis of delivery of only the number of Ordinary Shares actually delivered upon exercise of such rights, option or warrants.

For purposes of this **Section 5.05(A)(ii)**, in determining whether any rights, options or warrants entitle holders of Ordinary Shares to subscribe for or purchase Ordinary Shares at a price per share that is less than the average of the Last Reported Sale Prices per Ordinary Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date the distribution of such rights, options or warrants is announced, and in determining the aggregate price payable to exercise such rights, options or warrants, there will be taken into account any consideration the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if not cash, to be determined by the Company in good faith.

(iii) Spin-Offs and Other Distributed Property.

(1) *Distributions Other than Spin-Offs*. If the Company distributes shares of its Capital Stock, evidences of its indebtedness or other assets or property of the Company, or rights, options or warrants to acquire Capital Stock of the Company or other securities, to all or substantially all holders of the Ordinary Shares, excluding:

(a) dividends, distributions, rights, options or warrants (including Ordinary Share splits) for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(i)** or **5.05(A)(ii)**;

(b) dividends or distributions paid exclusively in cash for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(iv)**;

(c) rights issued or otherwise distributed pursuant to a shareholder rights plan, except to the extent provided in **Section 5.05(F)**;

(d) Spin-Offs for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(iii)(2)**;

(e) a distribution solely pursuant to a tender offer or exchange offer for Ordinary Shares, as to which **Section 5.05(A)(v)** will apply; and

(f) a distribution solely pursuant to an Ordinary Share Change Event, as to which **Section 5.09** will apply,

then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - FMV}$$

where:

CR_0 = *the* Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;

CR_1 = *the* Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

SP = *the* average of the Last Reported Sale Prices per Ordinary Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before such Ex-Dividend Date; and

FMV = the fair market value (as determined by the Company in good faith), as of such Ex-Dividend Date, of the shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants distributed per Ordinary Share pursuant to such distribution;

provided, *however*, that if *FMV* is equal to or greater than *SP*, then, in lieu of the foregoing adjustment to the Conversion Rate, each Holder will receive, for each $1,000 principal amount of Notes held by such Holder on the record date for such distribution, at the same time and on the same terms as holders of Ordinary Shares, the amount and kind of shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants that such Holder would have received if such Holder had owned, on such record date, a number of Ordinary Shares equal to the Conversion Rate in effect on such record date.

To the extent such distribution is not so paid or made, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the distribution, if any, actually made or paid.

(2) *Spin-Offs*. If the Company distributes or dividends shares of Capital Stock of any class or series, or similar equity interests, of or relating to a Subsidiary or other business unit of the Company to all or substantially all holders of the Ordinary Shares (other than solely pursuant to (x) an Ordinary Share Change Event, as to which **Section 5.09** will apply; or (y) a tender offer or exchange offer for Ordinary Shares, as to which **Section 5.05(A)(v)** will apply), and such Capital Stock or equity interests are listed or quoted (or will be listed or quoted upon the consummation of the transaction) on a U.S. national securities exchange (a "**Spin-Off**"), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV + SP}{SP}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Close of Business on the last Trading Day of the Spin-Off Valuation Period for such Spin-Off;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on the last Trading Day of the Spin-Off Valuation Period;

FMV = the product of (x) the average of the Last Reported Sale Prices per share or unit of the Capital Stock or equity interests distributed in such Spin-Off over the ten (10) consecutive Trading Day period (the "**Spin-Off Valuation Period**") beginning on, and including, the Ex- Dividend Date for such Spin-Off (such average to be determined as if references to Ordinary Shares in the definitions of Last Reported Sale Price, Trading Day and Market Disruption Event were instead references to such Capital Stock or equity interests); and (y) the number of shares or units of such Capital Stock or equity interests distributed per Ordinary Share in such Spin-Off; and

SP = the average of the Last Reported Sale Prices per Ordinary Share for each Trading Day in the Spin-Off Valuation Period.

Notwithstanding anything to the contrary in this **Section 5.05(A)(iii)(2)**, (i) if any VWAP Trading Day of the Observation Period for a Note whose conversion will be settled pursuant to Cash Settlement or Combination Settlement occurs during the Spin-Off Valuation Period for such Spin-Off, then, solely for purposes of determining the Conversion Rate for such VWAP Trading Day for such conversion, such Spin-Off Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Ex-Dividend Date for such Spin- Off to, and including, such VWAP Trading Day; and (ii) if the Conversion Date for a Note whose conversion will be settled pursuant to Physical Settlement occurs during the Spin-Off Valuation Period for such Spin-Off, then, solely for purposes of determining the Conversion Consideration for such conversion, such Spin-Off Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Ex-Dividend Date for such Spin-Off to, and including, such Conversion Date.

To the extent any dividend or distribution of the type set forth in this **Section 5.05(A)(iii)(2)** is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(iv) *Cash Dividends or Distributions*. If any cash dividend or distribution is made to all or substantially all holders of Ordinary Shares, then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - D}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

SP = the Last Reported Sale Price per Ordinary Share on the Trading Day immediately before such Ex-Dividend Date; and

D = the cash amount distributed per Ordinary Share in such dividend or distribution;

provided, *however*, that if D is equal to or greater than SP, then, in lieu of the foregoing adjustment to the Conversion Rate, each Holder will receive, for each $1,000 principal amount of Notes held by such Holder on the record date for such dividend or distribution, at the same time and on the same terms as holders of Ordinary Shares, the amount of cash that such Holder would have received if such Holder had owned, on such record date, a number of Ordinary Shares equal to the Conversion Rate in effect on such record date.

To the extent such dividend or distribution is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(v) *Tender Offers or Exchange Offers*. If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer that is subject to the then- applicable tender offer rules under the Exchange Act (other than solely pursuant to an odd- lot tender offer pursuant to Rule 13e-4(h)(5) under the Exchange Act or any successor rule thereto), for Ordinary Shares, and the value (determined as of the Expiration Time by the Board of Directors) of the cash and other consideration paid per Ordinary Share in such tender or exchange offer exceeds the Last Reported Sale Price per Ordinary Share on the Trading Day immediately after the last date (the "**Expiration Date**") on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{AC + (SP \times OS_1)}{SP \times OS_0}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period for such tender or exchange offer;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period;

AC = the aggregate value (determined as of the time (the "**Expiration Time**") such tender or exchange offer expires by the Board of Directors) of all cash and other consideration paid for Ordinary Shares purchased or exchanged in such tender or exchange offer;

OS_0 = the number of Ordinary Shares outstanding immediately before the Expiration Time (including all Ordinary Shares accepted for purchase or exchange in such tender or exchange offer);

OS_1 = the number of Ordinary Shares outstanding immediately after the Expiration Time (excluding all Ordinary Shares accepted for purchase or exchange in such tender or exchange offer); and

SP = the average of the Last Reported Sale Prices per Ordinary Share over the ten (10) consecutive Trading Day period (the "**Tender/Exchange Offer Valuation Period**") beginning on, and including, the Trading Day immediately after the Expiration Date;

provided, *however*, that the Conversion Rate will in no event be adjusted down pursuant to this **Section 5.05(A)(v)**, except to the extent provided in the immediately following paragraph. Notwithstanding anything to the contrary in this **Section 5.05(A)(v)**, (i) if any VWAP Trading Day of the Observation Period for a Note whose conversion will be settled pursuant to Cash Settlement or Combination Settlement occurs during the Tender/Exchange Offer Valuation Period for such tender or exchange offer, then, solely for purposes of determining the Conversion Rate for such VWAP Trading Day for such conversion, such Tender/Exchange Offer Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Trading Day immediately after the Expiration Date for such tender or exchange offer to, and including, such VWAP Trading Day; and (ii) if the Conversion Date for a Note whose conversion will be settled pursuant to Physical Settlement occurs during the Tender/Exchange Offer Valuation Period for such tender or exchange offer, then, solely for purposes of determining the Conversion Consideration for such conversion, such Tender/Exchange Offer Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Trading Day immediately after the Expiration Date to, and including, such Conversion Date.

To the extent such tender or exchange offer is announced but not consummated (including as a result of the Company being precluded from consummating such tender or exchange offer under applicable law), or any purchases or exchanges of Ordinary Shares in such tender or exchange offer are rescinded, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the purchases or exchanges of Ordinary Shares, if any, actually made, and not rescinded, in such tender or exchange offer.

(vi) *Incurrence of Convertible PPPSI*. If the Company, at any time or from time to time after the Issue Date, incurs any Permitted Pari Passu Secured Indebtedness, which may be exercised, converted, or exchanged into or otherwise entitled the holder thereof to receive Ordinary Shares (the "**Convertible PPPSI**"), and the lowest price per share for which one Ordinary Share is at any time issuable upon the conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof (the "**Relevant PPPSI Exercise Price**") is less than the Conversion Price then in effect, then immediately after the incurrence of such Convertible PPPSI, the Conversion Rate then in effect shall be increased such that the Conversion Price shall equal to the Relevant PPPSI Exercise Price of such Convertible PPPSI.

For purposes of this **Section 5.05(A)(vi)**, in respect of any Convertible PPPSI, the Relevant PPPSI Exercise Price shall be equal to (1) the lower of (x) the sum of the lowest amounts of consideration (if any) received or receivable by the Company with respect to one Ordinary Share upon conversion, exercise or exchange of such Convertible PPPSI or otherwise pursuant to the terms thereof or (y) the lowest conversion price (if applicable) set forth in the terms of such Convertible PPPSI for which one Ordinary Share is issuable upon conversion, exercise or exchange thereof or otherwise pursuant to the terms thereof minus (2) the sum of all amounts paid or payable to the holder or the lender, as the case may be, of such Convertible PPPSI upon the issuance or sale of such Convertible PPPSI plus the value of any other consideration received or receivable by, or benefit conferred on, the holder or lender of such Convertible PPPSI.

(B) *No Adjustments in Certain Cases*.

(i) *Where Holders Participate in the Transaction or Event Without Conversion*. Notwithstanding anything to the contrary in **Section 5.05(A)**, the Company will not be obligated to adjust the Conversion Rate on account of a transaction or other event otherwise requiring an adjustment pursuant to **Section 5.05(A)** (other than a split or combination of the type set forth in **Section 5.05(A)(i)** or a tender or exchange offer of the type set forth in **Section 5.05(A)(v)**) if each Holder participates, at the same time and on the same terms as holders of Ordinary Shares, and solely by virtue of being a Holder of Notes, in such transaction or event without having to convert such Holder's Notes and as if such Holder held a number of Ordinary Shares equal to the product of (i) the Conversion Rate in effect on the related record date; and (ii) the aggregate principal amount (expressed in thousands) of Notes held by such Holder on such date.

(ii) *Certain Events*. The Company will not be required to adjust the Conversion Rate except as provided in **Section 5.05** or **Section 5.07**. Without limiting the foregoing, the Company will not be obligated to adjust the Conversion Rate on account of:

(1) except as otherwise provided in **Section 5.05**, the sale of Ordinary Shares for a purchase price that is less than the market price per Ordinary Share or less than the Conversion Price;

(2) the issuance of any Ordinary Shares pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in Ordinary Shares under any such plan;

(3) the issuance of any Ordinary Shares or options or rights to purchase Ordinary Shares pursuant to any present or future employee, director or consultant benefit or incentive plan (including pursuant to an evergreen provision) or program of, or assumed by, the Company or any of its Subsidiaries or in connection with any shares withheld for tax withholding purposes;

(4) the issuance of any Ordinary Shares pursuant to any option, warrant, right or convertible or exchangeable security of the Company outstanding or announced as of the Issue Date;

(5) for a tender offer or exchange offer by any party other than a tender offer or exchange offer by the Company or one or more of its Subsidiaries as described in Section 5.05(A)(v);

(6) an odd-lot tender offer pursuant to Rule 13e-4(h)(5) under the Exchange Act or any successor rule thereto;

(7) upon the repurchase of any of the Ordinary Shares pursuant to an open-market repurchase program or other buy-back transaction (including through any structured or derivative transactions, such as accelerated share repurchase transactions, prepaid forward transactions or similar forward derivatives) that is not a tender offer or exchange offer of the nature described in **Section 5.05(A)(v)**;

(8) solely a change in the par value of the Ordinary Shares; or

(9) accrued and unpaid interest on the Notes.

(iii) Notwithstanding anything to the contrary in this Indenture or the Notes (but without limiting the operation of **Section 5.05(H)**), the Conversion Rate will not be adjusted pursuant to **Section 5.05(A)** on an account of any event described in any of **clauses (i)** through **(v)**, inclusive **Section 5.05(A)** where the Ex-Dividend Date, effective date or Expiration Date, as applicable, of such event occurs before the Issue Date.

(iv) Notwithstanding anything to the contrary in **Section 5.05(A)(vi)**, the Company will not be obligated to adjust the Conversion Rate on account of a transaction or other event otherwise requiring an adjustment pursuant to **Section 5.05(A)(vi)**, if TZE acquires all of the Convertible PPPSI pursuant to the Right of First Offer.

(C) If an adjustment to the Conversion Rate otherwise required by this **Article 5** would result in a change of less than one percent (1%) to the Conversion Rate, then, notwithstanding anything to the contrary in this **Article 5**, the Company may, at its election, defer such adjustment, except that all such deferred adjustments must be given effect immediately upon the earliest of the following: (i) when all such deferred adjustments not already given effect would result in a change of at least one percent (1%) to the Conversion Rate; (ii) the Conversion Date of, or any VWAP Trading Day of an Observation Period for, any Note; (iii) the date a Fundamental Change or Make- Whole Event occurs; (iv) the date the Company calls any Notes for Redemption; and (v) the thirty fifth (35th) VWAP Trading Day before the Maturity Date.

(D) *Adjustments Not Yet Effective*. Notwithstanding anything to the contrary in this Indenture or the Notes, if:

(i) a Note is to be converted pursuant to Physical Settlement or Combination Settlement;

(ii) the record date, effective date or Expiration Time for any event that requires an adjustment to the Conversion Rate pursuant to **Section 5.05(A)** has occurred on or before the Conversion Date for such conversion (in the case of Physical Settlement) or on or before any VWAP Trading Day in the Observation Period for such conversion (in the case of Combination Settlement), but an adjustment to the Conversion Rate for such event has not yet become effective as of such Conversion Date or VWAP Trading Day, as applicable;

(iii) the Conversion Consideration due upon such conversion includes any whole Ordinary Shares (in the case of Physical Settlement) or due in respect of such VWAP Trading Day includes any whole or fractional Ordinary Shares (in the case of Combination Settlement); and

(iv) such shares are not entitled to participate in such event (because they were not held on the related record date or otherwise),

then, solely for purposes of such conversion, the Company will, without duplication, give effect to such adjustment on such Conversion Date (in the case of Physical Settlement) or such VWAP Trading Day (in the case of Combination Settlement). In such case, if the date on which the Company is otherwise required to deliver the consideration due upon such conversion is before the first date on which the amount of such adjustment can be determined, then the Company will delay the settlement of such conversion until the second (2nd) Business Day after such first date.

(E) *Conversion Rate Adjustments where Converting Holders Participate in the Relevant Transaction or Event*. Notwithstanding anything to the contrary in this Indenture or the Notes, if:

(i) a Conversion Rate adjustment for any dividend or distribution becomes effective on any Ex-Dividend Date pursuant to **Section 5.05(A)**;

(ii) a Note is to be converted pursuant to Physical Settlement or Combination Settlement;

(iii) the Conversion Date for such conversion (in the case of Physical Settlement) or any VWAP Trading Day in the Observation Period for such conversion (in the case of Combination Settlement) occurs on or after such Ex-Dividend Date and on or before the related record date;

(iv) the Conversion Consideration due upon such conversion includes any whole Ordinary Shares (in the case of Physical Settlement) or due in respect of such VWAP Trading Day includes any whole or fractional Ordinary Shares (in the case of Combination Settlement), in each case based on a Conversion Rate that is adjusted for such dividend or distribution; and

(v) such shares would be entitled to participate in such dividend or distribution (including pursuant to **Section 5.02(C)**),

then (x) in the case of Physical Settlement, such Conversion Rate adjustment will not be given effect for such conversion and the Ordinary Shares issuable upon such conversion based on such unadjusted Conversion Rate will not be entitled to participate in such dividend or distribution, but there will be added, to the Conversion Consideration otherwise due upon such conversion, the same kind and amount of consideration that would have been delivered in such dividend or distribution with respect to such Ordinary Shares had such shares been entitled to participate in such dividend or distribution; and (y) in the case of Combination Settlement, the Conversion Rate adjustment relating to such Ex-Dividend Date will be made for such conversion in respect of such VWAP Trading Day, but the Ordinary Shares issuable with respect to such VWAP Trading Day based on such adjusted Conversion Rate will not be entitled to participate in such dividend or distribution.

(F) *Shareholder Rights Plans*. If any Ordinary Shares are to be issued or delivered upon conversion of any Note and, at the time of such conversion, the Company has in effect any shareholder rights plan, then the Holder of such Note will be entitled to receive, in addition to, and concurrently with the delivery of, the Conversion Consideration otherwise payable under this Indenture upon such conversion, the rights set forth in such shareholder rights plan, unless such rights have separated from the Ordinary Shares at such time, in which case, and only in such case, the Conversion Rate will be adjusted pursuant to **Section 5.05(A)(iii)(1)** on account of such separation as if, at the time of such separation, the Company had made a distribution of the type referred to in such Section to all holders of the Ordinary Shares, subject to readjustment in accordance with such Section if such rights expire, terminate or are redeemed.

(G) *Limitation on Effecting Transactions Resulting in Certain Adjustments*. The Company will not engage in or be a party to any transaction or event that would require the Conversion Rate to be adjusted pursuant to **Section 5.05(A)** or **Section 5.07** to an amount that would result in the Conversion Price per Ordinary Share being less than the par value per Ordinary Share.

(H) *Equitable Adjustments to Prices*. Whenever any provision of this Indenture requires the Company to calculate the average of the Last Reported Sale Prices, or any function thereof, over a period of multiple days (including to calculate (i) the Share Price for a Make-Whole Event or (ii) or an adjustment to the Conversion Rate), or to calculate the Daily Conversion Values or Daily VWAPs over an Observation Period, the Company will make appropriate adjustments, if any, to such calculations to account for any adjustment to the Conversion Rate pursuant to **Section 5.05(A)**, would have resulted in an adjustment to the Conversion Rate) that becomes effective, or any event that requires such an adjustment to the Conversion Rate where the Ex-Dividend Date, effective date or Expiration Date, as applicable, of such event occurs, at any time during such period, or Observation Period, as applicable.

(I) *Calculation of Number of Outstanding Ordinary Shares*. For purposes of **Section 5.05(A)**, the number of Ordinary Shares outstanding at any time will (i) include shares issuable in respect of scrip certificates issued in lieu of fractions of Ordinary Shares; and (ii) exclude Ordinary Shares held in the Company's treasury (unless the Company pays any dividend or makes any distribution on Ordinary Shares held in its treasury).

(J) *Calculations*. All calculations with respect to the Conversion Rate and adjustments thereto will be made, by the Company, to the nearest 1/10,000th of an Ordinary Share (with 5/100,000ths rounded upward).

(K) *Notice of Conversion Rate Adjustments*. Upon the effectiveness of any adjustment to the Conversion Rate pursuant to **Section 5.05(A)** or upon the occurrence of a Forward Purchase Adjustment Event, the Company will promptly send notice to the Holders, the Trustee and the Conversion Agent containing (i) a brief description of the transaction or other event on account of which such adjustment was made; (ii) the Conversion Rate in effect immediately after such adjustment; and (iii) the effective time of such adjustment.

Section 5.06. Voluntary Adjustments.

(A) *Generally*. To the extent permitted by law and applicable listing standards of The Nasdaq Global Stock Market (or any other securities exchange on which the Ordinary Shares (or other applicable security) is then listed), the Company, from time to time, may (but is not required to) increase the Conversion Rate by any amount if (i) the Board of Directors determines that such increase is either (x) in the best interest of the Company; or (y) advisable to avoid or diminish any income tax imposed on holders of Ordinary Shares or rights to purchase Ordinary Shares as a result of any dividend or distribution of shares (or rights to acquire shares) of Ordinary Shares or any similar event; (ii) such increase is in effect for a period of at least twenty (20) Business Days; and (iii) subject to applicable law, such increase is irrevocable during such period.

(B) *Notice of Voluntary Increases*. If the Board of Directors determines to increase the Conversion Rate pursuant to **Section 5.06(A)**, then, no later than the first Business Day of the related twenty (20) Business Day period referred to in **Section 5.06(A)**, the Company will send notice to each Holder, the Trustee and the Conversion Agent of such increase, the amount thereof and the period during which such increase will be in effect.

Section 5.07. Adjustments To The Conversion Rate In Connection With A Make-Whole Event.

(A) *Generally*. If a Make-Whole Event occurs on or after the Issue Date and the Conversion Date for the conversion of a Note occurs during the related Make-Whole Event Conversion Period, then, subject to this **Section 5.07**, the Conversion Rate applicable to such conversion will be increased by a number of shares (the "**Additional Shares**") set forth in the Make-Whole Table corresponding (after interpolation as provided in, and subject to, the provisions below) to the Make-Whole Event Effective Date and the Share Price of such Make-Whole Event.

If such Make-Whole Event Effective Date or Share Price is not set forth in the Make-Whole Table, then:

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

(ii) if the Share Price is greater than the highest Share Price, or less than the lowest Share Price, set forth in the Make-Whole Table (which highest and lowest Share Prices are, for the avoidance of doubt, subject to adjustment pursuant to **Section 5.07(C)**), then no Additional Shares will be added to the Conversion Rate.

For the avoidance of doubt, but subject to **Section 4.03(K)**, (x) the sending of a Redemption Notice relating to a Provisional Redemption will constitute a Make-Whole Event only with respect to the Notes called for Provisional Redemption pursuant to such Redemption Notice, and not with respect to any other Notes; and (y) the Conversion Rate applicable to the Notes not so called for Provisional Redemption will not be subject to increase pursuant to this **Section 5.07** on account of such Redemption Notice.

(B) The initial Make-Whole Table will be as set forth below.

Make-Whole Event Effective Date	Share Price								
	$1.6422	**$1.7500**	**$2.1350**	**$3.0000**	**$5.0000**	**$8.0000**	**$15.0000**	**$25.0000**	**$40.0000**
June 20, 2024	0.0000	225.9143	174.5621	110.3733	52.3240	23.7400	5.7253	0.5072	0.0000
June 20, 2025	0.0000	225.2229	172.2998	107.0267	49.3400	21.7613	4.9113	0.2568	0.0000
June 20, 2026	0.0000	216.4857	162.8009	98.0500	43.0620	18.0938	3.6480	0.0000	0.0000
June 20, 2027	0.0000	195.6571	142.3326	80.7633	32.4160	12.5225	2.0533	0.0000	0.0000
June 20, 2028	0.0000	151.0514	100.8384	49.3233	16.4680	5.6200	0.5727	0.0000	0.0000
June 20, 2029	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

(C) *Adjustment of Share Prices and Number of Additional Shares*. The Share Prices in the first row (*i.e.*, the column headers) of the Make-Whole Table will be adjusted in the same manner as, and at the same time and for the same events for which, the Conversion Price is adjusted as a result of the operation of **Section 5.05(A)**. The numbers of Additional Shares in the Make- Whole Table will be adjusted in the same manner as, and at the same time and for the same events for which, the Conversion Rate is adjusted pursuant to **Section 5.05(A)**.

(D) *Notice of the Occurrence of a Make-Whole Event*. The Company will notify the Holders, the Trustee and the Conversion Agent of each Make-Whole Event (i) occurring pursuant to **clause (A)** of the definition thereof; and (ii) occurring pursuant to **clause (B)** of the definition thereof in accordance with **Section 4.03(G)**.

Section 5.08. Exchange In Lieu Of Conversion.

Notwithstanding anything to the contrary in this **Article 5**, and subject to the terms of this **Section 5.08**, if a Note is submitted for conversion, the Company may elect, in lieu of conversion, to transfer such Note to a financial institution designated by the Company and arrange to have such financial institution deliver to the Holder of such Note the Conversion Consideration that would have been due upon conversion. To make such election, the Company must send notice of such election to the Holder of such Note, the Trustee and the Conversion Agent before the Close of Business on the Business Day immediately following the Conversion Date for such Note. If the Company has made such election, then:

(A) no later than the Business Day immediately following such Conversion Date, the Company must deliver (or cause the Conversion Agent to deliver) such Note, together with delivery instructions for the Conversion Consideration due upon such conversion (including wire instructions, if applicable), to a financial institution designated by the Company that has agreed to deliver such Conversion Consideration in the manner and at the time the Company would have had to deliver the same pursuant to this **Article 5**;

(B) if such Note is a Global Note, then (i) such designated institution will send written confirmation to the Conversion Agent promptly after wiring the cash Conversion Consideration, if any, and delivering any other Conversion Consideration, due upon such conversion to the Holder of such Note; and (ii) the Conversion Agent will as soon as reasonably practicable thereafter contact such Holder's custodian with the Depositary to confirm receipt of the same; and

(C) such Note will not cease to be outstanding by reason of such exchange in lieu of conversion;

provided, *however*, that if such financial institution does not accept such Note or fails to timely deliver such Conversion Consideration, then the Company will be responsible for delivering such Conversion Consideration in the manner and at the time provided in this **Article 5** as if the Company had not elected to make an exchange in lieu of conversion.

Section 5.09. Effect Of Ordinary Share Change Event.

(A) *Generally*. If there occurs any:

(i) recapitalization, reclassification or change of the Ordinary Shares (other than (x) changes solely resulting from a subdivision or combination of the Ordinary Shares, (y) a change only in par value or from par value to no par value or no par value to par value and (z) splits and combinations that do not involve the issuance of any other series or class of securities);

(ii) consolidation, merger, combination or binding or statutory share exchange involving the Company;

(iii) sale, lease or other transfer of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person; or

(iv) other similar event,

and, as a result of which, the Ordinary Shares is converted into, or is exchanged for, or represents solely the right to receive, other securities, cash or other property, or any combination of the foregoing (such an event, a "**Ordinary Share Change Event**," and such other securities, cash or property, the "**Reference Property**," and the amount and kind of Reference Property that a holder of one (1) Ordinary Share would be entitled to receive on account of such Ordinary Share Change Event (without giving effect to any arrangement not to issue or deliver a fractional portion of any security or other property), a "**Reference Property Unit**"), then the Company and the resulting, surviving or transferee person (if not the Company) of such Ordinary Share Change Event (the "**Successor Person**"), and, if applicable as set forth below, the Underlying Issuer, will execute and deliver to the Trustee a supplemental indenture, without the consent of the Holders, providing, notwithstanding anything to the contrary in this Indenture or the Notes, as follows:

(1) from and after the effective time of such Ordinary Share Change Event, (I) the Conversion Consideration due upon conversion of any Note, and the conditions to any such conversion, will be determined in the same manner as if each reference to any number of Ordinary Shares in this **Article 5** (or in any related definitions) were instead a reference to the same number of Reference Property Units; (II) for purposes of **Section 4.03**, each reference to any number of Ordinary Shares in such Section (or in any related definitions) will instead be deemed to be a reference to the same number of Reference Property Units; and (III) for purposes of the definition of "Fundamental Change" and "Make-Whole Event," references to Ordinary Shares or to "Common Equity" will be deemed to refer to the common equity (including depositary receipts representing common equity), if any, forming part of such Reference Property;

(2) if such Reference Property Unit consists entirely of cash, then the Company will be deemed to elect Physical Settlement in respect of all conversions whose Conversion Date occurs on or after the effective date of such Ordinary Share Change Event and will pay the cash due upon such conversions no later than the second (2nd) Business Day after the relevant Conversion Date;

(3) for these purposes, (I) the Daily VWAP of any Reference Property Unit or portion thereof that consists of a class of common equity securities will be determined by reference to the definition of "Daily VWAP," substituting, if applicable, the Bloomberg page for such class of securities in such definition; and (II) the Daily VWAP of any Reference Property Unit or portion thereof that does not consist of a class of common equity securities, and the Last Reported Sale Price of any Reference Property Unit or portion thereof that does not consist of a class of securities, will be the fair value of such Reference Property Unit or portion thereof, as applicable, determined in good faith by the Company (or, in the case of cash denominated in U.S. dollars, the face amount thereof); and

(4) if such Reference Property includes any shares of Capital Stock, then the Conversion Rate will be subject to subsequent adjustments in a manner consistent with **Section 5.05(A)**.

If the Reference Property consists of more than a single type of consideration to be determined based in part upon any form of shareholder election, then the composition of the Reference Property Unit will be deemed to be the weighted average of the types and amounts of consideration actually received, per Ordinary Share, by the holders of the Ordinary Shares. The Company will notify Holders of such weighted average as soon as practicable after such determination is made.

At or before the effective time of such Ordinary Share Change Event, the Company and the Successor Person will execute and deliver to the Trustee a supplemental indenture pursuant to **Section 8.01(F)** as set forth above. If the Reference Property includes shares of stock or other securities or assets (other than cash) of a Person other than the Successor Person (such person, the "**Underlying Issuer**"), then such Underlying Issuer will also execute such supplemental indenture.

(B) *Notice of Ordinary Share Change Events*. The Company will provide notice of each Ordinary Share Change Event to Holders, the Trustee and the Conversion Agent no later than the effective date of such Ordinary Share Change Event.

(C) *Compliance Covenant*. The Company will not become a party to any Ordinary Share Change Event unless its terms are consistent with this **Section 5.09**.

Section 5.10. Responsibility of Trustee.

(A) The Trustee, the Collateral Trustee and the Conversion Agent shall not at any time be under any duty or responsibility to any Holder to determine the Conversion Rate (or any adjustment thereto) or whether any facts exist that may require any adjustment (including any increase) of the Conversion Rate, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed, or in the Indenture or in any supplemental indenture provided to be employed, in making the same. The Trustee and the Conversion Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any Ordinary Shares, or of any securities, property or cash that may at any time be issued or delivered upon the conversion of any Note; and the Trustee and the Conversion Agent make no representations with respect thereto. Neither the Trustee nor the Conversion Agent shall be responsible for any failure of the Company to issue, transfer or deliver any shares of Ordinary Shares or stock certificates or other securities or property or cash upon the surrender of any Note for the purpose of conversion or to comply with any of the duties, responsibilities or covenants of the Company contained in this **Article 5**. Without limiting the generality of the foregoing, neither the Trustee nor the Conversion Agent shall be under any responsibility to (a) determine whether a supplemental indenture needs to be entered into or (b) determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to **Section 5.09** relating either to the kind or amount of shares of stock or securities or property (including cash) receivable by Holders upon the conversion of their Notes after any event referred to in such **Section 5.09** or to any adjustment to be made with respect thereto, but, subject to the provisions of **Section 13.02** of the Indenture, may accept (without any independent investigation) as conclusive evidence of the correctness of any such provisions, and shall be protected in conclusively relying upon, the Officer's Certificate (which the Company shall be obligated to file with the Trustee and the Conversion Agent prior to the execution of any such supplemental indenture) with respect thereto.

(B) The Conversion Agent will open a non-interest bearing account in the name of the Company in relation to its Settlement Method.

(C) Conversion Agent's wire instructions are listed in **Schedule I** to receive wire from the Company for cash in lieu for fractional shares.

(D) **Schedule II** lists Company's wire instructions for interest reimbursement.

(E) If there is a conversion between the Regular Record Date and Interest Payment Date (for regular period), the Holders will return the interest back to Conversion Agent and the Conversion Agent will reimburse the Company.

Article 6. SUCCESSORS

Section 6.01. When The Company May Merge, Etc.

(A) *Generally*. The Company will not consolidate with or merge with or into, dissolve or liquidate voluntarily into, or (directly, or indirectly through one or more of its Subsidiaries) sell, lease or otherwise Dispose, in one transaction or a series of transactions, all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to another Person (a "**Company Business Combination Event**"), unless:

(i) the resulting, surviving or transferee Person either (x) is the Company or (y) if not the Company, is a corporation (the "**Successor Corporation**") duly organized and existing under the laws of the United States of America, any State thereof, the District of Columbia or Singapore that expressly assumes (by executing and delivering to the Trustee, at or before the effective time of such Company Business Combination Event, a supplemental indenture pursuant to **Section 8.01(E)**) all of the Company's obligations under this Indenture, the Security Documents to which the Company is a party, and the Notes (including, for the avoidance of doubt, the obligation to pay Additional Amounts pursuant to **Section 3.05**);

(ii) immediately after giving effect to such Company Business Combination Event, no Default or Event of Default will have occurred and be continuing; and

(ii) before the effective time of any Company Business Combination Event, the Company will deliver to the Trustee an Officer's Certificate and Opinion of Counsel, each stating that (i) such Company Business Combination Event (and, if applicable, the related supplemental indenture) comply with **Section 6.01(A)**; and (ii) all conditions precedent to such Company Business Combination Event provided in this Indenture have been satisfied.

(B) *Guarantors*. The Company shall not permit any Guarantor to consolidate with or merge with or into, dissolve or liquidate voluntarily into, or (directly, or indirectly through one or more of its Subsidiaries) sell, lease or otherwise Dispose, in one transaction or a series of transactions, all or substantially all of the consolidated assets (other than to the Company or another Guarantor) (a "**Guarantor Business Combination Event**" together with a Company Business Combination Event, a "**Business Combination Event**") unless:

(i) the resulting, surviving or transferee Person (the "**Successor Guarantor**") either (x) is the Guarantor or (y) if not the Guarantor, is a corporation duly organized and existing under the laws of the jurisdiction of the Company or any of the Guarantors that expressly assumes (by executing and delivering to the Trustee, at or before the effective time of such Guarantor Business Combination Event, a supplemental indenture pursuant to **Section 8.01(B)**) all of such Guarantor's obligations under this Indenture, the Security Documents to which it is a party, the Notes and its Guarantee (including, for the avoidance of doubt, the obligation to pay Additional Amounts pursuant to **Section 3.05**);

(ii) immediately after giving effect to such Guarantor Business Combination Event, no Default or Event of Default will have occurred and be continuing; and

(iii) before the effective time of any Guarantor Business Combination Event, the Company and the Guarantor, as applicable, will deliver to the Trustee an Officer's Certificate and Opinion of Counsel, each stating that (i) such Guarantor Business Combination Event (and, if applicable, the related supplemental indenture) comply with **Section 6.01(B)**; and (ii) all conditions precedent to such Guarantor Business Combination Event provided in this Indenture have been satisfied.

Section 6.02. Successor Corporation Substituted.

At the effective time of any Business Combination Event that complies with **Section 6.01**, the Successor Corporation (if not the Company) or the Successor Guarantor (if not the applicable Guarantor), as the case may be, will succeed to, and may exercise every right and power of, the Company or the Guarantor, as the case may be, under this Indenture, the Security Documents, the Notes and/or Guarantee, as is applicable, with the same effect as if such Successor Corporation or Successor Guarantor, as the case may be, had been named as the Company or Guarantor, as the case may be, in this Indenture, the Security Documents, the Notes and such Guarantee; *provided that* in the case of a lease, the predecessor Company will be discharged from its obligations under this Indenture and the Notes.

Article 7. DEFAULTS AND REMEDIES

Section 7.01. Events Of Default.

(A) *Definition of Events of Default*. "**Event of Default**" means the occurrence of any of the following:

(i) a default in the payment when due (whether at maturity, upon Redemption or Repurchase Upon Fundamental Change or otherwise) of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, any Note;

(ii) a default in the payment when due of Interest on any Note, which default continues for thirty (30) days;

(iii) the Company's failure to deliver, when required by this Indenture, a Fundamental Change Notice, such failure is not cured within three (3) Business Days after its occurrence;

(iv) [Reserved].

(v) a default in the Company's obligation to convert a Note in accordance with **Article 5** upon the exercise of the conversion right with respect thereto, if such default is not cured within two (2) Business Days after its occurrence;

(vi) a default in the Company's obligations under **Article 6**;

(vii) [Reserved].

(viii) a default in any of the Company's obligations or agreements under the Indenture Documents (other than a default set forth in **clause (i)**, **(ii)**, **(iii)**, **(v) or (vi)** of this **Section 7.01(A)**) where such default is not cured or waived within thirty (30) days after notice to the Company by the Trustee and the Collateral Trustee, or to the Company, the Trustee and the Collateral Trustee by Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding, which notice must specify such default, demand that it be remedied and state that such notice is a "Notice of Default";

(ix) a default by a Company Indenture Party or any of its Significant Subsidiaries with respect to indebtedness for money borrowed (whether pursuant to one or more agreements or other instruments) of greater than twenty-five million dollars ($25,000,000) (or its foreign currency equivalent) in the aggregate of a Company Indenture Party or any of its Significant Subsidiaries, whether such indebtedness exists as of the Issue Date or is thereafter created, either: (x) resulting in such indebtedness becoming or being declared due and payable prior to its stated maturity, or (y) constituting a failure to pay the principal of any such indebtedness when due and payable (after the expiration of all applicable grace periods) at its stated maturity, upon required repurchase, upon declaration or otherwise, and, in the case of either **clause (x)** or **(y)**, such acceleration is not, after the expiration of any applicable grace period, rescinded or annulled or such indebtedness is not paid or discharged, as the case may be, within thirty (30) days after notice to the Company by the Trustee or to the Company and the Trustee by Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding in accordance with this Indenture;

(x) one or more final judgments being rendered against a Company Indenture Party or any of its Subsidiaries for the payment of at least twenty-five million dollars ($25,000,000) (or its foreign currency equivalent) in the aggregate (excluding any amounts covered by insurance), where such judgment is not discharged or stayed within sixty (60) days after (i) the date on which the right to appeal the same has expired, if no such appeal has commenced; or (ii) the date on which all rights to appeal have been extinguished;

(xi) a Company Indenture Party or any of its Significant Subsidiaries, pursuant to or within the meaning of any Bankruptcy Law, either:

(1) commences a voluntary case or proceeding;

(2) consents to the entry of an order for relief against it in an involuntary case or proceeding;

(3) consents to the appointment of a custodian of it or for any substantial part of its property (other than that arises from any solvent liquidation or restructuring of a Significant Subsidiary in the ordinary course of business that shall result in the net assets of such Significant Subsidiary being transferred to or otherwise vested in such Company Indenture Party or any of its other subsidiaries on a pro rata basis or on a basis more favorable to such Company Indenture Party);

(4) makes a general assignment for the benefit of its creditors;

(5) takes any comparable action under any foreign Bankruptcy Law; or

(6) generally is not paying its debts as they become due;

(xii) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that either:

(1) is for relief against a Company Indenture Party or any of its Significant Subsidiaries in an involuntary case or proceeding;

(2) appoints a custodian of a Company Indenture Party or any of its Significant Subsidiaries, or for any substantial part of the property of a Company Indenture Party or any of its Significant Subsidiaries;

(3) orders the winding up or liquidation of a Company Indenture Party or any of its Significant Subsidiaries; or

(4) grants any similar relief under any foreign Bankruptcy Law,

(5) and, in each case under this **Section 7.01(A)(xii)**, such order or decree remains unstayed and in effect for at least sixty (60) days;

(xiii) If the obligation of any Guarantor under its Guarantee or any other Indenture Document to which any Guarantor is a party is limited or terminated by operation of law or by such Guarantor (other than, in each case, in accordance with the terms of this Indenture or such other Indenture Documents), or if any Guarantor fails to perform any obligation under its Guarantee or under any such Indenture Document, or repudiates or revokes or purports to repudiate or revoke in writing any obligation under its Guarantee, or under any such Indenture Document, or any Guarantor ceases to exist for any reason (other than as permitted or not prohibited by this Indenture); or

(xiv) Except as permitted or not prohibited by this Indenture and other Indenture Documents, if this Indenture or any other Indenture Document that purports to create a Lien on Collateral, shall, for any reason, fail or cease to be in full force and effect for any reason, being declared fully or partially void in judicial, regulatory or administrative proceeding or becoming enforceable against the relevant Company Indenture Parties.

(B) *Cause Irrelevant*. Each of the events set forth in **Section 7.01(A)** will constitute an Event of Default regardless of the cause thereof or whether voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

Section 7.02. Acceleration.

(A) *Automatic Acceleration in Certain Circumstances*. If an Event of Default set forth in **Section7.01(A)(xi)** or **7.01(A)(xii)** occurs with respect to the Company (and not solely with respect to a Significant Subsidiary of the Company), then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding will immediately become due and payable without any further action or notice by any Person.

(B) *Optional Acceleration*. Subject to **Section 7.03**, if an Event of Default (other than an Event of Default set forth in **Section 7.01(A)(xi)** or **7.01(A)(xii)** with respect to the Company and not solely with respect to a Significant Subsidiary of the Company) occurs and is continuing, then the Trustee, by notice to the Company, or Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding, by notice to the Company, the Trustee and the Collateral Trustee, may declare the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding (subject to the Trustee and the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction) to become due and payable immediately.

(C) *Rescission of Acceleration*. Notwithstanding anything to the contrary in this Indenture or the Notes, the Majority Holders, by notice to the Company and the Trustee, may, on behalf of all Holders, rescind any acceleration of the Notes and its consequences if (i) such rescission would not conflict with any judgment or decree of a court of competent jurisdiction; (ii) all existing Events of Default (except the non-payment of principal of, or interest on, the Notes that has become due solely because of such acceleration) have been cured or waived; and (iii) all sums paid or advanced by the Trustee under this Indenture and the reasonable compensation, expenses, disbursements and advances of the Trustee and the Collateral Trustee and their agents and counsel have been paid. No such rescission will affect any subsequent Default or impair any right consequent thereto.

Section 7.03. Sole Remedy For A Failure To Report.

(A) *Generally*. Notwithstanding anything to the contrary in this Indenture or the Notes, the Company may elect that the sole remedy for any Event of Default (a "**Reporting Event of Default**") pursuant to **Section 7.01(A)(viii)** arising from the Company's failure to comply with **Section 3.02** will, for each of the first one hundred and eighty (180) calendar days on which a Reporting Event of Default has occurred and is continuing, consist exclusively of the accrual of Special Interest on the Notes. If the Company has made such an election, then (i) the Notes will be subject to acceleration pursuant to **Section 7.02** on account of the relevant Reporting Event of Default from, and including, the one hundred and eighty first (181st) calendar day on which a Reporting Event of Default has occurred and is continuing or if the Company fails to pay any accrued and unpaid Special Interest when due; and (ii) Special Interest will cease to accrue on any Notes from, and including, such one hundred and eighty first (181st) calendar day (it being understood that interest on any defaulted Special Interest will nonetheless accrue pursuant to **Section 2.05(B)**).

(B) *Amount and Payment of Special Interest*. Any Special Interest that accrues on a Note pursuant to **Section 7.03(A)** will be payable on the same dates and in the same manner as the Stated Interest on such Note and will accrue at a rate per annum equal to one quarter of one percent (0.25%) of the principal amount thereof for the first ninety (90) days on which Special Interest accrues and, thereafter, at a rate per annum equal to one half of one percent (0.50%) of the principal amount thereof; *provided*, *however*, that in no event will Special Interest accrue on any day on a Note at a combined rate per annum that exceeds one half of one percent (0.50%). For the avoidance of doubt, any Special Interest that accrues on a Note will be in addition to the Stated Interest that accrues on such Note.

(C) *Notice of Election*. To make the election set forth in **Section 7.03(A)**, the Company must send to the Holders, the Trustee and the Paying Agent, before the date on which each Reporting Event of Default first occurs, a notice that (i) briefly describes the report(s) that the Company failed to file with the SEC; (ii) states that the Company is electing that the sole remedy for such Reporting Event of Default consist of the accrual of Special Interest; and (iii) briefly describes the periods during which and rate at which Special Interest will accrue and the circumstances under which the Notes will be subject to acceleration on account of such Reporting Event of Default.

(D) *Notice to Trustee and Paying Agent; Trustee's Disclaimer*. If Special Interest accrues on any Note, then, no later than five (5) Business Days before each date on which such Special Interest is to be paid, the Company will deliver an Officer's Certificate to the Trustee and the Paying Agent stating (i) that the Company is obligated to pay Special Interest on such Note on such date of payment; and (ii) the amount of such Special Interest that is payable on such date of payment. The Trustee will have no duty to determine whether any Special Interest is payable or the amount thereof.

(E) *No Effect on Other Events of Default*. No election pursuant to this **Section 7.03** with respect to a Reporting Event of Default will affect the rights of any Holder with respect to any other Event of Default, including with respect to any other Reporting Event of Default.

Section 7.04. Other Remedies.

(A) *Trustee May Pursue All Remedies*. If an Event of Default occurs and is continuing, then the Trustee may pursue any available remedy to collect the payment of any amounts due with respect to the Notes or to enforce the performance of any provision of this Indenture or the Notes.

(B) *Procedural Matters*. The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in such proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy following an Event of Default will not impair the right or remedy or constitute a waiver of, or acquiescence in, such Event of Default. All remedies will be cumulative to the extent permitted by law.

Section 7.05. Waiver Of Past Defaults.

An Event of Default pursuant to **clause (i)**, **(ii)**, **(v)** or **(viii)** of **Section 7.01(A)** (that, in the case of **clause (viii)** only, results from a Default under any covenant that cannot be amended without the consent of each affected Holder), and a Default that could lead to such an Event of Default, can be waived only with the consent of each affected Holder. Each other Default or Event of Default may be waived, on behalf of all Holders, by the Majority Holders. If an Event of Default is so waived, then it will cease to exist. If a Default is so waived, then it will be deemed to be cured and any Event of Default arising therefrom will be deemed not to occur. However, no such waiver will extend to any subsequent or other Default or Event of Default or impair any right arising therefrom.

Section 7.06. Control By Majority.

The Majority Holders may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law, this Indenture or the Notes, or that, subject to **Section 10.01**, the Trustee determines may be unduly prejudicial to the rights of other Holders or may involve the Trustee in liability, unless the Trustee is offered security and indemnity satisfactory to the Trustee against any loss, liability or expense to the Trustee that may result from the Trustee's following such direction.

Section 7.07. Limitation On Suits.

No Holder may pursue any remedy with respect to this Indenture or the Notes (except to enforce (x) its rights to receive the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or interest on, any Notes; or (y) the Company's obligations to convert any Notes pursuant to **Article 5**), unless:

(A) such Holder has previously delivered to the Trustee notice that an Event of Default is continuing;

(B) Holders of at least twenty five percent (25%) in aggregate principal amount of the Notes then outstanding deliver a request to the Trustee to pursue such remedy;

(C) such Holder or Holders offer and, if requested, provide to the Trustee security and indemnity satisfactory to the Trustee against any loss, liability or expense to the Trustee that may result from the Trustee's following such request;

(D) the Trustee does not comply with such request within sixty (60) calendar days after its receipt of such request and such offer of security or indemnity; and

(E) during such sixty (60) calendar day period, the Majority Holders do not deliver to the Trustee a direction that is inconsistent with such request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder. The Trustee will have no duty to determine whether any Holder's use of this Indenture complies with the preceding sentence.

Section 7.08. Absolute Right Of Holders To Institute Suit For The Enforcement Of The Right To Receive Payment And Conversion Consideration.

Notwithstanding anything to the contrary in this Indenture or the Notes (but without limiting **Section 8.01**), the right of each Holder of a Note to bring suit for the enforcement of any payment or delivery, as applicable, of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any interest on, or the Conversion Consideration due pursuant to **Article 5** upon conversion of, such Note on or after the respective due dates therefor provided in this Indenture and the Notes, will not be impaired or affected without the consent of such Holder.

Section 7.09. Collection Suit By Trustee.

The Trustee will have the right, upon the occurrence and continuance of an Event of Default pursuant to **clause (i)**, **(ii)** or **(iv)** of **Section 7.01(A)**, to recover judgment in its own name and as trustee of an express trust against the Company for the total unpaid or undelivered principal of, or Redemption Price or Fundamental Change Repurchase Price for, or interest on, or Conversion Consideration due pursuant to **Article 5** upon conversion of, the Notes, as applicable, and, to the extent lawful, any Default Interest on any Defaulted Amounts, and such further amounts sufficient to cover the costs and expenses of collection, including compensation provided for in **Section 10.06**.

Section 7.10. Trustee May File Proofs Of Claim.

The Trustee has the right to (A) file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes) or its creditors or property and (B) collect, receive and distribute any money or other property payable or deliverable on any such claims. Each Holder authorizes any custodian in such proceeding to make such payments to the Trustee, and, if the Trustee consents to the making of such payments directly to the Holders, to pay to the Trustee any amount due to the Trustee for the reasonable compensation, expenses, disbursements and advances of the Trustee, and its agents and counsel, and any other amounts payable to the Trustee pursuant to **Section 10.06**. To the extent that the payment of any such compensation, expenses, disbursements, advances and other amounts out of the estate in such proceeding, is denied for any reason, payment of the same will be secured by a lien on, and will be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding (whether in liquidation or under any plan of reorganization or arrangement or otherwise). Nothing in this Indenture will be deemed to authorize the Trustee to authorize, consent to, accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 7.11. Payment of the Soulte.

If, following any Appropriation, a Soulte is owed by the Secured Parties to the Company or any Guarantor, the Company or that Guarantor agrees that such Soulte shall only become due and payable by the relevant Secured Parties on the earlier of:

(a) the date falling 12 months after the date of the Appropriation; and

(b) the Final Discharge Date.

For the avoidance of doubt, the obligations of each Secured Party to pay its proportionate share of any Soulte are several (*conjointes et non solidaires*).

Any payment of the Soulte under paragraph (a) above to the Company or any Guarantor which occurs on or prior to the Final Discharge Date shall be made by the relevant Secured Parties (or the Collateral Trustee on their behalf) to a bank account of the Company or relevant Guarantor and in each case held with the Collateral Trustee and pledged in a manner satisfactory to the Collateral Trustee acting on behalf of the Secured Parties as security for any obligation of the Company or relevant Guarantor under any of the Indenture Documents to which it is party including any obligation under this Indenture to pay back any Soulte or any amounts to be turned over by it as the Company or Guarantor pursuant to **Section 7.12** on or prior to the Final Discharge Date. This pledge agreement shall include an irrevocable instruction from the Company or the relevant Guarantor to make from such pledged bank accounts any payment required to be fulfilled under this Indenture or any Indenture Document.

The provisions of this **Section 7.11** override any conflicting provisions in the French Security Documents.

Section 7.12. Sums Received by Debtors and Third Party Security Providers.

Without prejudice to **Section 7.11**, if the Company or any Guarantor receives or recovers (i) any Soulte or (ii) any other sum which, under the terms of any of the Indenture Documents, should have been paid to the Collateral Trustee, the Company or that Guarantor will:

(A) hold an amount of that receipt or recovery equal to the relevant Obligations (or, if less, the amount received or recovered) on trust for (or otherwise on behalf and for the account of) the Collateral Trustee and promptly pay that amount to the Collateral Trustee (or as the Collateral Trustee may direct) for application in accordance with the terms of this Indenture; and

(B) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the relevant Obligations to the Collateral Trustee (or as the Collateral Trustee may direct) for application in accordance with the terms of this Indenture.

Section 7.13. Priorities.

Subject to the terms of the Intercreditor Agreement, the Collateral Trustee and Trustee (acting in any capacity) will pay or deliver in the following order any money or other property that it collects pursuant to this **Article 7**:

First: to the Collateral Trustee and Trustee (acting in any capacity) and its agents and attorneys for amounts due under **Section 10.06**, including payment of all fees (including any reasonably incurred and documented fees and expenses of legal counsel; *provided* that there shall not be more than one counsel in each relevant jurisdiction), compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: if an Appropriation has occurred, in payment to the Collateral Trustee on behalf of the Appropriated Instruments Holders which have paid all or part of any Soulte for distribution of each Appropriated Instruments Holder in an amount equal to the amount of Soulte paid and not yet reimbursed for application towards the discharge of (for the avoidance of doubt, on a *pari passu* basis) the corresponding relevant Obligations;

Third: to the Trustee for the benefit of the Holders for unpaid amounts or other property due on the Notes, including the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any interest on, or any Conversion Consideration due upon conversion of, the Notes, ratably, and without preference or priority of any kind, according to such amounts or other property due and payable on all of the Notes; and

Fourth: to the Company or such other Person as a court of competent jurisdiction directs, including upon or following an Appropriation, (i) in payment or distribution of any Soulte payable and not yet paid to it; or (ii) an amount equal to any Soulte previously paid to it (to the extent the Company paid such Soulte back to the Collateral Trustee in accordance with this Indenture) as a result of an Appropriation.

The Trustee (acting in any capacity) may fix a record date and payment date for any payment or delivery to the Holders pursuant to this **Section 7.11**, in which case the Trustee will instruct the Company to, and the Company will, deliver, at least fifteen (15) calendar days before such record date, to each Holder and the Trustee a notice stating such record date, such payment date and the amount of such payment or nature of such delivery, as applicable.

Section 7.14. Undertaking For Costs.

In any suit for the enforcement of any right or remedy under this Indenture or the Notes or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court, in its discretion, may (A) require the filing by any litigant party in such suit of an undertaking to pay the costs of such suit, and (B) assess reasonable costs (including reasonable attorneys' fees) against any litigant party in such suit, having due regard to the merits and good faith of the claims or defenses made by such litigant party; *provided*, *however*, that this **Section 7.12** does not apply to any suit by the Trustee, any suit by a Holder pursuant to **Section 7.08** or any suit by one or more Holders of more than ten percent (10%) in aggregate principal amount of the Notes then outstanding.

Section 7.15. **Collateral Trustee Expense Reimbursement**

The Company Indenture Parties, jointly and severally, agree to reimburse or pay the Trustee or Collateral Trustee for its fees and expenses incurred under this Indenture or the Security Documents (including all reasonably incurred and documented fees and disbursements of legal counsel; *provided* that there shall not be more than one counsel in each relevant jurisdiction) that may be paid or incurred by the Trustee or Collateral Trustee in enforcing, or obtaining advice of counsel in respect of, any rights with respect to, or collecting, any or all of the Obligations or Guaranteed Obligations and/or enforcing any rights with respect to, or collecting against, the Company Indenture Parties under this Indenture or the Security Documents.

Article 8. AMENDMENTS, SUPPLEMENTS AND WAIVERS

Section 8.01. **Without The Consent Of Holders**.

Notwithstanding anything to the contrary in **Section 8.02**, the Company and the Trustee may amend or supplement the Indenture Documents without the consent of any Holder to:

(A) cure any ambiguity or correct any omission, defect or inconsistency in any Indenture Document;

(B) add guarantees or security with respect to the Company's obligations under this Indenture or the Notes, including for greater certainty, to allow any additional Guarantor to execute a supplemental indenture, a joinder to any Security Document and/or a guarantee with respect to the Notes;

(C) [Reserved];

(D) add to the Company's covenants or Events of Default for the benefit of the Holders or surrender any right or power conferred on the Company;

(E) provide for the assumption of the Company's or any Guarantor's obligations under this Indenture, the Notes and the Security Document, as applicable, pursuant to, and in compliance with, **Article 6**;

(F) enter into supplemental indentures pursuant to, and in accordance with, **Section 5.09** in connection with an Ordinary Share Change Event;

(G) irrevocably elect or eliminate any Settlement Method or Specified Dollar Amount; *provided*, *however*, that no such election or elimination will affect any Settlement Method theretofore elected (or deemed to be elected) with respect to any Note pursuant to **Section 5.03(A)**;

(H) adjust the Conversion Rate, the Conversion Price or the Make-Whole Table (including the establishment of the Conversion Rate, the Conversion Price or the initial Make-Whole Table) in accordance with, and subject to the terms of, this Indenture;

(I) evidence or provide for the acceptance of the appointment, under this Indenture, of a successor Trustee or Collateral Trustee;

(J) [Reserved];

(K) comply with the rules of any applicable Depositary in a manner that does not adversely affect the rights of the Holders;

(L) comply with any requirement of the SEC in connection with any qualification of this Indenture or any supplemental indenture under the Trust Indenture Act, as then in effect;

(M) make any other change to the Indenture Documents that does not, individually or in the aggregate with all other such changes, adversely affect the rights of the Holders, as such, in any material respect; or

(N) effect, confirm and evidence the release, termination or discharge or any guarantee of or Lien securing the Notes when such release, termination or discharge is permitted by the Indenture Documents.

Section 8.02. With The Consent Of Holders.

(A) *Generally*. Subject to **Sections 8.01**, **7.05** and **7.08**, the immediately following sentence and the terms of the Intercreditor Agreement, the Company and the Trustee may, with the consent of the Majority Holders then outstanding, amend or supplement the Indenture Documents or waive compliance with any provision of the Indenture Documents. Notwithstanding anything to the contrary in the foregoing sentence, but subject to **Section 8.01**, and the terms of the Intercreditor Agreement, without the consent of each affected Holder, no amendment or supplement to the Indenture Documents, or waiver of any provision of the Indenture Documents, may:

(i) reduce the principal, or extend the stated maturity, of any Note;

(ii) reduce the Redemption Price or Fundamental Change Repurchase Price for any Note or change the times at which, or the circumstances under which, the Notes may or will be redeemed or repurchased by the Company;

(iii) reduce the rate, or extend the time for the payment, of interest on any Note;

(iv) make any change that adversely affects the conversion rights of any Note other than as permitted or required by this Indenture or the Notes;

(v) impair the rights of any Holder set forth in **Section 7.08** (as such section is in effect on the Issue Date);

(vi) change the ranking of the Notes;

(vii) make any Note payable in money, or at a place of payment, other than that stated in this Indenture or the Note;

(viii) make any change to **Section 3.05**, or in any related definitions, in any manner that is adverse to the rights of the Holders or beneficial owners of the Notes;

(ix) reduce the amount of Notes whose Holders must consent to any amendment, supplement, waiver or other modification; or

(x) make any change to any amendment, supplement, waiver or modification provision of this Indenture or the Notes that requires the consent of each affected Holder.

For the avoidance of doubt, pursuant to **clauses (i)**, **(ii)**, **(iii)** and **(iv)** of this **Section 8.02(A)**, no amendment or supplement to this Indenture or the Notes, or waiver of any provision of this Indenture or the Notes, may change the amount or type of consideration due on any Note (whether on an Interest Payment Date, Redemption Date, Fundamental Change Repurchase Date or the Maturity Date or upon conversion, or otherwise), or the date(s) or time(s) such consideration is payable or deliverable, as applicable, without the consent of each affected Holder.

(B) *Holders Need Not Approve the Particular Form of any Amendment*. A consent of any Holder pursuant to this **Section 8.02** need approve only the substance, and not necessarily the particular form, of the proposed amendment, supplement or waiver.

(C) *Guarantors Bound*. The Guarantors shall be bound by any supplemental indenture or amendment to the Indenture Documents entered into by the Company and the Trustee pursuant to the terms of this Indenture and may but shall not be required to execute any such supplemental indenture or amendment, other than in the case of a joinder of a new Guarantor the execution by such Guarantor.

Section 8.03. With The Consent Of Supermajority Holders.

(A) Notwithstanding anything contained in **Section 8.01** or **Section 8.02**, without the consent of the Supermajority Holders, no amendment or supplement to the Indenture Documents, or waiver of any provision of the Indenture Documents, may:

(i) subordinate, or change the priority with respect to the Liens securing the Obligations;

(ii) release all or substantially all of the Collateral except as otherwise may be provided or permitted under this Indenture, the Intercreditor Agreement or the other Indenture Documents; or

(iii) discharge any Company Indenture Party from its respective payment Obligations under the Indenture Documents, in each case, except as otherwise may be provided or permitted under this Indenture, the Intercreditor Agreement or the other Indenture Documents.

(B) *Holders Need Not Approve the Particular Form of any Amendment*. A consent of any Holder pursuant to this **Section 8.03** need approve only the substance, and not necessarily the particular form, of the proposed amendment, supplement or waiver.

Section 8.04. Notice Of Amendments, Supplements And Waivers.

As soon as reasonably practicable after any amendment, supplement or waiver pursuant to **Section 8.01, 8.02 or 8.03** becomes effective, the Company will send to the Holders and the Trustee notice that (A) describes the substance of such amendment, supplement or waiver in reasonable detail and (B) states the effective date thereof; *provided*, *however*, that the Company will not be required to provide such notice to the Holders if such amendment, supplement or waiver is included in a periodic report filed by the Company with the SEC within four (4) Business Days of its effectiveness. The failure to send, or the existence of any defect in, such notice will not impair or affect the validity of such amendment, supplement or waiver.

Section 8.05. Revocation, Effect And Solicitation Of Consents; Special Record Dates; Etc.

(A) *Revocation and Effect of Consents*. The consent of a Holder of a Note to an amendment, supplement or waiver will bind (and constitute the consent of) each subsequent Holder of any Note to the extent the same evidences any portion of the same indebtedness as the consenting Holder's Note, subject to the right of any Holder of a Note to revoke (if not prohibited pursuant to **Section 8.05(B)**) any such consent with respect to such Note by delivering notice of revocation to the Trustee before the time such amendment, supplement or waiver becomes effective.

(B) *Special Record Dates*. The Company may, but is not required to, fix a record date for the purpose of determining the Holders entitled to consent or take any other action in connection with any amendment, supplement or waiver pursuant to this **Article 8**. If a record date is fixed, then, notwithstanding anything to the contrary in **Section 8.05(A)**, only Persons who are Holders as of such record date (or their duly designated proxies) will be entitled to give such consent, to revoke any consent previously given or to take any such action, regardless of whether such Persons continue to be Holders after such record date; *provided*, *however*, that no such consent will be valid or effective for more than one hundred and twenty (120) calendar days after such record date.

(C) *Solicitation of Consents*. For the avoidance of doubt, each reference in this Indenture or the Notes to the consent of a Holder will be deemed to include any such consent obtained in connection with a repurchase of, or tender or exchange offer for, any Notes.

(D) *Effectiveness and Binding Effect*. Each amendment, supplement or waiver pursuant to this **Article 8** will become effective in accordance with its terms and, when it becomes effective with respect to any Note (or any portion thereof), will thereafter bind every Holder of such Note (or such portion).

Section 8.06. Notations And Exchanges.

If any amendment, supplement or waiver changes the terms of a Note, then the Trustee or the Company may, in its discretion, require the Holder of such Note to deliver such Note to the Trustee so that the Trustee may place an appropriate notation prepared by the Company on such Note and return such Note to such Holder. Alternatively, at its discretion, the Company may, in exchange for such Note, issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, a new Note that reflects the changed terms. The failure to make any appropriate notation or issue a new Note pursuant to this **Section 8.06** will not impair or affect the validity of such amendment, supplement or waiver.

Section 8.07. Trustee and Collateral Trustee To Execute Supplemental Indentures.

The Trustee and/or the Collateral Trustee, as the case may be, will execute and deliver any amendment or supplemental indenture authorized pursuant to this Article 8; provided, however, that the Trustee and/or the Collateral Trustee, as the case may be, need not (but may, in their respective sole and absolute discretion) execute or deliver any such amendment or supplemental indenture that adversely affects the rights, duties, liabilities or immunities of the Trustee and/or the Collateral Trustee, as the case may be. In executing any amendment or supplemental indenture, the Trustee and/or the Collateral Trustee, as the case may be, will be entitled to receive, and (subject to Sections 10.01 and 10.02) will be fully protected in relying on, an Officer's Certificate and an Opinion of Counsel, provided in accordance with Section 13.02, each stating that (A) the execution and delivery of such amendment or supplemental indenture is authorized or permitted by this Indenture; and (B) in the case of the Opinion of Counsel, such amendment or supplemental indenture is valid, binding and enforceable against the Company in accordance with its terms. Every amendment or supplement to this Indenture or the Notes will be set forth in an amended or supplemental indenture.

Article 9. SATISFACTION AND DISCHARGE

Section 9.01. Termination Of Company's Obligations.

This Indenture will be discharged, and will cease to be of further effect as to all Notes issued under this Indenture, when:

(A) all Notes then outstanding (other than Notes replaced pursuant to **Section 2.13**) have (i) been delivered to the Trustee for cancellation; or (ii) become due and payable (whether on a Redemption Date, a Fundamental Change Repurchase Date, the Maturity Date, upon conversion or otherwise) for an amount of cash or Conversion Consideration, as applicable, that has been fixed;

(B) the Company or any Guarantor has caused there to be irrevocably deposited with the Trustee, or with the Paying Agent (or, with respect to Conversion Consideration, the Conversion Agent), in each case for the benefit of the Holders, or has otherwise caused there to be delivered to the Holders, cash (or, with respect to Notes to be converted, Conversion Consideration) sufficient to satisfy all amounts or other property (including, if applicable, all related Additional Amounts) due on all Notes then outstanding (other than Notes replaced pursuant to **Section 2.13**);

(C) the Company has performed all other Obligation by it under this Indenture; and

(D) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that the conditions precedent to the discharge of this Indenture have been satisfied;

provided, *however*, that **Article 10** and **Section 11.01** will survive such discharge and, until no Notes remain outstanding, **Section 2.15** and the obligations of the Trustee, the Paying Agent and the Conversion Agent with respect to money or other property deposited with them will survive such discharge.

At the Company's written request, the Trustee will acknowledge the satisfaction and discharge of this Indenture.

Section 9.02. Repayment To Company.

Subject to applicable unclaimed property law, the Trustee, the Paying Agent and the Conversion Agent will promptly notify the Company if there exists (and, at the Company's request, promptly deliver to the Company) any cash, Conversion Consideration or other property held by any of them for payment or delivery on the Notes that remain unclaimed two (2) years after the date on which such payment or delivery was due. After such delivery to the Company, the Trustee, the Paying Agent and the Conversion Agent will have no further liability to any Holder with respect to such cash, Conversion Consideration or other property, and Holders entitled to the payment or delivery of such cash, Conversion Consideration or other property must look to the Company for payment as a general creditor of the Company.

Section 9.03. Reinstatement.

If the Trustee, the Paying Agent or the Conversion Agent is unable to apply any cash or other property deposited with it pursuant to **Section 9.01** because of any legal proceeding or any order or judgment of any court or other governmental authority that enjoins, restrains or otherwise prohibits such application, then the discharge of this Indenture pursuant to **Section 9.01** will be rescinded; *provided*, *however*, that if the Company thereafter pays or delivers any cash or other property due on the Notes to the Holders thereof, then the Company will be subrogated to the rights of such Holders to receive such cash or other property from the cash or other property, if any, held by the Trustee, the Paying Agent or the Conversion Agent, as applicable.

Article 10. TRUSTEE

Section 10.01. Duties of the Trustee.

(A) If an Event of Default has occurred and is continuing, the Trustee will exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(B) Except during the continuance of an Event of Default:

(i) the duties of the Trustee will be determined solely by the express provisions of this Indenture, and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations will be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith or willful misconduct on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon Officer's Certificates or Opinions of Counsel that are provided to the Trustee and conform to the requirements of this Indenture. However, the Trustee will examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(C) The Trustee may not be relieved from liabilities for its gross negligence or willful misconduct, except that:

(i) this paragraph will not limit the effect of **Section 10.01(B)**;

(ii) the Trustee will not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee will not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to **Section 7.06**.

(D) Each provision of this Indenture that in any way relates to the Trustee is subject to paragraphs **(A)**, **(B)** and **(C)** of this **Section 10.01**, regardless of whether such provision so expressly provides.

(E) No provision of this Indenture will require the Trustee to expend or risk its own funds or incur any liability.

(F) The Trustee will not be liable for interest on any money received by it, except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds, except to the extent required by law.

Section 10.02. Rights Of The Trustee.

(A) The Trustee may conclusively rely on any document that it believes to be genuine and signed or presented by the proper Person, and the Trustee need not investigate any fact or matter stated in such document.

(B) Before the Trustee acts or refrains from acting, it may require an Officer's Certificate, an Opinion of Counsel or both. The Trustee will not be liable for any action it takes or omits to take in good faith in reliance on such Officer's Certificate or Opinion of Counsel. The Trustee may consult with counsel; and the advice of such counsel, or any Opinion of Counsel, will constitute full and complete authorization of the Trustee to take or omit to take any action in good faith in reliance thereon without liability.

(C) The Trustee may act through its attorneys and agents and will not be responsible for the misconduct or negligence of any such agent appointed with due care.

(D) The Trustee will not be liable for any action it takes or omits to take in good faith and that it believes to be authorized or within the rights or powers vested in it by this Indenture.

(E) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company will be sufficient if signed by an Officer of the Company.

(F) The Trustee need not exercise any rights or powers vested in it by this Indenture at the request or direction of any Holder unless such Holder has offered the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense that it may incur in complying with such request or direction.

(G) The Trustee will not be responsible or liable for any punitive, special, indirect or consequential loss or damage (including lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(H) The rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be indemnified, are extended to, and will be enforceable by, the Trustee in each of its capacities under this Indenture (including in its capacity as Conversion Agent) and each agent, custodian and other Person employed to act under this Indenture, including the Conversion Agent.

(I) The permissive rights of the Trustee enumerated in this Indenture will not be construed as duties.

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

(K) Except with respect to receipt of payments of principal and interest on the Notes payable by the Company pursuant to **Section 3.01** and any Default or Event of Default information contained in the Officer's Certificate delivered to it pursuant to **Section 3.06(B)**, the Trustee will have no duty to monitor the Company's compliance with or the breach of any representation, warranty or covenant made in this Indenture.

(F) The Trustee shall at no time have any responsibility or liability for or in respect to the legality, validity or enforceability of any Collateral or any arrangement or agreement between the Company and any other Person with respect thereto, or the perfection or priority of any security interest created in any of the Collateral or maintenance of any perfection and priority, or for or with respect to the sufficiency of the Collateral following an Event of Default.

(G) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has received written notice at the Corporate Trust Office of any event which is in fact such a default, and such notice references the Notes and this Indenture.

Section 10.03. Individual Rights Of The Trustee.

(A) The Trustee, in its individual or any other capacity, may become the owner or pledgee of any Note and may otherwise deal with the Company or any of its Affiliates with the same rights that it would have if it were not Trustee; *provided*, *however*, that if the Trustee acquires a "conflicting interest" (within the meaning of Section 310(b) of the Trust Indenture Act), then it must eliminate such conflict within ninety (90) days or resign as Trustee. Each Note Agent will have the same rights and duties as the Trustee under this **Section 10.03**.

Section 10.04. Trustee's Disclaimer.

The Trustee will not be (A) responsible for, and makes no representation as to, the validity or adequacy of this Indenture or the Notes; (B) accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture; (C) responsible for the use or application of any money received by any Paying Agent other than the Trustee; and (D) responsible for any statement or recital in this Indenture, the Notes or any other document relating to the sale of the Notes or this Indenture, other than the Trustee's certificate of authentication.

Section 10.05. Notice Of Defaults.

If a Default or Event of Default occurs, then the Trustee will send Holders a notice of such Default or Event of Default within ninety (90) days after it occurs or, if it is not known to the Trustee at such time, promptly (and in any event within ten (10) Business Days) after it becomes known to a Responsible Officer; *provided*, *however*, that, except in the case of a Default or Event of Default in the payment of the principal of, or interest on, any Note, the Trustee may withhold such notice if and for so long as it in good faith determines that withholding such notice is in the interests of the Holders. The Trustee will not to be charged with knowledge of any Default or Event of Default, or knowledge of any cure of any Default or Event of Default, unless written notice of such Default or Event of Default, or of such cure of any Default or Event of Default, has been given by the Company or any Holder to a Responsible Officer of the Trustee.

Section 10.06. Compensation And Indemnity.

(A) The Company will, from time to time, pay the Trustee reasonable compensation for its acceptance of this Indenture and services under this Indenture. The Trustee's compensation will not be limited by any law on compensation of a trustee of an express trust. In addition to the compensation for the Trustee's services, the Company will reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it under this Indenture, including the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

(B) The Company will indemnify the Trustee against any and all losses, liabilities or expenses incurred by it arising out of or in connection with the acceptance and administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company (including this **Section 10.06**) and defending itself against any claim (whether asserted by the Company, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties under this Indenture, except to the extent any such loss, liability or expense may be attributable to its gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. The Trustee will promptly notify the Company of any claim for which it may seek indemnity, but the Trustee's failure to so notify the Company will not relieve the Company of its obligations under this **Section 10.06(B)**. The Company will defend such claim, and the Trustee will cooperate in such defense. If the Trustee is advised by counsel that it may have defenses available to it that are in conflict with the defenses available to the Company, or that there is an actual or potential conflict of interest, then the Trustee may retain separate counsel, and the Company will pay the reasonable fees and expenses of such counsel (including the reasonable fees and expenses of counsel to the Trustee incurred in evaluating whether such a conflict exists). The Company need not pay for any settlement of any such claim made without its consent, which consent will not be unreasonably withheld.

(C) The obligations of the Company under this **Section 10.06** will survive the resignation or removal of the Trustee and the satisfaction or discharge of this Indenture.

(D) To secure the Company's payment obligations in this **Section 10.06**, the Trustee will have a lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal of, or interest on, particular Notes, which lien will survive the discharge of this Indenture.

(E) If the Trustee incurs expenses or renders services after an Event of Default pursuant to **Section 7.01(A)(xi)** or **7.01(A)(xii)** occurs, then such expenses and the compensation for such services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

Section 10.07. Replacement Of The Trustee.

(A) Notwithstanding anything to the contrary in this **Section 10.07**, a resignation or removal of the Trustee, and the appointment of a successor Trustee, will become effective only upon such successor Trustee's acceptance of appointment as provided in this **Section 10.07.**

(B) The Trustee may resign at any time and be discharged from the trust created by this Indenture by so notifying the Company. The Majority Holders may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee if:

(i) the Trustee fails to comply with **Section 10.09**;

(ii) the Trustee is adjudged to be bankrupt or insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(iii) a custodian or public officer takes charge of the Trustee or its property; or

(iv) the Trustee becomes incapable of acting.

(C) If the Trustee resigns or is removed, or if a vacancy exists in the office of Trustee for any reason, then (i) the Company will promptly appoint a successor Trustee; and (ii) at any time within one (1) year after the successor Trustee takes office, the Majority Holders may appoint a successor Trustee to replace such successor Trustee appointed by the Company.

(D) If a successor Trustee does not take office within sixty (60) days after the retiring Trustee resigns or is removed, then the retiring Trustee (at the expense of the Company), the Company or the Holders of at least ten percent (10%) in aggregate principal amount of the Notes then outstanding may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(E) If the Trustee, after written request by a Holder of at least six (6) months, fails to comply with **Section 10.09**, then such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(F) A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Company, upon which notice the resignation or removal of the retiring Trustee will become effective and the successor Trustee will have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee will send notice of its succession to Holders. The retiring Trustee will, upon payment of all amounts due to it under this Indenture, promptly transfer all property held by it as Trustee to the successor Trustee, which property will, for the avoidance of doubt, be subject to the lien provided for in **Section 10.06(D)**.

(G) The successor Trustee shall concurrently with its appointment as the successor Trustee accede as a party to the Intercreditor Agreement.

Section 10.08. Successor Trustee By Merger, Etc.

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, then such corporation will become the successor Trustee without any further act.

Section 10.09. Eligibility; Disqualification.

There will at all times be a Trustee under this Indenture that is a corporation organized and doing business under the laws of the United States of America or of any state thereof, that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least $50.0 million as set forth in its most recent published annual report of condition.

Article 11. COLLATERAL AND SECURITY

Section 11.01. Collateral.

(A) The Obligations will be secured by a Lien on the Collateral, subject to Permitted Liens and perfection in accordance with the terms of this Indenture and the Security Documents, subject to the terms of the Intercreditor Agreement.

Section 11.02. Security Documents.

(A) The Security Documents to be entered into by the applicable Company Indenture Parties on or after the Issue Date, in each case, shall create the first priority Liens on the Collateral securing their respective Obligations, subject to the terms of the Intercreditor Agreement. In the event of a conflict between the terms of this Indenture and the Security Documents in regards to the Collateral, this Indenture shall control. The Company will take, and will cause its Subsidiaries to take any and all actions reasonably required to cause the Security Documents to create and maintain, as security for the Obligations hereunder, a valid and enforceable first priority Lien in and on all the Collateral, in favor of the Collateral Trustee for the benefit of the Holders, the Trustee and the Collateral Trustee, subject to Permitted Liens, the terms of the Security Documents and the terms of the Intercreditor Agreement and perfected in accordance with the terms of this Indenture and the Security Documents.

Section 11.03. Authorization of Actions to Be Taken.

(A) Each Holder of Notes, by its acceptance thereof, hereby designates and appoints the Collateral Trustee as its agent under this Indenture, the Security Documents and the Intercreditor Agreement and each Holder by acceptance of the Notes consents and agrees to the terms of each Security Document and the Intercreditor Agreement, as originally in effect and as amended, supplemented or replaced from time to time in accordance with its terms or the terms of this Indenture and the Intercreditor Agreement, authorizes and directs the Collateral Trustee to enter into the Security Documents and the Intercreditor Agreement, and irrevocably authorizes and empowers the Collateral Trustee to perform its obligations and duties, exercise its rights and powers and take any action permitted or required thereunder that are expressly delegated to the Collateral Trustee by the terms of this Indenture, the Security Documents and the Intercreditor Agreement. Subject to the terms of the Intercreditor Agreement, the Collateral Trustee shall hold (directly or through any agent) and is directed by each Holder to so hold, and shall be entitled to enforce (in accordance with the terms of the Security Documents and subject to the terms of the Intercreditor Agreement) on behalf of the Holders all Liens on the Collateral created by the Security Documents for their benefit.

(B) Subject to the provisions of the applicable Security Documents and the Intercreditor Agreement, the Trustee and each Holder, by acceptance of any Notes, agrees that (x) the Collateral Trustee may, in its sole discretion and without the consent of the Trustee or the Holders, take all actions it deems necessary or appropriate, subject to the terms of the Intercreditor Agreement, in order to (i) preserve the Collateral or rights under the Security Documents, and (ii) collect and receive any and all amounts payable in respect of the Obligations of the Company and the Guarantors hereunder and under the Indenture Documents and (y) the Collateral Trustee shall, subject to the terms of the Intercreditor Agreement, have power to institute and to maintain such suits and proceedings as it may deem expedient to protect or enforce the Liens securing the Obligations and/or to prevent any impairment of the Collateral by any act that may be unlawful or in violation of the Indenture Documents, and such suits and proceedings as the Collateral Trustee may deem expedient to preserve or protect its interests and the interests of the Holders in the Collateral (including the power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the security interest thereunder or be prejudicial to the interests of the Collateral Trustee, the Holders or the Trustee). Notwithstanding the foregoing, the Collateral Trustee may, at the expense of the Company, request the written direction of the Holders with respect to any such actions and upon receipt of the written consent of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture (subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction), shall take such actions. Subject to the terms of the Intercreditor Agreement, until the Notes and the other Obligations are discharged in full or are otherwise no longer outstanding, all remedies and Enforcement Actions in respect of the Collateral and any foreclosure actions in respect of any Liens on all or any portion of the Collateral, and all actions, undertakings or consents by the Collateral Trustee in respect of all or any portion of the Collateral, in each case, shall be undertaken solely at the written instruction of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture, subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction.

(C) Unless expressly provided to the contrary in any Indenture Document, in relation to any Collateral governed by the laws of Switzerland (the "**Swiss Security Documents**") or Italian Security Documents, as the case may be:

(i) the Collateral Trustee:

A. holds:

(1) any Collateral created or evidenced or expressed to be created or evidenced under or pursuant to a Swiss Security Document by way of a security assignment (*Sicherungsabtretung*) or transfer for security purposes (*Sicherungsübereignung*) or any other non-accessory (*nicht akzessorische*) Collateral;

(2) the benefit of any Collateral Trustee Claims; and

(3) any proceeds and other benefits of such Collateral,

(4) as fiduciary (*treuhänderisch*) in its own name but for the account of all relevant Secured Parties which have the benefit of such Collateral in accordance with this Indenture and the respective Swiss Security Document and so that they are not available to the personal creditors of the Collateral Trustee; and

B. In respect of any Italian Security Documents (as defined below) where the relevant Collateral cannot be granted to the Collateral Trustee by way of trust, the Collateral Trustee declares that, in respect of such Italian Security Documents, it shall (to the extent possible under applicable law) hold such Collateral as *mandatario con rappresentanza* and representative for the security pursuant to article 2414-bis of the Italian Civil Code of the relevant Secured Parties on the terms contained in this Indenture;

(ii) each present and future Secured Party hereby authorizes the Collateral Trustee:

(1) to (a) accept and execute as its direct representative (*direkter Stellvertreter*) any Swiss law pledge or any other Swiss law accessory (*akzessorische*) Collateral created or evidenced or expressed to be created or evidenced under or pursuant to a Swiss Security Document for the benefit of such Secured Party and (b) hold, administer and, if necessary, enforce any such Collateral on behalf of each relevant Secured Party which has the benefit of such Collateral;

(2) to agree as its direct representative (*direkter Stellvertreter*) to amendments and alterations to any Swiss Security Document which creates or evidences or expressed to create or evidence a pledge or any other Swiss law accessory (akzessorische) Collateral;

(3) to effect as its direct representative (*direkter Stellvertreter*) any release of a Collateral created or evidenced or expressed to be created or evidenced under a Swiss Security Document in accordance with this Indenture; and

(4) to exercise as its direct representative (*direkter Stellvertreter*) such other rights granted to the Collateral Trustee hereunder or under the relevant Swiss Security Document;

(iii) each present and future Secured Party hereby authorizes the Collateral Trustee, when acting in its capacity as creditor of the Collateral Trustee Claim, to hold:

(1) any Swiss law pledge or any other Swiss law accessory (*akzessorische*) Collateral;

(2) any proceeds of such Collateral; and

(3) the benefit of this paragraph and of the Collateral Trustee Claims;

(iv) as creditor in its own right but for the benefit of the Secured Parties in accordance with this Indenture.

(D) in relation to any Collateral governed by the laws of the Republic of Italy (the "**Italian Security Documents"**) each present and future Secured Party hereby:

(i) appoints, with the express consent pursuant to articles 1394 and 1395 of the Italian Civil Code, the Collateral Trustee to act as its agent with representative powers (*mandatario con rappresentanza*) and special attorney-in-fact (*procuratore speciale*) and representative for the security pursuant to article 2414-bis of the Italian Civil Code so that, acting in the name and on behalf of each Secured Party, but also in its own name and on its own interest, it takes all the actions that it considers proper or necessary as provided under this Indenture and executes, also in the name and on behalf of the Secured Parties, the Italian Security Documents, and the Collateral Trustee hereby accepts such appointment;

(ii) grants the Collateral Trustee the power to negotiate and approve the terms and conditions of such Italian Security Documents and any amendment and/or restatement, confirmation and/or confirmation and extension thereof, execute any other agreement or instrument, give or receive any notice or declaration, identify and specify to third parties the names of the Secured Parties at any given date, collect any and all amounts due to the Secured Parties under each Italian Security Document and take any other action in relation to the creation, perfection, maintenance, confirmation and extension, enforcement and release of the security created thereunder and the performance of the Italian Security Documents, any amendments and/or waivers thereof which is made in accordance with this Indenture and any other such agreement, instrument, notices or declaration, in each case in the name and on behalf of the Secured Parties;

(iii) confirms that the Collateral Trustee is entitled to release any Italian Security Documents upon payment in full of any amounts due thereunder before the expiry of the applicable claw-back or ineffectiveness period, subject to satisfaction of the conditions set out in the relevant Italian Security Documents;

(iv) confirms that in the event that any security created under any Italian Security Documents remains registered in the name of a Secured Party after it has ceased to be a Secured Party, then the Collateral Trustee shall remain empowered to execute a release of such security in its name and on its behalf;

(v) undertakes to grant any power of attorney as it might be needed or appropriate for the Collateral Trustee to act in accordance with and within the limits of this Indenture and any Italian Security Document;

(vi) undertakes to ratify and approve any such action taken in the name and on behalf of the Secured Parties by the Collateral Trustee acting in its appointed capacity;

(vii) confirms that the Collateral Trustee has authority to accept on its behalf the terms of any reliance letter or engagement letter relating to any reports or letters provided in connection with the Italian Security Document or the transactions contemplated therein, to bind it in respect of those reports or letters and to sign that reliance letter or engagement letter on its behalf and, to the extent that reliance letter or engagement letter has already been entered into, ratifies those actions;

(viii) confirms that it accepts the terms and qualifications set out in that reliance letter or engagement letter; and

(ix) acknowledges and agrees that the Collateral Trustee may enter in its name and on its behalf as agent with representative powers (*mandatario con rappresentanza*) into contractual arrangements pursuant to or in connection with the Italian Security Documents to which the Collateral Trustee is also a party (in its capacity as agent, trustee, *mandatario con rappresentanza*, representative for the security pursuant to article 2414-bis of the Italian Civil Code or otherwise) and expressly authorizes the Collateral Trustee, pursuant to article 1395 of the Italian Civil Code. The Secured Parties expressly waive any right they may have under article 1394 of the Italian Civil Code in respect of contractual arrangements entered into by the Collateral Trustee in their name and on their behalf pursuant to or in connection with the Italian Security Documents, in each case to the extent legally possible to such Secured Party.

(E) Notwithstanding anything else to the contrary herein, whenever reference is made in this Indenture to any discretionary action by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by the Collateral Trustee or to any election, decision, opinion, acceptance, use of judgment, expression of satisfaction, reasonable satisfaction or other exercise of discretion, rights or remedies to be made (or not to be made) by the Collateral Trustee, it is understood that in all cases the Collateral Trustee shall be fully justified in failing or refusing to take any such action under this Indenture if it shall not have received such written instruction, advice or concurrence of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture, subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction, as it deems appropriate. This provision is intended solely for the benefit of the Collateral Trustee and its successors and permitted assigns and is not intended to and will not entitle the other parties hereto to any defense, claim or counterclaim, or confer any rights or benefits on any party hereto.

Section 11.04. Parallel Debt

(A) In this Section 11.04:

"**Collateral Trustee Claim**" has the meaning given to it in Section 11.04(C) below; and

"**Secured Party Claim**" means any amount which a Company Indenture Party owes to a Secured Party under and in connection with the Indenture Documents.

(B) As relevant, any Collateral created pursuant to a Security Document (other than for any Italian Security Document) is granted to the Collateral Trustee in its individual capacity as an independent creditor of the Collateral Trustee Claim created pursuant to this Section 11.04.(D).

(C) Subject to **Section 12.06** (*Guarantee Limitations*), each Company Indenture Party must pay the Collateral Trustee, as an independent and separate creditor, in its own right and not as a trustee, agent or representative of the other Secured Parties, an amount equal to its Secured Party Claim on its due date when that amount falls due for payment under the relevant Indenture Document (each a "**Collateral Trustee Claim**").

(D) Each Collateral Trustee Claim is created on the understanding that the Collateral Trustee must:

(i) share the proceeds of each Collateral Trustee Claim with itself and the other Secured Parties; and

(ii) pay those proceeds to the Secured Parties,

(iii) in accordance with Section 7.11 subject to limitations (if any) expressly provided for in any Security Document.

(E) The Collateral Trustee may, subject to any indemnification and/or prefunding and/or security to its satisfaction and its rights in **Section 11.07** (*Collateral Trustee*), demand and receive payment and enforce performance of any Collateral Trustee Claim in its own name as an independent and separate right. This includes any payment demand, suit, execution, enforcement of security, recovery of guarantees and applications for and voting in respect of any kind of insolvency proceeding. Each Company Indenture Party shall have all objections and defenses against a Collateral Trustee Claim as such Company Indenture Party has against a Secured Party Claim.

(F) Each Company Indenture Party irrevocably and unconditionally waives any right it may have to require a Secured Party to join in any proceedings as co-claimant with the Collateral Trustee in respect of any Collateral Trustee Claim.

(G) The Collateral Trustee Claims do not limit or affect the existence of the Secured Party Claims for which the Secured Parties have an independent right to demand payment.

(H) Discharge by a Company Indenture Party of a Secured Party Claim will discharge the corresponding Collateral Trustee Claim in the same amount.

(I) Discharge by Company Indenture Party of a Collateral Trustee Claim will discharge the corresponding Secured Party Claim in the same amount.

(J) The aggregate amount of the Collateral Trustee Claims will never exceed the aggregate amount of Secured Party Claims and vice versa.

(K) A defect affecting a Collateral Trustee Claim against a Company Indenture Party will not affect any Secured Party Claim.

(L) A defect affecting a Secured Party Claim against a Company Indenture Party will not affect any Collateral Trustee Claim.

(M) If the Collateral Trustee returns to any Company Indenture Party whether in any kind of insolvency proceedings or otherwise, any recovery in respect of which it has made a payment to a Secured Party, that Secured Party must repay an amount equal to that recovery to the Collateral Trustee; provided that the Collateral Trustee shall have no obligation to make any such return payment until it has received the repayment of the full amount due from the relevant Secured Party.

(N) In no event will the "parallel debt" provisions (including, for the avoidance of doubt, the provisions of this Section 11.05) apply to the Italian Security Documents.

Section 11.05. Release of Collateral

(A) Subject to the terms of the Intercreditor Agreement and applicable law, the Liens securing the Obligations on the applicable Collateral shall be automatically terminated and released without further action by any party (other than satisfaction of any requirements in the Security Documents, if any), in whole or in part, as the case may be: (i) upon any Disposition of any portion of Collateral in accordance with a Disposition permitted under the terms of any Indenture Document (other than a Disposition to a Company Indenture Party); (ii) upon the full and final payment and performance of all Obligations of the Company Indenture Parties under the Indenture Documents or the satisfaction and discharge of this Indenture and the other Indenture Documents in accordance with **Article 9**; (iii) as described under **Section 8.03**; or (iv) if the Collateral is owned by a Guarantor, upon release of such Guarantor from the Guaranteed Obligations in accordance with the provisions hereof.

(B) Without the necessity of any consent of or notice to the Trustee or any Holder of the Notes, any Company Indenture Party may request and instruct the Collateral Trustee to, on behalf of each Holder of Notes, (i) execute and deliver to any Company Indenture Party, as the case may be, for the benefit of any Person, such release documents as may be reasonably requested, of all or any Liens held by the Collateral Trustee in any Collateral securing the Obligations, and (ii) deliver any such assets in the possession of the Collateral Trustee to any Company Indenture Party, as the case may be; and Collateral Trustee shall as soon as practicable take such actions provided that any such release complies with and is expressly permitted in accordance with the terms of this Indenture, the Security Documents and the Intercreditor Agreement and is accompanied by an Officer's Certificate and an Opinion of Counsel.

(C) The release of any Collateral from the Liens securing the Obligations or the release of, in whole or in part, the Liens securing the Obligations created by any of the Security Document will not be deemed to impair the Liens securing the Obligations in contravention of the provisions hereof if and to the extent the Collateral or the Liens securing the Obligations are released pursuant to the terms of this Indenture, the applicable Security Documents and the Intercreditor Agreement. Each of the Holders of the Notes acknowledges that a release of Collateral or Liens securing the Obligations strictly in accordance with the terms of this Indenture, the Security Documents and the Intercreditor Agreement will not be deemed for any purpose to be an impairment of the Security Documents or otherwise contrary to the terms of this Indenture.

(D) The Company shall furnish to the Collateral Trustee and the Trustee on or prior to any proposed releases of Collateral an Officer's Certificate certifying and an Opinion of Counsel stating that all requirements relating to such release have been complied with and that such release has been authorized by, permitted by and made in accordance with the provisions of this Indenture, the relevant Security Documents and the Intercreditor Agreement. No release of the Collateral shall be effective against the Collateral Trustee, the Trustee or the Holders until the Company has delivered to the Collateral Trustee and the Trustee the Officer's Certificate and the Opinion of Counsel required under this **Section 11.05**.

Section 11.06. Application of Proceeds of Collateral.

(A) Upon any realization upon the Collateral from the exercise of any rights or remedies under any Security Document or any other agreement with any Company Indenture Party which secures any of the Obligations, the proceeds thereof shall, subject to the terms of the Intercreditor Agreement, be applied in accordance with **Section 7.11** of this Indenture.

(B) Subject to the terms of the Intercreditor Agreement, each of the Collateral Trustee and the Trustee is authorized and empowered to receive any funds collected or distributed under the Security Documents and to apply and distribute such funds according to the provisions of this Indenture.

Section 11.07. Collateral Trustee.

(A) Subject to the provisions of **Section 10.01**, neither the Trustee, nor the Collateral Trustee nor any of their respective officers, directors, employees, attorneys or agents shall be responsible or liable (i) for the legality, enforceability, effectiveness or sufficiency of the Security Documents, for the creation, perfection, priority, sufficiency, maintenance, renewal or protection of any Lien, or for any defect or deficiency as to any such matters, or (ii) for any failure to demand, collect, foreclose or realize upon or otherwise enforce any of the Liens or Security Documents or any delay in doing so; except, in the case of the Collateral Trustee, to the extent such action or omission constitutes gross negligence or willful misconduct (as determined by a final order of a court of competent jurisdiction that is not subject to appeal) on the part of the Collateral Trustee, (iii) for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral, (iv) the Intercreditor Agreement or (v) any subordination agreement or other similar agreement entered into in connection with this Indenture.

(B) The rights, privileges, protections, immunities and benefits given to the Trustee under this Indenture, including, without limitation, its right to be indemnified and compensated and all other rights, privileges, protections, immunities and benefits set forth in this Indenture (including those set forth in **Article 10**), are extended to the Collateral Trustee, and its agents, receivers and attorneys, and shall be enforceable by, the Collateral Trustee, as if fully set forth in this **Section 11.07** with respect to the Collateral Trustee, except that the Collateral Trustee shall only be liable for (and shall be indemnified and held harmless to the extent such losses do not constitute) its gross negligence or willful misconduct (as determined by a final order of a court of competent jurisdiction that is not subject to appeal). In acting under any Security Document, the Collateral Trustee shall enjoy the rights, privileges, protections, immunities and benefits that are extended to the Collateral Trustee hereunder. The Collateral Trustee may act through its attorneys and agents and will not be responsible for the misconduct or negligence of any such agent appointed with due care.

(C) Beyond the exercise of reasonable care in the custody of Collateral in its possession, the Collateral Trustee will have no duty as to any Collateral in its possession or control or in the possession or control of any agent or bailee or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto. For the avoidance of doubt, nothing herein shall require the Collateral Trustee to be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any Liens on the Collateral. If, at the direction of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture (subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction), the Trustee or Collateral Trustee agrees to (but shall be under no obligation to do so) file or record any Security Documents or any related financing statement or other similar documents, such filing or recording by the Trustee or Collateral Trustee at the direction of the Holders shall be deemed done by Trustee or Collateral Trustee without representation or warranty by the Trustee or the Collateral Trustee (and the Trustee and the Collateral Trustee disclaim any representation or warranty as to the validity, effectiveness, priority, perfection or otherwise). The Collateral Trustee will be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords property held by it as a collateral agent or any similar arrangement, and the Collateral Trustee will not be liable or responsible for any loss or diminution in the value of any of the Collateral by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Collateral Trustee in good faith.

(D) The Collateral Trustee shall not have any duty to ascertain or inquire as to the performance or observance of any of the terms of this Indenture or any Indenture Document by the Company or any Company Indenture Party or any other Person that is a party thereto or bound thereby.

(E) The Collateral Trustee shall not be required to acquire title to an asset for any reason and shall not be required to carry out any fiduciary or trust obligation for the benefit of another. The Collateral Trustee is not a fiduciary and shall not be deemed to have assumed any fiduciary obligation. If the Collateral Trustee in its sole discretion believes that any obligation to take or omit to take any action may cause the Collateral Trustee to be considered an "owner or operator" under any Environmental Laws or otherwise cause the Collateral Trustee to incur, or be exposed to, any environmental liability or any liability under any other federal, state or local law, the Collateral Trustee reserves the right, instead of taking such action, either to resign as Collateral Trustee or to arrange for the transfer of the title or control of the asset to a court appointed receiver. The Collateral Trustee will not be liable to any Person for any environmental liability or any environmental claims or contribution actions under any federal, state or local law, rule or regulation by reason of the Collateral Trustee's actions and conduct as authorized, empowered and directed hereunder or relating to any kind of discharge or release or threatened discharge or release of any hazardous materials into the environment.

(F) The Collateral Trustee may resign or be replaced in accordance with the procedures set forth in **Section 10.07** hereof, except that references to the Trustee in such section shall be deemed to be references to the Collateral Trustee for this purpose. If the Collateral Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act will be the successor Collateral Trustee.

Section 11.08. Appointment of the Collateral Trustee for French Transaction Security Documents.

Without prejudice to, and in addition to, the other provisions of **Section 10** and this **Section 11**, each other Secured Party:

(A) appoints the Collateral Trustee to act as security agent (*agent des sûretés*) pursuant to articles 2488-6 et seq. of the French Civil Code acting in such a capacity in respect of the French Security Documents (including any lower ranking French Security Documents to be entered into after the date hereof in order to create security in favor of the Secured Parties); and

(B) irrevocably authorizes (and as the case may be directs) the Collateral Trustee acting as security agent (*agent des sûretés*) within the meaning of article 2488-6 of the French Civil Code without limitation and notwithstanding any other rights conferred upon the Collateral under this Indenture:

(i) to negotiate, accept and execute in its name and for the benefit of each other Secured Party the French Security Documents;

(ii) to take, register, administer and enforce any security interest created or expressed to be created pursuant to a French Security Document and proceed to all relevant filings and notifications in order to ensure the enforceability of the security interests created pursuant to the French Security Documents;

(iii) to perform the duties and to exercise the rights, powers and discretions that are specifically delegated to it under or in connection with the French Security Documents and in particular to:

(1) enforce the French Security Documents, and, in connection with any enforcement or any step to be taken in connection with any enforcement, to appoint any expert, to collect any sums, to give good discharge for any amount payable and to make any payment (including any Soulte);

(2) take any action in the interest of the Secured Parties in any proceedings including filing a claim for any debt (*déclarer*) owed to a Secured Party;

(3) exercise any of the rights, powers, authorities and discretions which the Secured Parties would have had, if they had been parties as beneficiaries under the French Security Documents including (1) giving any instruction to any third party in connection with any security interest created under a French Security Documents, (2) receiving any payment in respect of any security interest created under a French Security Documents, (3) completing any applicable registration requirements in connection with the French Security Documents and (4) receiving any information which a secured creditor is entitled to receive with respect to any Security Property subject to security interest created under a French Security Documents; and

(4) and more generally to take any action and exercise any right, power, prerogative and discretion upon the Indenture Documents set out in this Indenture or under or in connection with the Security Documents and to protect the rights of the Secured Parties under or in connection with any security interest created thereunder, in each case together with any other right, power, prerogative and discretion which is incidental thereto;

(5) to release the security interest granted under the French Security Documents in accordance with the provisions of **Section 11.04**; and

(6) to take any action and exercise any right, power, authorities and discretion in accordance with the Indenture Documents;

in each case, in accordance with the Intercreditor Agreement.

(C) Unless expressly provided to the contrary in any French Security Documents, in accordance with the provisions of article 2488-6 of the French Civil Code, the Collateral Trustee shall hold:

(i) any security interest created under a French Security Document;

(ii) the proceeds of any security interest created under a French Security Document; and

(iii) any other rights or assets acquired by the Collateral Trustee in connection with the French Security Documents,

(iv) in its own name (en son nom propre) for the benefit of (*au profit de*) the Secured Parties (together with any of their successors in title and transferees) on the terms contained in this Indenture. The Collateral Trustee shall hold those rights and assets set out in paragraphs (i) to (iii) above in its capacity as *agent des sûretés* and those rights and assets shall constitute, in accordance with article 2488-6 of the French Civil Code, an estate (patrimoine affecté) separate from all the Collateral Trustee's own assets.

(D) In connection with any French Security Documents or any security interest created under a French Security Documents only, it is intended that the Collateral Trustee shall act as agent des sûretés under French law in its relations with any third party, despite the choice of laws of the State of New York as the governing law of this Indenture.

(E) The Collateral Trustee accepts its appointment as "*agent des sûretés*" pursuant to this **Section 11.07** and declares that it holds in its own name the security interest created or expressed to be created pursuant to the French Security Documents in its capacity as Collateral Trustee (*agent des sûretés*) pursuant to articles 2488-6 et seq. of the French Civil Code for the benefit of the Secured Parties on the terms contained in this Indenture and accordingly any action taken by the Collateral Trustee in connection with or for the purposes of the French Security Documents and the security interest created thereunder in accordance with this Indenture and the French Security Documents shall be deemed to be taken by the Collateral Trustee acting as "*agent des sûretés*" in its own name and for the benefit of the Secured Parties.

(F) The Collateral Trustee is under no obligation to file (*déclarer*) a claim for any debt owed by the Company or any Guarantor to a Secured Party in any insolvency proceedings unless:

(i) each relevant Secured Party instructs the Collateral Trustee to file (*déclarer*) such a claim;

(ii) the Collateral Trustee has received all information it deems necessary to file that claim (*déclaration*);

(iii) the Collateral Trustee expressly agrees with each relevant Secured Party to file that claim on that Secured Party's behalf; and

(iv) the filing of such claim is in accordance with the terms of the Intercreditor Agreement.

(G) If, the Collateral Trustee enforces a French Security Document by way of Appropriation, the Collateral Trustee shall become, in accordance with the relevant French Security Document and French law, the owner of the Charged Property subject to the appropriation for the benefit of (*au profit de*) the Secured Parties.

(H) If a Soulte is payable as a result of the enforcement of any security interest created under any French Security Document, the Collateral Trustee shall:

(i) determine, for each Secured Party whose Obligations are discharged by that enforcement, the portion of the Soulte which is attributable to the Secured Party, such amount being in proportion with the amount of that Secured Party's Secured Liabilities (as such term is defined in the French Security Documents) (its **Soulte Portion**); and

(ii) promptly notify each relevant Secured Party of its Soulte Portion and the name of each Secured Party which is entitled to receive the Soulte.

(I) In consideration of the Collateral Trustee acting as *agent des sûretés* in connection with any French Security Documents, the Collateral Trustee, the Company, each Guarantor, each security provider under the Indenture Document and each Secured Party agree that each relevant Secured Party is liable to pay in accordance with the provisions of article 2348 of the French Civil Code and the provisions of the relevant French Security Document, its Soulte Portion to the Company, the Guarantor or the relevant security provider, as applicable, which, before the enforcement by way of transfer of ownership of any Charged Property, was the owner of that Charged Property.

(J) Each relevant Secured Party shall pay to the Collateral Trustee its Soulte Portion for payment to the Company, the Guarantor or the relevant security provider under the Indenture Document, as applicable, promptly following any request by the Collateral Trustee. In no circumstances shall the Collateral Trustee in its capacity as security agent or agent (as the case may be) be liable for the payment of any Soulte out of its own assets.

(K) The obligations of each Secured Party in respect of the payment of any Soulte are several. Failure by a Secured Party to pay its Soulte Portion under this **Section 11.08** does not affect the obligations of any other Secured Party to pay its Soulte Portion under this **Section 11.08** and no Secured Party is responsible for the obligations of any other Secured Party under this **Section 11.08(K)**.

(L) The Collateral Trustee may resign, or be required to resign as *agent des sûretés*, only if the Collateral Trustee resigns or is required to resign as Collateral Trustee under **Section 11.07(F)** at the same time.

(M) If the Collateral Trustee resigns, or the Majority Holders requires the Collateral Trustee to resign under:

(i) the Collateral Trustee will be deemed to have resigned from its role as *agent des sûretés* under this **Section 11.08(L)**; and

(ii) the successor Collateral Trustee shall accept its appointment as *agent des sûretés* immediately on the successor Collateral Trustee's appointment under **Section 11.07(F).**

immediately on its acceptance of its appointment as *agent des sûretés* under paragraph (ii) above, all rights and assets held by the Collateral Trustee as *agent des sûretés* will be transferred to the successor Collateral Trustee automatically (*de plein droit*) in accordance with article 2488-11 of the French Civil Code.

Section 11.09. Appointment of the Collateral Trustee for German Security Documents.

Without prejudice to, and in addition to, the other provisions of **Section 10** and this **Section 11**, and without limiting any other rights of the Collateral Trustee under this Indenture or any other Indenture Document, in relation to the German Security Documents the following shall apply:

(A) Each other Secured Party hereby appoints and authorizes the Collateral Trustee to:

(i) hold and administer:

(1) and, as the case may be, release and (subject to it having become enforceable) realize any security interest granted under any German Security Document (each, a "**German Security Interest**") that is constituted by way of a transfer of title or assignment by way of security (*Sicherungseigentum/Sicherungsabtretung*) or by way of any other non-accessory security right (*nicht akzessorische Sicherheit*);

(2) the benefit of this paragraph (i); and

(3) any proceeds of such German Security Interest,

as trustee in its own name but for the benefit of all relevant Secured Parties (other than the Collateral Trustee) (each, a "**German Secured Party**") that have the benefit of such German Security Interest in accordance with this Indenture or any other Indenture Document and the respective German Security Document;

(ii) administer and, as the case may be, release and (subject to it having become enforceable) realize any German Security Interest that is created in favor of the Collateral Trustee or the German Secured Parties (or any of them) by way of a pledge (*Verpfändung*) or any other German law accessory security right (*akzessorische Sicherheit*); and

(iii) if and when acting in its capacity as creditor of the Collateral Trustee Claim, hold and administer and, as the case may be, release and (subject to it having become enforceable) realize:

(1) any German Security Interest that is created in favor of the Collateral Trustee as creditor of the Collateral Trustee Claim by way of a pledge (*Verpfändung*) or any other German law accessory security right (*akzessorische Sicherheit*);

(2) any proceeds of such German Security Interest; and

(3) the benefit of this paragraph (iii) and of the Collateral Trustee Claim,

as creditor in its own right but for the benefit of the German Secured Parties in accordance with this Indenture.

(B) Each German Secured Party hereby ratifies and approves all acts done by the Collateral Trustee on such German Secured Party's behalf before execution of this Indenture, or the relevant German Secured Party's accession to this Indenture, as the case may be, including, for the avoidance of doubt, the declarations made by the Collateral Trustee as representative without power of attorney (*Vertreter ohne Vertretungsmacht*) in relation to the creation of any pledge (*Pfandrecht*) on behalf and for the benefit of any German Secured Party in respect of any German Security Document.

(C) The Collateral Trustee shall, and is hereby authorized by each of the German Secured Parties to, execute on behalf of itself and each other German Secured Party, without the need for any further referral to, or authority from, any other person, all necessary releases or confirmations of any security created under the German Security Documents. The Collateral Trustee and each of the German Secured Parties hereby agree that, in relation to the German Security Documents, no German Secured Party shall exercise any independent power to enforce any German Security Interest or take any other action in relation to the enforcement of the German Security Interests, or make or receive any declarations in relation thereto.

(D) Each German Secured Party hereby irrevocably instructs and authorizes the Collateral Trustee (with the right of sub-delegation) to act on its behalf and, if required under requirements of law or if otherwise appropriate, in its name and on its behalf in connection with the preparation, execution and delivery of the German Security Documents, the perfection and monitoring of the German Security Documents and the rescission, release or amendment of the German Security Documents, and to enter into any documents evidencing German Security Interests and to make and accept all declarations and take all actions it considers necessary or useful in connection with any German Security Interest on behalf of such German Secured Party. The Collateral Trustee is hereby authorized by each German Secured Party to make all statements necessary or appropriate in connection with the foregoing. The Collateral Trustee shall further be entitled to rescind, release, amend or execute, on behalf of each German Secured Party, any additional documents securing the German Security Interest.

(E) At the request of the Collateral Trustee, each German Secured Party shall provide the Collateral Trustee with a separate written power of attorney (*Spezialvollmacht*) for the purposes of executing any relevant agreements and documents on its behalf.

Section 11.10. Appointment of Supplemental Collateral Trustee.

(A) Without limiting paragraphs of this **Article 11** hereof, the Company is hereby authorized to appoint an additional individual or institution selected by the Company in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral trustee, sub-trustee, administrative sub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually as a "**Supplemental Collateral Trustee**" and collectively as "**Supplemental Collateral Trustees**") by executing one or more supplemental indentures hereto.

(B) In the event that the Company appoints a Supplemental Collateral Trustee with respect to any Collateral, (i) subject to the terms of the Intercreditor Agreement, each and every right, power, privilege or duty expressed or intended by this Indenture or any of the other Security Documents (other than the rights arising in respect of the Collateral Trustee Claim under **Section 11.04**) to be exercised by or vested in or conveyed to such Supplemental Collateral Trustee with respect to such Collateral shall be exercisable by and vest in such Supplemental Collateral Trustee to the extent, and only to the extent, necessary to enable such Supplemental Collateral Trustee to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Security Documents and necessary to the exercise or performance thereof by such Supplemental Collateral Trustee (other than covenants and obligations relating to the Collateral Trustee Claim) shall run to and be enforceable by such Supplemental Collateral Trustee, and (ii) the provisions of this Indenture (and, in particular, this **Article 11**) that refer to the Collateral Trustee shall inure to the benefit of such Supplemental Collateral Trustee and all references therein to the Collateral Trustee shall be deemed to be references to a Collateral Trustee and/or such Supplemental Collateral Trustee, as the context may require.

(C) The Company hereby appoints the Philippine Supplemental Collateral Trustee as the collateral trustee in respect of the Philippine Collateral.

(D) The Philippine Supplemental Collateral Trustee agrees, with respect to the Philippine Collateral, (i) subject to the terms of the Intercreditor Agreement, each and every right, power, privilege or duty expressed or intended by this Indenture or the Philippine Security Document (other than the rights arising in respect of the Collateral Trustee Claim under **Section 11.04**) to be exercised by or vested in or conveyed to the Philippine Supplemental Collateral Trustee with respect to the Philippine Collateral shall be exercisable by and vest in the Philippine Supplemental Collateral Trustee to the extent, and only to the extent, necessary to enable the Philippine Supplemental Collateral Trustee to exercise such rights, powers and privileges with respect to the Philippine Collateral and to perform such duties with respect to Philippine Collateral, and every covenant and obligation contained in the Philippine Security Document and necessary to the exercise or performance thereof by the Philippine Supplemental Collateral Trustee (other than covenants and obligations relating to the Collateral Trustee Claim) shall run to and be enforceable by the Philippine Supplemental Collateral Trustee, and (ii) the provisions of this Indenture (and, in particular, this **Article 11**) that refer to the Collateral Trustee shall inure to the benefit of the Philippine Supplemental Collateral Trustee and all references therein to the Collateral Trustee shall be deemed to be references to a Collateral Trustee and/or the Philippine Supplemental Collateral Trustee, as the context may require.

Article 12. GUARANTEES

Section 12.01. Subsidiary Guarantees

(A) Subject to this **Article 12**, each of the Guarantors hereby, jointly and severally, unconditionally guarantees, on a senior secured basis, as primary obligors and not as a surety, to each Holder (and its successors and assigns) of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes, the Indenture Documents and/or the Obligations of the Company:

(i) that the principal of, interest on, or any other amount payable to the Holders, under the Notes shall be promptly paid in full or performed when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest (including but not limited to any interest, fees, costs or charges that would accrue but for the provisions of applicable Bankruptcy Law after any insolvency proceeding), on the Notes, if any, if lawful; and

(ii) that in the case of any extension of time of payment or renewal of any Notes or the payment of any other amount payable to the Holders, the same shall be promptly paid in full when due (such obligations in **clauses (i)** and **(ii)** being herein collectively called the "**Guaranteed Obligations**")

(B) Failing payment when so due of any amount so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. An Event of Default under this Indenture or the Notes shall constitute an event of default under the Subsidiary Guarantees, and shall entitle the Holders to accelerate the obligations of the Guarantors hereunder in the same manner and to the same extent as the obligations of the Company.

(C) The Guarantors hereby agree that their obligations hereunder shall be absolute, irrevocable and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of the Notes, this Indenture, the Indenture Documents or any other agreement or instrument referred to herein or therein, the absence of any action to enforce the same, any waiver or consent by any Holder with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance (other than complete performance) which might otherwise constitute a legal or equitable discharge or defense of a surety of Guarantor, all to the fullest extent permitted by law. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not alter or impair the liability of the Guarantors hereunder which remain absolute, irrevocable and unconditional under any and all circumstances as described above, to the fullest extent permitted by law:

(i) at any time or from time to time, without notice to the Guarantors, the time for any performance of or compliance with any of the Guaranteed Obligations shall be extended, or such performance or compliance shall be waived;

(ii) any of the acts mentioned in any of the provisions of this Indenture or the Notes, if any, or any other agreement or instrument referred to herein or therein shall be done or omitted;

(iii) the maturity of any of the Guaranteed Obligations shall be accelerated, or any of the Guaranteed Obligations shall be amended in any respect, or any right under the Indenture, Notes, or any other agreement or instrument referred to herein or therein shall be amended or waived in any respect or any other guarantee of any of the Guaranteed Obligations or any security therefor shall be released or exchanged in whole or in part or otherwise dealt with;

(iv) any Lien or security interest granted to, or in favor of any Holder, the Collateral Trustee or the Trustee as security for any of the Guaranteed Obligations shall fail to be perfected; or

(v) the release of any other Guarantor.

(D) Each Guarantor further, to the fullest extent permitted by law, hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenants that its Subsidiary Guarantee will not be discharged except by complete performance of the obligations contained in the Notes and this Indenture.

(E) Until terminated in accordance with **Section 12.05**, each Subsidiary Guarantee shall, to the fullest extent permitted by law, remain in full force and effect and continue to be effective should any petition be filed by or against the Company for liquidation, reorganization, should the Company become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee or other similar officer be appointed for all or any significant part of the Company's assets, and shall, to the fullest extent permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment of the Notes are, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on the Notes or Subsidiary Guarantees, whether as a "voidable preference," "fraudulent transfer" or otherwise, all as though such payment had not been made. In the event that any payment or any part thereof, is rescinded, reduced, restored or returned, the Notes shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

(F) Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (a) the maturity of the obligations guaranteed hereby may be accelerated as provided in **Section 7.02** hereof (and shall be deemed to have become automatically due and payable in the circumstances in said **Section 7.02**) for the purposes of its Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed thereby, and (b) in the event of any declaration of acceleration of such obligations as provided in **Section 7.02** hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantor for the purpose of its Subsidiary Guarantee. The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Subsidiary Guarantees.

(G) Each Guarantor also agrees to pay any and all costs and expenses (including reasonable attorneys' fees) incurred by the Trustee or the Collateral Trustee in enforcing any rights under the Indenture Documents.

(H) Each Guarantor shall be subrogated to all rights of Holders against the Company in respect of any amounts paid by such Guarantor pursuant to the provisions of this **Section 12.01**; provided that, no Guarantor shall be entitled to enforce or receive any payments arising out of, or based upon, such right of subrogation until all amounts then due and payable by the Company under this Indenture, the Notes or the Indenture Documents shall have been paid in full in cash.

(I) Each payment to be made by a Guarantor in respect of its Subsidiary Guarantee shall be made without set-off, counterclaim, reduction or diminution of any kind or nature.

(H) Each Subsidiary Guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held in connection with the Indenture Documents or any of them.

Section 12.02. Execution and Delivery

(A) To evidence its Subsidiary Guarantee set forth in **Section 12.01** hereof, each Guarantor hereby agrees that this Indenture (or a supplemental indenture) shall be executed on behalf of such Guarantor by one of its authorized officers.

(B) Each Guarantor hereby agrees that its Subsidiary Guarantee set forth in **Section 12.01** hereof shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Subsidiary Guarantee on the Notes. If an officer whose signature is on this Indenture (or a supplemental indenture) no longer holds that office at the time the Trustee authenticates a Note, the Subsidiary Guarantee of such Guarantor shall be valid nevertheless.

(C) The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Subsidiary Guarantee set forth in this Indenture on behalf of the Guarantors.

Section 12.03. [Reserved].

Section 12.04. Releases of Subsidiary Guarantees.

(A) The Subsidiary Guarantee of a Guarantor shall be automatically and unconditionally released: (1) in connection with (x) any Disposition (including by way of merger or consolidation) of the Capital Stock of such Guarantor (or the Capital Stock of the direct parent of such Guarantor) to a Person that is not (either before or after giving effect to such transaction) a Company Indenture Party or an affiliate of a Company Indenture Party, to the extent such sale is permitted hereunder or (y) any sale or other Disposition of all or substantially all of the properties or assets of that Guarantor, by way of merger, consolidation or otherwise solely to the extent that such sale or other Disposition is permitted pursuant to **Section 6.01** and so long as such Disposition is not to a Company Indenture Party or an affiliate of a Company Indenture Party; (2) the liquidation or dissolution of such Guarantor; *provided* that no Event of Default occurs as a result thereof or has occurred or is continuing; (3) upon satisfaction and discharge of this Indenture and the other Indenture Documents in accordance with **Article 9**; or (4) upon payment of the Obligations in full in immediately available funds.

(B) Upon delivery by the Company to the Trustee of an Officer's Certificate or an Opinion of Counsel to the effect that any of the conditions described in the foregoing **clauses (1)**, **(2)**, or **(3)** of **Section 12.04(A)** has occurred and the conditions precedent to such transactions provided for in this Indenture have been complied with, the Trustee shall promptly execute any documents reasonably requested by the Company in order to evidence the release of any Guarantor from its obligations under its Subsidiary Guarantee. Any Guarantor not released from its obligations under its Subsidiary Guarantee shall remain liable for the full amount of principal of and interest, premium, if any, on, the Notes and for the other obligations of such Guarantor under this Indenture as provided in this **Article 12**.

(C) Further, the Subsidiary Guarantees are not convertible and will automatically terminate when the Notes are all converted in full in accordance with **Article 5**.

Section 12.05. Instrument for the Payment of Money.

(A) Each Guarantor hereby acknowledges that the guarantee in this **Article 12** constitutes an instrument for the payment of money, and consents and agrees that any Holder (to the extent that the Holder is otherwise entitled to exercise rights and remedies hereunder) or the Trustee, at its sole option, in the event of a dispute by such Guarantor in the payment of any moneys due hereunder, shall have the right to bring a motion-action under New York CPLR Section 3213 to the extent permitted thereunder.

Section 12.06. Limitation on Guarantor Liability

(A) Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Subsidiary Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of any bankruptcy law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law or any comparable laws in any other jurisdiction to the extent applicable to any Subsidiary Guarantee. The obligations of each Guarantor under its Subsidiary Guarantee will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under its Subsidiary Guarantee or pursuant to its contribution obligations under this Indenture, result in the obligations of such Guarantor under its Subsidiary Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law or any comparable laws in any other jurisdiction and not otherwise being void or voidable under any similar laws affecting the rights of creditors generally.

(B) Limitation with respect to Swiss Guarantors

(i) If and to the extent a Guarantor incorporated in Switzerland (a "**Swiss Guarantor**") becomes directly or indirectly liable under this Indenture or any other Indenture Documents for obligations of any other Company Indenture Party (other than the wholly owned direct or indirect subsidiaries of such Swiss Guarantor) (the "**Restricted Obligations**") and if complying with such obligations would constitute a repayment of capital (*Einlagerückgewähr*), a violation of the legally protected reserves (*gesetzlich geschützte Reserven*) or the payment of a (constructive) dividend (*Gewinnausschüttung*) by such Swiss Guarantor or would otherwise be restricted under Swiss law and practice then applicable, such Swiss Guarantor's aggregate liability for Restricted Obligations shall not exceed the amount of the Swiss Guarantor's freely disposable equity (*frei verfügbares Eigenkapital*) at the time it becomes liable including, without limitation, any statutory reserves which can be transferred into unrestricted, distributable reserves, in accordance with Swiss law (the "**Freely Disposable Amount**").

(ii) This limitation shall only apply to the extent it is a requirement under applicable law at the time the Swiss Guarantor is required to perform Restricted Obligations under any Indenture Document. Such limitation shall not free the Swiss Guarantor from its obligations in excess of the Freely Disposable Amount, but merely postpone the performance date thereof until such times when the Swiss Guarantor has again freely disposable equity.

(iii) If the enforcement of the obligations of the Swiss Guarantor under any Indenture Documents would be limited due to the effects referred to in this Indenture, the Swiss Guarantor shall further, to the extent permitted by applicable law and Swiss accounting standards and upon request by the Collateral Trustee, (i) write up or sell any of its assets that are shown in its balance sheet with a book value that is significantly lower than the market value of the assets, in case of sale, however, only if such assets are not necessary for the Swiss Guarantor's business (*nicht betriebsnotwendig*) and (ii) reduce its share capital to the minimum allowed under then applicable law, provided that such steps are permitted under the Indenture Documents.

(iv) The Swiss Guarantor and any holding company of the Swiss Guarantor which is a party to an Indenture Document shall procure that the Swiss Guarantor will take and will cause to be taken all and any action as soon as reasonably practicable but in any event within 30 Business Days from the request of the Collateral Trustee, including, without limitation, (i) the passing of any shareholders' resolutions to approve any payment or other performance under this Indenture or any other Indenture Document, (ii) the provision of an audited interim balance sheet, (iii) the provision of a determination by the Swiss Guarantor of the Freely Disposable Amount based on such audited interim balance sheet, (iv) the provision of a confirmation from the auditors of the Swiss Guarantor that a payment of the Swiss Guarantor under the Indenture or any other Indenture Documents in an amount corresponding to the Freely Disposable Amount is in compliance with the provisions of Swiss corporate law which are aimed at protecting the share capital and legal reserves, and (v) the obtaining of any other confirmations which may be required as a matter of Swiss mandatory law in force at the time the Swiss Guarantor is required to make a payment or perform other obligations under this Indenture or any other Indenture Document, in order to allow a prompt payment in relation to Restricted Obligations with a minimum of limitations.

(v) If so required under applicable law (including tax treaties) at the time it is required to make a payment under this Indenture and any Indenture Document, the Swiss Guarantor:

(1) shall use its best efforts to ensure that such payments can be made without deduction of Swiss Withholding Tax, or with deduction of Swiss Withholding Tax at a reduced rate, by discharging the liability to such tax by notification pursuant to applicable law (including tax treaties) rather than payment of the tax;

(2) shall deduct the Swiss Withholding Tax at such rate (being 35% on the date hereof) as in force from time to time if the notification procedure pursuant to sub-paragraph (a) above does not apply; or shall deduct the Swiss Withholding Tax at the reduced rate resulting after discharge of part of such tax by notification if the notification procedure pursuant to sub-paragraph (a) applies for a part of the Swiss Withholding Tax only; and shall pay within the time allowed any such taxes deducted to the Swiss Federal Tax Administration; and

(3) shall promptly notify the Collateral Trustee that such notification or, as the case may be, deduction has been made, and provide the Collateral Trustee with evidence that such a notification of the Swiss Federal Tax Administration has been made or, as the case may be, such taxes deducted have been paid to the Swiss Federal Tax Administration.

(vi) In the case of a deduction of Swiss Withholding Tax, the Swiss Guarantor shall use its best efforts to ensure that any person that is entitled to a full or partial refund of the Swiss Withholding Tax deducted from such payment under this Indenture or any Indenture Documents, will, as soon as possible after such deduction:

(1) request a refund of the Swiss Withholding Tax under applicable law (including tax treaties), and

(2) pay to the Collateral Trustee upon receipt any amount so refunded.

The Collateral Trustee shall co-operate with the Swiss Guarantor to secure such refund.

(vii) To the extent the Swiss Guarantor is required to deduct Swiss Withholding Tax pursuant to this Indenture or any other Indenture Documents, and if the Freely Disposable Amount is not fully utilised, the Swiss Guarantor will be required to pay an additional amount so that after making any required deduction of Swiss Withholding Tax the aggregate net amount paid to the Collateral Trustee is equal to the amount which would have been paid if no deduction of Swiss Withholding Tax had been required, provided that the aggregate amount paid (including the additional amount) shall in any event be limited to the Freely Disposable Amount. If a refund is made to a Secured Party, such Secured Party shall transfer the refund so received to the Swiss Guarantor, subject to any right of set-off of such Secured Party pursuant to the Indenture Documents.

Section 12.07. "Trustee" to Include Paying Agent

(A) In case at any time any Paying Agent other than the Trustee shall have been appointed and be then acting hereunder, the term "Trustee" as used in this **Article 12** shall in each case (unless the context shall otherwise require) be construed as extending to and including such Paying Agent within its meaning as fully and for all intents and purposes as if such Paying Agent were named in this Article 12 in place of the Trustee.

Article 13. MISCELLANEOUS

Section 13.01. Notices.

Any notice or communication by any Company Indenture Party or the Trustee, Collateral Trustee and Note Agent to the other must be provided in writing and will be deemed to have been duly given in writing if delivered in person or by first class mail (registered or certified, return receipt requested), facsimile transmission, electronic transmission or other similar means of unsecured electronic communication or overnight air courier guaranteeing next day delivery, or to the other's address, which initially is as follows:

If to any Company Indenture Party:

Maxeon Solar Technologies, Ltd.
8 Marina Boulevard, #05-02

Marina Bay Financial Centre
018981, Singapore
Attention: Chief Legal Officer
Telephone: (480) 734 - 1234
Email address: lindsey.wiedmann@maxeon.com

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

White & Case
16th floor, York House, The Landmark

15 Queen's Road Central
Hong Kong
Attention: Jessica Zhou; Kaya Proudian
Email: jessica.zhou@whitecase.com; kproudian@whitecase.com

If to the Trustee:

Deutsche Bank Trust Company Americas
1 Columbus Circle, 17th Floor
Mail Stop:NYC01-1710
New York, NY 10019
Facsimile: (732) 578-4635
Attention: Corporates Team, Maxeon Solar Technologies Ltd. AA6572

If to the Collateral Trustee:

DB Trustees (Hong Kong) Limited
Level 60, International Commerce Centre
1 Austin Road West
Kowloon, Hong Kong

Facsimile No.: +852 2203 7320
Attention: The Directors
E-mail: debtagency.hkcsg@list.db.com

If to the Philippine Supplemental Collateral Trustee:

RCBC Trust Corporation
9th Floor, Yuchengco Tower
RCBC Plaza, 6819 Ayala Avenue
Makati City, Philippines 0727

Attention: Mr. Ryan Roy W. Sinaon
Telephone: 63 (02) 8894-9000 local 1278
E-mail: rwsinaon@rcbc.com

Any Company Indenture Party, the Trustee, the Collateral Trustee or the Philippine Supplemental Collateral Trustee, by notice to the other, may designate additional or different addresses (including facsimile numbers and electronic addresses) for subsequent notices or communications.

All notices and communications (other than those sent to Holders) will be deemed to have been duly given: (A) at the time delivered by hand, if personally delivered; (B) five (5) Business Days after being deposited in the mail, postage prepaid, if mailed; (C) when receipt acknowledged, if transmitted by facsimile, electronic transmission or other similar means of unsecured electronic communication; and (D) the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

All notices or communications required to be made to a Holder pursuant to this Indenture must be made in writing and will be deemed to be duly sent or given in writing if mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery, to its address shown on the Register; *provided*, *however*, that a notice or communication to a Holder of a Global Note may, but need not, instead be sent pursuant to the Depositary Procedures (in which case, such notice will be deemed to be duly sent or given in writing). The failure to send a notice or communication to a Holder, or any defect in such notice or communication, will not affect its sufficiency with respect to any other Holder.

If the Trustee is then acting as the Depositary's custodian for the Notes, then, at the reasonable request of the Company to the Trustee, the Trustee will cause any notice prepared by the Company to be sent to any Holder(s) pursuant to the Depositary Procedures, *provided* such request is evidenced in a Company Order delivered, together with the text of such notice, to the Trustee at least two (2) Business Days before the date such notice is to be so sent. For the avoidance of doubt, such Company Order need not be accompanied by an Officer's Certificate or Opinion of Counsel. The Trustee will not have any liability relating to the contents of any notice that it sends to any Holder pursuant to any such Company Order.

If a notice or communication is mailed or sent in the manner provided above within the time prescribed, it will be deemed to have been duly given, whether or not the addressee receives it.

Notwithstanding anything to the contrary in this Indenture or the Notes, (A) whenever any provision of this Indenture requires a party to send notice to another party, no such notice need be sent if the sending party and the recipient are the same Person acting in different capacities; and (B) whenever any provision of this Indenture requires a party to send notice to more than one receiving party, and each receiving party is the same Person acting in different capacities, then only one such notice need be sent to such Person.

Facsimile, documents executed, scanned and transmitted electronically and electronic signatures, including those created or transmitted through a software platform or application, will be deemed original signatures for purposes of this Indenture and all matters and agreements related thereto, with such facsimile, scanned and electronic signatures having the same legal effect as original signatures. The parties agree that this Indenture or any instrument, agreement or document necessary for the consummation of the transactions contemplated by this Indenture or related hereto or thereto (including addendums, amendments, notices, instructions, communications with respect to the delivery of securities or the wire transfer of funds or other communications) ("**Executed Documentation**") may be accepted, executed or agreed to through the use of an electronic signature in accordance with applicable laws, rules and regulations in effect from time to time applicable to the effectiveness and enforceability of electronic signatures. Any Executed Documentation accepted, executed or agreed to in conformity with such laws, rules and regulations will be binding on all parties to this Indenture to the same extent as if it were physically executed and each party hereby consents to the use of any third-party electronic signature capture service providers as may be reasonably chosen by a signatory hereto or thereto. When the Trustee, Collateral Trustee or a Note Agent acts on any Executed Documentation sent by electronic transmission, the Trustee, Collateral Trustee or Note Agent will not be responsible or liable for any losses, costs or expenses arising directly or indirectly from its reliance upon and compliance with such Executed Documentation, notwithstanding that such Executed Documentation (A) may not be an authorized or authentic communication of the party involved or in the form such party sent or intended to send (whether due to fraud, distortion or otherwise); or (B) may conflict with, or be inconsistent with, a subsequent written instruction or communication; it is understood and agreed that the Trustee, Collateral Trustee and each Note Agent will conclusively presume that Executed Documentation that purports to have been sent by an authorized officer of a Person has been sent by an authorized officer of such Person. The party providing Executed Documentation through electronic transmission or otherwise with electronic signatures agrees to assume all risks arising out of such electronic methods, including the risk of the Trustee, Collateral Trustee or a Note Agent acting on unauthorized instructions and the risk of interception and misuse by third parties.

Section 13.02. Delivery Of Officer's Certificate And Opinion Of Counsel As To Conditions Precedent.

Upon any request or application by the Company to the Trustee or to the Collateral Trustee to take any action under this Indenture (other than the initial authentication of Notes under this Indenture), the Company will furnish to the Trustee and the Collateral Trustee:

(A) an Officer's Certificate in form and substance reasonably satisfactory to the Trustee and the Collateral Trustee that complies with **Section 13.03** and states that, in the opinion of the signatory thereto, all conditions precedent and covenants, if any, provided for in this Indenture relating to such action have been satisfied; and

(B) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee that complies with **Section 13.03** and states that, in the opinion of such counsel, all such conditions precedent and covenants, if any, have been satisfied.

Section 13.03. Statements Required In Officer's Certificate And Opinion Of Counsel.

Each Officer's Certificate (other than an Officer's Certificate pursuant to **Section 3.06**) or Opinion of Counsel with respect to compliance with a covenant or condition provided for in this Indenture will include:

(A) a statement that the signatory making such certificate or opinion thereto has read such covenant or condition;

(B) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion therein are based;

(C) a statement that, in the opinion of such signatory, he, she or it has made such examination or investigation as is necessary to enable him, her or it to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(D) a statement as to whether, in the opinion of such signatory, such covenant or condition has been satisfied.

Section 13.04. Rules By The Trustee, The Registrar And The Paying Agent.

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 13.05. No Personal Liability Of Directors, Officers, Employees And Shareholders.

No past, present or future director, officer, employee, incorporator or shareholder of any Company Indenture Party, as such, will have any liability for any obligations of such Company Indenture Party under this Indenture, the Intercreditor Agreement or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

Section 13.06. Governing Law; Waiver Of Jury Trial.

THIS INDENTURE AND THE NOTES, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS INDENTURE OR THE NOTES, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY INDENTURE PARTIES, THE TRUSTEE AND THE COLLATERAL TRUSTEE IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED BY THIS INDENTURE OR THE NOTES.

Section 13.07. Submission To Jurisdiction.

Any legal suit, action or proceeding arising out of or based upon this Indenture or the transactions contemplated by this Indenture may be instituted in the federal courts of the United States of America located in the City of New York or the courts of the State of New York, in each case located in the City of New York (collectively, the "**Specified Courts**"), and each party irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail (to the extent allowed under any applicable statute or rule of court) to such party's address set forth in **Section 13.01** will be effective service of process for any such suit, action or proceeding brought in any such court. Each of the Company Indenture Parties, the Trustee, the Collateral Trustee and Holders (by its acceptance of any Note) irrevocably and unconditionally waives any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waives and agrees not to plead or claim any such suit, action or other proceeding has been brought in an inconvenient forum.

Section 13.08. No Adverse Interpretation Of Other Agreements.

Neither this Indenture nor the Notes may be used to interpret any other indenture, note, loan or debt agreement of the Company or its Subsidiaries or of any other Person, and no such indenture, note, loan or debt agreement may be used to interpret this Indenture or the Notes.

Section 13.09. Successors.

All agreements of each Company Indenture Parties in this Indenture and the Notes will bind its successors. All agreements of the Trustee and the Collateral Trustee in this Indenture will bind their respective successors.

Section 13.10. Force Majeure.

The Trustee, Collateral Trustee and each Note Agent will not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility under this Indenture or the Notes by reason of any occurrence beyond its control (including any act or provision of any present or future law or regulation or governmental authority, act of God or war, civil unrest, epidemic, pandemic, local or national disturbance or disaster, act of terrorism or unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility).

Section 13.11. U.S.A. Patriot Act.

In order to comply with the laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including those relating to the funding of terrorist activities and money laundering, including Section 326 of the USA PATRIOT Act of the United States ("**Applicable Terrorism Law**"), the Trustee, Collateral Trustee and the Note Agents are required to obtain, verify, record and update certain information relating to individuals and entities which maintain a business relationship with the Trustee, Collateral Trustee and/or the Note Agents. Accordingly, each of the Company Indenture Parties (including any Person that executes an agreement to become a Guarantor) agrees to provide to the Trustee, Collateral Trustee or any of the Note Agents (or any additional party that executes an agreement to become party to this Indenture as a trustee, a collateral trustee or a note agent) upon its request from time to time such documentation as may be available for such party in order to enable the Trustee, the Collateral Trustee or any of the Note Agents (or any such additional party) to comply with Applicable Terrorism Law.

Section 13.12. Calculations.

Except as otherwise provided in this Indenture, the Company will be responsible for making all calculations called for under this Indenture or the Notes, including, but not limited to, determinations of the Share Price, the Last Reported Sale Price, the Daily Conversion Value, the Daily Cash Amount, the Daily Share Amount, accrued interest on the Notes, the Conversion Rate, the Conversion Price and the Make-Whole Table.

The Company will make all calculations in good faith, and, absent manifest error, its calculations will be final and binding on all Holders. The Company will provide a schedule of its calculations to the Trustee and the Conversion Agent, and each of the Trustee and the Conversion Agent may rely conclusively on the accuracy of the Company's calculations without independent verification. The Trustee will promptly forward a copy of each such schedule to a Holder upon its written request therefor.

Section 13.13. Severability.

If any provision of this Indenture or the Notes is invalid, illegal or unenforceable, then the validity, legality and enforceability of the remaining provisions of this Indenture or the Notes will not in any way be affected or impaired thereby.

Section 13.14. Counterparts.

The parties may sign any number of copies of this Indenture. Each signed copy will be an original, and all of them together represent the same agreement. Delivery of an executed counterpart of this Indenture by facsimile, electronically in portable document format or in any other format will be effective as delivery of a manually executed counterpart.

Section 13.15. Table Of Contents, Headings, Etc.

The table of contents and the headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and will in no way modify or restrict any of the terms or provisions of this Indenture.

Section 13.16. Service Of Process.

The Company Indenture Parties irrevocably appoint Corporation Service Company, which currently maintains an office at 19 West 44thStreet, Suite 200, New York, New York 10036, United States of America, as their authorized agent in the City of New York upon which process may be served in any suit, action or proceeding referred to in **Section 13.07**, and agrees that service of process upon such agent, and written notice of such service to the Company Indenture Parties, as applicable, by the person serving the same to Maxeon Solar Technologies, Ltd., Maxeon Solar Technologies, Pte. Ltd., 51 Rio Robles, San Jose, California 95134, Attention: General Counsel, will be in every respect effective service of process upon the Company in any such suit, action or proceeding. The Company Indenture Parties agree to take any and all reasonable action as may be necessary to maintain such designation and appointment of such agent in full force and effect until the date that is six (6) months after the Maturity Date. If, for any reason, such agent ceases to be such agent for service of process, then the Company Indenture Parties will promptly appoint a new agent of recognized standing for service of process in the State of New York and deliver to the Holders and the Trustee a copy of the new agent's acceptance of that appointment within ten (10) Business Days of such acceptance. Nothing in this **Section 13.16** will affect the right of the Trustee, any Note Agent or any Holder to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed against the Company Indenture Parties in any other court of competent jurisdiction. To the extent that the Company Indenture Parties have or hereafter may acquire any sovereign or other immunity from jurisdiction of any court or from any legal process with respect to itself or its property, the Company Indenture Parties irrevocably waive such immunity in respect of their obligations under this Indenture or under any Note.

Article 14. INTERCREDITOR ARRANGEMENTS

Section 14.01. **Intercreditor Agreement**

(A) This Indenture is entered into, and the Notes are issued hereunder, and the Obligations are incurred, in each case, with the benefit of, and subject to, the terms of the Intercreditor Agreement and each Holder, by accepting a Note, shall be deemed to have agreed to, and accepted the terms and conditions of, the Intercreditor Agreement. In addition, the rights and benefits of the Trustee and the Collateral Trustee are governed by this Indenture, and subject to the terms of the Intercreditor Agreement. For the avoidance of doubt, to the extent any provision of the Intercreditor Agreement conflicts with the provisions of this Indenture, the provisions of the Intercreditor Agreement shall govern and be controlling.

Section 14.02. **Additional Intercreditor Agreement**

(A) At the request of the Company, at the time of, or prior to, the incurrence of any Permitted Secured Indebtedness, the Company, the relevant Guarantors, the Trustee and the Collateral Trustee will (without the consent of Holders), to the extent authorized and permitted under the Intercreditor Agreement, enter into such amendments, supplements or agreements as necessary to add the obligees of such Indebtedness and/or any representative(s) thereof as party to the Intercreditor Agreement, or an additional Intercreditor Agreement (the "**Additional Intercreditor Agreement**"); *provided* that such amendments, supplements, agreements or such Additional Intercreditor Agreement will not impose any personal obligations on the Trustee or the Collateral Trustee or adversely affect the rights, duties, liabilities or immunities of the Trustee or the Collateral Trustee under the Indenture or the Intercreditor Agreement.

(B) At the written direction of the Company and without the consent of the Holders, the Trustee and the Collateral Trustee, to the extent authorized and permitted under the Intercreditor Agreement, shall upon the written direction of the Company from time to time enter into one or more Additional Intercreditor Agreements or amendments or supplements of the Intercreditor Agreement to: (1) cure any ambiguity, omission, defect or inconsistency therein; (2) increase the amount of Indebtedness permitted to be incurred or issued under this Indenture of the types covered thereby that may be incurred by the Company or any Company Indenture Party that is subject thereto (including the addition of provisions relating to new Indebtedness); (3) add Guarantors thereto; (4) further secure the Notes (including any Additional Notes); or (5) make any other such change thereto that does not adversely affect the rights of holders of the Notes in any material respect; *provided* that such Additional Intercreditor Agreement will not impose any personal obligations on the Trustee or the Collateral Trustee or adversely affect the rights, duties, liabilities or immunities of the Trustee or the Collateral Trustee under the Indenture or the Intercreditor Agreement.

(C) In executing any execution of the Additional Intercreditor Agreement or the amendments or supplements of the Intercreditor Agreement in accordance with this **Section 14.02**, the Trustee and the Collateral Trustee, as the case may be, will be entitled to receive, and (subject to **Sections 10.01** and **10.02**) will be fully protected in relying on, an Officer's Certificate and an Opinion of Counsel, provided in accordance with **Section 13.02**, each stating that (A) the execution and delivery of such Additional Intercreditor Agreement or such amendments or supplements of the Intercreditor Agreement is authorized or permitted by this Indenture; and (B) in the case of the Opinion of Counsel, such Additional Intercreditor Agreement, or such amendments or supplements of the Intercreditor Agreement is valid, binding and enforceable against the Company in accordance with its terms.

(D) Each Holder, by accepting a Note, will be deemed to have agreed to and accepted the terms and conditions of the Intercreditor Agreement and each Additional Intercreditor Agreement (in each case as may be amended or supplemented from time to time in accordance with the terms of this Indenture, the Intercreditor Agreement or other Indenture Documents), to have authorized the Trustee and the Collateral Trustee to become a party to any such Intercreditor Agreement, and Additional Intercreditor Agreement, and any amendment referred to in Article 8 and the Trustee or the Collateral Trustee will not be required to seek the consent of any Holders to perform their respective obligations under and in accordance with this Article 14.

[***The Remainder of This Page Intentionally Left Blank; Signature Page Follows***]

IN WITNESS WHEREOF, the parties to this Indenture have caused this indenture to be duly executed as of the date first written above.

Company:

MAXEON SOLAR TECHNOLOGIES, LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

Guarantors:

SUNPOWER CORPORATION LIMITED

By: /s/ Peter Aschenbrenner
Name: Peter Aschenbrenner
Title: Director

SUNPOWER ENERGY CORPORATION LIMITED

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Director

SUNPOWER SYSTEMS INTERNATIONAL LIMITED

By: /s/ Peter Aschenbrenner
Name: Peter Aschenbrenner
Title: Director

[Signature Page to New 1L Indenture]

SUNPOWER MANUFACTURING CORPORATION LIMITED

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Director

MAXEON ROOSTER HOLDCO, LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Director

MAXEON SOLAR PTE. LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Director

SUNPOWER BERMUDA HOLDINGS

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Director

[Signature Page to New 1L Indenture]

SUNPOWER TECHNOLOGY LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

SUNPOWER PHILIPPINES MANUFACTURING LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

ROOSTER BERMUDA DRE, LLC

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

SUNPOWER SYSTEMS SÀRL

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

[Signature Page to New 1L Indenture]

Trustee:

DEUTSCHE BANK TRUST COMPANY AMERICAS,
AS TRUSTEE, REGISTRAR, PAYING AGENT,
CONVERSION AGENT

By: /s/ Carol Ng
Name: Carol Ng
Title: Vice President

By: /s/ Rodney Gaughan
Name: Rodney Gaughan
Title: Vice President

[Signature Page to New 1L Indenture]

Collateral Trustee:

DB TRUSTEES (HONG KONG) LIMITED,
AS COLLATERAL TRUSTEE

By: /s/ Ka Ho Mak
Name: Ka Ho Mak
Title: Authorized Signatory

By: /s/ Christina Nip
Name: Christina Nip
Title: Authorized Signatory

[Signature Page to New 1L Indenture]

Philippine Supplemental Collateral Trustee:

RCBC TRUST CORPORATION,
AS PHILIPPINE SUPPLEMENTAL COLLATERAL TRUSTEE

By: /s/ Ryan Roy W. Sinaon
Name: Ryan Roy W. Sinaon
Title: RCBC Trust Corporato

By: /s/ Bernice Maffi S. Arizapa
Name: Bernice Maffi S. Arizapa
Title: Sales Officer

[Signature Page to New 1L Indenture]

EXHIBIT A

FORM OF NOTE

[Insert Global Note Legend, if applicable]

Insert Restricted Note Legend, if applicable]

[THE FOLLOWING INFORMATION IS SUPPLIED SOLELY FOR U.S. FEDERAL INCOME TAX PURPOSES. THE NOTES WERE ISSUED WITH "ORIGINAL ISSUE DISCOUNT" ("OID") WITHIN THE MEANING OF SECTION 1273 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. NOTEHOLDERS MAY OBTAIN INFORMATION REGARDING THE AMOUNT OF ANY OID, THE ISSUE PRICE, THE ISSUE DATE, AND THE YIELD TO MATURITY RELATING TO THE NOTES BY CONTACTING THE COMPANY.]

Maxeon Solar Technologies, Ltd.

9.00% Convertible First Lien Senior Secured Note due 2029

CUSIP No.: [ ]*[Insert for a "restricted" CUSIP number:*]* Certificate No. [ ]
ISIN No.: [ ]*[Insert for a "restricted" ISIN number: *]*

Maxeon Solar Technologies, Ltd., a company incorporated in Singapore, for value received, promises to pay to [Zhonghuan Singapore Investment and Development Pte. Ltd.] / [Cede & Co.], or its registered assigns, the principal sum of [___] dollars ($[_]) [(as revised by the attached Schedule of Exchanges of Interests in the Global Note)]† on June 20, 2029 and to pay interest thereon, as provided in the Indenture referred to below, until the principal and all accrued and unpaid interest are paid or duly provided for.

Interest Payment Dates: June 20 and December 20 of each year, commencing on December 20, 2024, unless otherwise provided in the definition of "Interest Payment Date."

Regular Record Dates: June 5 and December 5.

Additional provisions of this Note are set forth on the other side of this Note.

[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]

* This Note will be deemed to be identified by CUSIP No. [____] and ISIN No. [____] from and after such time when the Company delivers, pursuant to Section 2.12 of the within-mentioned Indenture, written notice to the Trustee of the deemed removal of the Restricted Note Legend affixed to this Note.

† Insert bracketed language for Global Notes only.

IN WITNESS WHEREOF, Maxeon Solar Technologies, Ltd. has caused this instrument to be duly executed as of the date set forth below.

MAXEON SOLAR TECHNOLOGIES, LTD.

Date: _____

By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

Deutsche Bank Trust Company Americas, as Trustee, certifies that this is one of the Notes referred to in the within-mentioned Indenture.

Date: _____ By: _____
Authorized Signatory

Maxeon Solar Technologies, Ltd.

9.00% Convertible First Lien Senior Note due 2029

This Note is one of a duly authorized issue of notes of Maxeon Solar Technologies, Ltd., a company incorporated in Singapore (the "**Company**"), designated as its 9.00% Convertible First Lien Senior Notes due 2029 (the "**Notes**"), all issued or to be issued pursuant to an indenture, dated as of June 20, 2024 (as the same may be amended from time to time, the "**Indenture**"), between the Company, the Guarantors from time to time party thereto, Deutsche Bank Trust Company Americas, a New York Banking Corporation as Trustee, DB Trustees (Hong Kong) Limited as Collateral Trustee and RCBC Trust Corporation as Philippine Supplemental Collateral Trustee. Capitalized terms used in this Note without definition have the respective meanings ascribed to them in the Indenture.

The Indenture sets forth the rights and obligations of the Company, the Trustee and the Holders and the terms of the Notes. The Notes are secured pursuant to the terms of the Indenture and the Security Documents referred to in the Indenture and subject to the terms of the Intercreditor Agreement referred to in the Indenture. Notwithstanding anything to the contrary in this Note, to the extent that any provision of this Note conflicts with the provisions of the Indenture, the provisions of the Indenture will control.

1. **Interest**. This Note will accrue interest at a rate and in the manner set forth in Section 2.05 of the Indenture. Stated Interest on this Note will begin to accrue from, and including, June 20, 2024.

2. **Maturity**. This Note will mature on June 20, 2029, unless earlier repurchased, redeemed or converted.

3. **Method of Payment**. Cash amounts due on this Note will be paid in the manner set forth in Section 2.04 of the Indenture. Interest payable in PIK Notes will be paid in the manner set forth in Section 2.04.

4. **Persons Deemed Owners**. The Holder of this Note will be treated as the owner of this Note for all purposes.

5. **Denominations; Transfers and Exchanges**. All Notes will be in registered form, without coupons, in principal amounts equal to any Authorized Denominations. Subject to the terms of the Indenture, the Holder of this Note may transfer or exchange this Note by presenting it to the Registrar and delivering any required documentation or other materials.

6. **Right of Holders to Require the Company to Repurchase Notes upon a Fundamental Change**. If a Fundamental Change occurs, then each Holder will have the right to require the Company to repurchase such Holder's Notes (or any portion thereof in an Authorized Denomination) for cash in the manner, and subject to the terms, set forth in Section 4.02 of the Indenture.

7. **Redemption of the Notes**. The Notes will be subject to Redemption for cash in the manner, and subject to the terms, set forth in Section 4.03 of the Indenture.

8. **Conversion**. The Holder of this Note may convert this Note into Conversion Consideration in the manner, and subject to the terms, set forth in Article 5 of the Indenture.

9. **When the Company May Merge, Etc**. Article 6 of the Indenture places certain restrictions on the Company and the Guarantors' ability to be a party to a Business Combination Event.

10. **Defaults and Remedies**. If an Event of Default occurs, then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding may (and, in certain circumstances, will automatically) become due and payable in the manner, and subject to the terms, set forth in Article 7 of the Indenture.

11. **Amendments, Supplements and Waivers**. The Company and the Trustee may amend or supplement the Indenture or the Notes or waive compliance with any provision of the Indenture or the Notes in the manner, and subject to the terms, set forth in Section 7.05 and Article 8 of the Indenture.

12. **No Personal Liability of Directors, Officers, Employees and Shareholders**. No past, present or future director, officer, employee, incorporator or shareholder of the Company, as such, will have any liability for any obligations of the Company under the Indenture or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

13. **Authentication**. No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually or electronically signs the certificate of authentication of such Note.

14. **Abbreviations**. Customary abbreviations may be used in the name of a Holder or its assignee, such as TEN COM (tenants in common), TEN ENT (tenants by the entireties), JT TEN (joint tenants with right of survivorship and not as tenants in common), CUST (custodian), and U/G/M/A (Uniform Gift to Minors Act).

15. **Governing Law**. THIS NOTE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS NOTE, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

* * *

To request a copy of the Indenture, which the Company will provide to any Holder at no charge, please send a written request to the following address:

Maxeon Solar Technologies, Ltd.
8 Marina Boulevard, #05-02
Marina Bay Financial Centre
018981, Singapore
Attention: General Counsel

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE*

INITIAL PRINCIPAL AMOUNT OF THIS GLOBAL NOTE: $[ ]

The following exchanges, transfers or cancellations of this Global Note have been made:

Date	Amount of Increase (Decrease) in Principal Amount of this Global Note	Principal Amount of this Global Note After Such Increase (Decrease)	Signature of Authorized Signatory of Trustee

* Insert for Global Notes only.

CONVERSION NOTICE

Maxeon Solar Technologies, Ltd.

9.00% Convertible First Lien Senior Secured Notes due 2029

Subject to the terms of the Indenture, by executing and delivering this Conversion Notice, the undersigned Holder of the Note identified below directs the Company to convert (check one):

☐ the entire principal amount of

☐ $_____* aggregate principal amount of

the Note identified by CUSIP No._____ and Certificate No._____.

The undersigned acknowledges that if the Conversion Date of a Note to be converted is after a Regular Record Date and before the next Interest Payment Date, then such Note, when surrendered for conversion, must, in certain circumstances, be accompanied with an amount of cash equal to the interest that would have accrued on such Note to, but excluding, such Interest Payment Date.

Date: _____

_____
(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

_____
Participant in a Recognized Signature
Guarantee Medallion Program

_____
Authorized Signatory

* Must be an Authorized Denomination.

FUNDAMENTAL CHANGE REPURCHASE NOTICE

Maxeon Solar Technologies, Ltd.

9.00% Convertible First Lien Senior Secured Notes 2029

Subject to the terms of the Indenture, by executing and delivering this Fundamental Change Repurchase Notice, the undersigned Holder of the Note identified below is exercising its Fundamental Change Repurchase Right with respect to (check one):

☐ the entire principal amount of

☐ $_____* aggregate principal amount of

the Note identified by CUSIP No._____ and Certificate No._____.

The undersigned acknowledges that this Note, duly endorsed for transfer, must be delivered to the Paying Agent before the Fundamental Change Repurchase Price will be paid.

Date: _____

_____
(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

_____
Participant in a Recognized Signature
Guarantee Medallion Program

_____
Authorized Signatory

* Must be an Authorized Denomination.

ASSIGNMENT FORM

Maxeon Solar Technologies, Ltd.

9.00% Convertible First Lien Senior Secured Notes due 2029

Subject to the terms of the Indenture, the undersigned Holder of the within Note assigns to:

Name: _____

Address: _____

Social security or tax identification number: _____

the within Note and all rights thereunder irrevocably appoints:

as agent to transfer the within Note on the books of the Company. The agent may substitute another to act for him/her.

Date: _____

_____
(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

_____
Participant in a Recognized Signature
Guarantee Medallion Program

_____
Authorized Signatory

TRANSFEROR ACKNOWLEDGMENT

If the within Note bears a Restricted Note Legend, the undersigned further certifies that (check one):

1. ☐ Such Transfer is being made to the Company or a Subsidiary of the Company.

2. ☐ Such Transfer is being made pursuant to, and in accordance with, a registration statement that is effective under the Securities Act at the time of the Transfer.

3. ☐ Such Transfer is being made pursuant to, and in accordance with, Rule 144A under the Securities Act, and, accordingly, the undersigned further certifies that the within Note is being transferred to a Person that the undersigned reasonably believes is purchasing the within Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act in a transaction meeting the requirements of Rule 144A. **If this item is checked, then the transferee must complete and execute the acknowledgment contained on the next page**.

4. ☐ Such Transfer is being made pursuant to, and in accordance with, any other available exemption from the registration requirements of the Securities Act (including, if available, the exemption provided by Rule 144 under the Securities Act).

Dated: _____

_____
(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

_____
(Participant in a Recognized Signature
Guarantee Medallion Program)

By: _____
Authorized Signatory

TRANSFEREE ACKNOWLEDGMENT

The undersigned represents that it is purchasing the within Note for its own account, or for one or more accounts with respect to which the undersigned exercises sole investment discretion, and that and the undersigned and each such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act. The undersigned acknowledges that the transferor is relying, in transferring the within Note on the exemption from the registration and prospectus- delivery requirements of the Securities Act of 1933, as amended, provided by Rule 144A and that the undersigned has received such information regarding the Company as the undersigned has requested pursuant to Rule 144A.

Dated: _____

_____
(Name of Transferee)

By: _____
Name:
Title:

EXHIBIT B-1

FORM OF RESTRICTED NOTE LEGEND

THE OFFER AND SALE OF THIS NOTE AND THE ORDINARY SHARES, IF ANY, ISSUABLE UPON CONVERSION OF THIS NOTE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS NOTE MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT ONLY:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT; AND

(2) AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT ONLY:

(A) TO THE COMPANY, ITS PARENT OR ANY SUBSIDIARY THEREOF;

(B) PURSUANT TO A REGISTRATION STATEMENT THAT IS EFFECTIVE UNDER THE SECURITIES ACT;

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT;

(D) PURSUANT TO RULE 144 UNDER THE SECURITIES ACT;

(E) PURSUANT TO REGULATION S UNDER THE SECURITIES ACT; OR

(F) PURSUANT TO ANY OTHER EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

BEFORE THE REGISTRATION OF ANY SALE OR TRANSFER IN ACCORDANCE WITH (C), (D), (E) OR (F) ABOVE, THE COMPANY, THE TRUSTEE AND THE REGISTRAR RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH CERTIFICATES OR OTHER DOCUMENTATION OR EVIDENCE AS THEY MAY REASONABLY REQUIRE IN ORDER TO DETERMINE THAT THE PROPOSED SALE OR TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS."

* This paragraph and the immediately preceding paragraph will be deemed to be removed from the face of this Note at such time when the Company delivers written notice to the Trustee of such deemed removal pursuant to Section 2.12 of the within-mentioned Indenture.

EXHIBIT B-2

FORM OF GLOBAL NOTE LEGEND

THIS IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITARY OR A NOMINEE OF THE DEPOSITARY, WHICH MAY BE TREATED BY THE COMPANY, THE TRUSTEE AND ANY AGENT THEREOF AS THE OWNER AND HOLDER OF THIS NOTE FOR ALL PURPOSES.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY ("DTC") TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL NOTE WILL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC, OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE, AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE WILL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN ARTICLE 2 OF THE INDENTURE HEREINAFTER REFERRED TO.

EXHIBIT C

FORM OF SUPPLEMENTAL INDENTURE

SUPPLEMENTAL INDENTURE (this "**Supplemental Indenture**") dated as of _____, 20___ among Maxeon Solar Technologies, Ltd. (or its successor) (the "**Company**"), Deutsche Bank Trust Company Americas, as trustee (the "**Trustee**"), and DB Trustees (Hong Kong) Limited as collateral trustee (the "**Collateral Trustee**"), under the indenture referred to below.

WHEREAS the Company (or its successor) has heretofore executed and delivered to the Trustee and the Collateral Trustee an indenture (as amended, supplemented or otherwise modified, the "**Indenture**") dated as of June 20, 2024, providing for the issuance of the Company's 9.00% Convertible First Lien Senior Secured Notes due 2029 (the "**Notes**"), initially in an aggregate principal amount of $97,500,000;

[ ]; and

WHEREAS pursuant to [Section 8.01] / [Section 8.02] / [Section 8.03] of the Indenture, the Trustee, the Collateral Trustee and the Company are authorized to execute and deliver this Supplemental Indenture [without]/[with] the consent of [any Holder]/[Majority Holder]/[Supermajority Holder]/[each Holder] of the Notes;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Company, the Trustee and the Collateral Trustee mutually covenant and agree for the equal and ratable benefit of the Holders (as defined in the Indenture) as follows:

1. **Defined Terms.** As used in this Supplemental Indenture, terms defined in the Indenture or in the preamble or recital hereto are used herein as therein defined. The words "herein," "hereof" and "hereby" and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular section hereof.

2. **Amendments. [ ]**

3. **Ratification of Indenture; Supplemental Indentures Part of Indenture.** Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder shall be bound hereby.

4. **Governing Law.** THIS SUPPLEMENTAL INDENTURE AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS SUPPLEMENTAL INDENTURE, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

5. **Trustee and Collateral Make No Representation.** The Trustee and the Collateral Trustee make no representation as to the validity or sufficiency of this Supplemental Indenture or with respect to the recitals contained herein, all of which recitals are made solely by the other parties hereto.

6. **Counterparts.** The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

7. **Effect of Headings.** The Section headings herein are for convenience only and shall not affect the construction thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed as of the date first above written.

MAXEON SOLAR TECHNOLOGIES, LTD.

By: _____
Name:
Title:

DEUTSCHE BANK TRUST COMPANY AMERICAS,
AS TRUSTEE, REGISTRAR, PAYING AGENT,
CONVERSION AGENT

By: _____
Name:
Title:

By: _____
Name:
Title:

DB TRUSTEES (HONG KONG) LIMITED,
AS COLLATERAL TRUSTEE

By: _____
Name:
Title:

By: _____
Name:
Title:

Schedule I

Conversion Agent's wire instructions to receive wire from the Company for cash in lieu for fractional shares:

[_____]

Schedule II

Company's wire instructions for interest reimbursement:

[_____]

Schedule III

Closing Security Documents

(i) Singapore:

1. Supplemental "First Ranking" Debenture, dated the Issue Date, by the Company in favor of DB Trustees (Hong Kong) Limited to secure the Notes and Amended 2029 First Lien Notes;

2. Supplemental "First Ranking" Debenture, dated the Issue Date, by Maxeon Solar Pte. Ltd. in favor of DB Trustees (Hong Kong) Limited to secure the Notes and Amended 2029 First Lien Notes;

3. Supplemental "First Ranking" Share Charge, dated the Issue Date, by Maxeon Rooster HoldCo, Ltd. in favour of DB Trustees (Hong Kong) Limited (with respect to shares in Maxeon Solar Pte. Ltd) to secure the Notes and Amended 2029 First Lien Notes; and

4. Supplemental "First Ranking" Account Charge, dated the Issue Date, by SunPower Systems Sàrl in respect of its Singapore accounts in favor of DB Trustees (Hong Kong) Limited to secure the Notes and Amended 2029 First Lien Notes.

(ii) Switzerland

1. Security Confirmation Agreement, dated the Issue Date, in relation to:

(a) existing "First Ranking" Quota Pledge by SunPower Bermuda Holdings in favor of DB Trustees (Hong Kong) Limited to secure the Notes and Amended 2029 First Lien Notes; and

(b) existing "First Ranking" Account Pledge by SunPower Systems Sàrl in respect of its Swiss accounts in favor of DB Trustees (Hong Kong) Limited to secure the Notes and Amended 2029 First Lien Notes.

(iii) Bermuda

1. Supplemental "First Ranking" Bermuda Fixed and Floating Charge, dated the Issue Date, between Maxeon Rooster HoldCo Ltd. and Rooster Bermuda DRE, LLC (as chargors) and DB Trustees (Hong Kong) Limited (as chargee) to secure the Notes and Amended 2029 First Lien Notes; and

2. Supplemental "First Ranking" Bermuda Share Charge, dated the Issue Date, between the Company and SunPower Corporation Limited (as chargors) and DB Trustees (Hong Kong) Limited (as chargee), in respect of the shares issued by Maxeon Rooster HoldCo Ltd., to secure the Notes and Amended 2029 First Lien Notes.

(iv) Cayman Islands

1. Supplemental "First Ranking" Equitable Share Mortgage, dated the Issue Date, between SunPower Systems Sàrl (as mortgagor) and DB Trustees (Hong Kong) Limited (as mortgagee), in respect to the shares issued by SunPower Technology Ltd., to secure the Notes and Amended 2029 First Lien Notes; and

2. Supplemental "First Ranking" Equitable Share Mortgage, dated the Issue Date, between SunPower Technology Ltd. (as mortgagor) and DB Trustees (Hong Kong) Limited (as mortgagee), in respect to the shares issued by SunPower Philippines Manufacturing Ltd., to secure the Notes and Amended 2029 First Lien Notes.

(v) Hong Kong

1. Second Supplemental "First Ranking" Hong Kong Composite Share Charge, dated the Issue Date, by and between the Company as chargor and DB Trustees (Hong Kong) Limited as collateral trustee, in relation to the shares of SunPower Energy Corporation Limited, SunPower Corporation Limited and SunPower Manufacturing Corporation Limited, to secure the Notes and Amended 2029 First Lien Notes;

2. Second Supplemental "First Ranking" Hong Kong Debenture, dated the Issue Date, by and between SunPower Systems International Limited as chargor and DB Trustees (Hong Kong) Limited as collateral trustee, to secure the Notes and Amended 2029 First Lien Notes; and

3. Second Supplemental "First Ranking" Hong Kong Share Charge, dated the Issue Date, by and between SunPower Energy Corporation Limited and DB Trustees (Hong Kong) Limited as collateral trustee, in relation to the shares of SunPower Systems International Limited, to secure the Notes and Amended 2029 First Lien Notes.

(vi) France

1. Second Ranking French Securities Account Pledge Agreement, dated the Issue Date, by and between the Company and DB Trustees (Hong Kong) Limited as collateral trustee, in relation to the shares of SunPower Energy Solutions France SAS, to secure the Notes, Amended 2029 First Lien Notes and Second Lien Notes.

(vii) Malaysia

1. Supplemental "First Ranking" Malaysia Share Charge, dated the Issue Date, by and between SunPower Technology Ltd. and DB Trustees (Hong Kong) Limited as collateral trustee, in relation to the shares of SunPower Malaysia Manufacturing Sdn Bhd, to secure the Notes.

(viii) New York

1. Supplemental "First Ranking" New York law governed Security Agreement, dated the Issue Date, by and among the Company, the Guarantors and DB Trustees (Hong Kong) Limited as collateral trustee, to secure the Notes; and

2. Supplemental "First Ranking" New York law governed Intellectual Property Security Agreement , dated the Issue Date, by and between Maxeon Solar Pte. Ltd. in favor of DB Trustees (Hong Kong) Limited as collateral trustee, to secure the Notes.

Schedule 1.01 Post-Closing Security Documents

1. For purposes of this Schedule 1.01, '**Patents**' shall mean all granted and in-force patents, designs and utility models (or the equivalent thereof), including all reissues, continuations, divisions, continuations-in-part, renewals or extensions thereof (i) granted to or acquired by Maxeon Solar Pte. Ltd. as sole owner; and (ii) any such patents, designs and utility models (or the equivalent thereof) co-owned by Maxeon Solar Pte. Ltd. and one or more third-parties ("**Co-Owned Patents**"), other than those Co-Owned Patents in respect of which Maxeon Solar Pte. Ltd. has not yet received consent from each such co-owner of such Co-Owned Patents to the granting of a Lien in such Co-Owned Patents under applicable local law security documents described in paragraph 2 below (the "**Local Law Patent Security Documents**") (such consent to be obtained by Maxeon Solar Pte. Ltd. through commercially reasonable endeavours), such that a Lien will be granted over such Co-Owned Patents once such consent from the relevant co-owner(s) is obtained by Maxeon Solar Pte. Ltd., as more particularly described in each of the Local Law Patent Security Documents.

2. Subject to prompt assistance from the entity holding the security interest in the applicable Collateral, as may be necessary, Maxeon Solar Pte. Ltd. shall:

(a) by 31 July 2024 negotiate and execute the following Local Law Patent Security Documents in respect of the Patents in the PRC, United Kingdom, France, the European Union Intellectual Property Office ("**EUIPO**"), Australia, Korea, Japan, Germany, Italy, and the European Patent Office ("**EPO**") (collectively, the "**Agreed IP Security Jurisdictions**"), which shall be on terms that are substantially the same as those in the local law security documents between the Collateral Trustee and Maxeon Solar Pte. Ltd. dated (where applicable) October 7, 2022, or October 20, 2022 (as amended from time to time): -

a. **Australia**:

- New South Wales law governed Amendment and Restatement Deed for each of the Security Trust Deed Poll ("**STDP**") and Specific Security Deed ("**SSD**") executed on October 7, 2022 (as amended from time to time), to secure the First Lien Notes.

b. **PRC**:

- PRC law governed Pledge Agreement to secure the First Lien Notes.

c. **France**:

- French law governed 2nd ranking Pledge of Intellectual Property Rights Agreement to secure the First Lien Notes and the Second Lien Notes..

d. **Germany & EPO**:

- German law governed Junior Ranking Pledge of IP Rights and Confirmation Agreement (*Nachrangige Verpfändung Gewerblicher Schutzrechte und Bestätigungsvereinbarung*) to secure the First Lien Notes.

e. **Italy**: Italian law governed amendment and restatement agreement of the pledge agreement dated October 21, 2022, to be entered into in notarial form to secure the First Lien Notes (*provided*, that the Obligations to be secured by the Liens on the applicable Collateral under any Italian law patent security document shall not exceed US$100,000).

f. **EUIPO**: Italian law governed amendment and restatement agreement of the pledge agreement dated October 20, 2022, to be entered into by way of exchange of commercial correspondence, to secure the First Lien Notes (*provided*, that the Obligations to be secured by the Liens on the applicable Collateral under any Italian law patent security document shall not exceed US$100,000).

g. **Japan**:

- Japanese law governed agreement on release of pledge agreement executed on October 7, 2022;
- Japanese law governed First-Priority Pledge Agreement for the Notes; and

h. **South Korea**:

- South Korean law governed Amendment Agreement for the keun-pledge executed on October 7, 2022, to secure the First Lien Notes.

i. **United Kingdom**:

- English law governed Security Agreement for the Notes.

(b) contemporaneously with execution of each Local Law Patent Security Document, provide: -

a. any relevant constitutional documents and necessary corporate approvals with respect to entry into the respective Local Law Patent Security Documents;

b. any related opinions as requested by the entity holding the security interest in the applicable Collateral to be issued based on standard opinion practice of each Agreed IP Security Jurisdiction, appointment of agents for service of process as applicable; and

c. any additional documentation or deliverables as reasonably required in the respective jurisdictions.

(c) take practical steps consistent with generally accepted market practice in the PRC, the United Kingdom, France, the European Union Intellectual Property Office, Australia (to the extent that only a centralized filing will be made), South Korea and Italy (the "**Agreed IP Perfection Jurisdictions**") to ensure that the Liens under the Local Law Patent Security Documents in respect of the Patents in the Agreed IP Perfection Jurisdictions are recorded, filed and notified in the Agreed IP Perfection Jurisdictions and on all relevant registers of the Agreed IP Perfection Jurisdictions, to ensure the enforceability, validity and priority of such Liens, specifically:

a. for the PRC, within 90 days from the date of signing of the PRC Local Law Patent Security Documents; and

b. for the other Agreed IP Perfection Jurisdictions apart from the PRC, within 30 days from the date of signing of the respective Local Law Patent Security Documents in such Agreed IP Perfection Jurisdictions.

3. By the date falling 30 days after the Issue Date, SunPower Philippines Manufacturing Ltd. shall enter into the Philippine Security Document to secure the Notes.

Schedule 3.24 Post-Closing Obligations

1. Not later than the dates specified in Schedule 1.01 (or such later date as may be reasonably agreed by the Collateral Trustee upon receiving written instruction, advice or concurrence of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture, subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction, as it deems appropriate, subject to the terms of the Intercreditor Agreement), the Company and the Restricted Subsidiaries shall enter into each document or take the actions set forth on **Schedule 1.01**.

Exhibit 99.5

THE OFFER AND SALE OF THIS SECURITY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT ONLY:

(A) TO THE COMPANY, ITS PARENT OR ANY SUBSIDIARY THEREOF;

(B) PURSUANT TO A REGISTRATION STATEMENT THAT IS EFFECTIVE UNDER THE SECURITIES ACT;

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT;

(D) PURSUANT TO RULE 144 UNDER THE SECURITIES ACT; OR

(E) PURSUANT TO ANY OTHER EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT,

BEFORE THE REGISTRATION OF ANY SALE OR TRANSFER IN ACCORDANCE WITH (C), (D) OR (E) ABOVE, THE COMPANY RESERVES THE RIGHT TO REQUIRE THE DELIVERY OF SUCH CERTIFICATES OR OTHER DOCUMENTATION OR EVIDENCE AS THEY MAY REASONABLY REQUIRE IN ORDER TO DETERMINE THAT THE PROPOSED SALE OR TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS.

THIS WARRANT HAS NOT BEEN AND WILL NOT BE LODGED OR REGISTERED AS A PROSPECTUS WITH THE MONETARY AUTHORITY OF SINGAPORE. ACCORDINGLY, THIS WARRANT AND ANY OTHER DOCUMENT OR MATERIAL IN CONNECTION WITH THE OFFER OR SALE, OR INVITATION FOR SUBSCRIPTION OR PURCHASE, OF THIS WARRANT MAY NOT BE CIRCULATED OR DISTRIBUTED, NOR MAY THIS WARRANT BE OFFERED OR SOLD, OR BE MADE THE SUBJECT OF AN INVITATION FOR SUBSCRIPTION OR PURCHASE, WHETHER DIRECTLY OR INDIRECTLY, TO PERSONS IN SINGAPORE OTHER THAN (I) TO AN INSTITUTIONAL INVESTOR UNDER SECTION 274 OF THE SECURITIES AND FUTURES ACT 2001 OF SINGAPORE (THE "SFA"), (II) TO A RELEVANT PERSON PURSUANT TO SECTION 275(1), OR ANY PERSON PURSUANT TO SECTION 275(1A), AND IN ACCORDANCE WITH THE CONDITIONS SPECIFIED IN SECTION 275 OF THE SFA, OR (III) OTHERWISE PURSUANT TO, AND IN ACCORDANCE WITH THE CONDITIONS OF, ANY OTHER APPLICABLE PROVISION OF THE SFA, IN EACH CASE SUBJECT TO COMPLIANCE WITH THE CONDITIONS SET FORTH IN THE SFA, INCLUDING APPLICABLE RESALE OR TRANSFER RESTRICTIONS UNDER THE SFA.

Date of Issuance: June 20, 2024 Warrant Number: 1

WARRANT TO PURCHASE ORDINARY SHARES
OF
MAXEON SOLAR TECHNOLOGIES, LTD.

THIS CERTIFIES that Zhonghuan Singapore Investment and Development Pte. Ltd. (and together with its Affiliates, "***TZE***") or any transferee, assignee or other subsequent holder hereof ("***Holder***") has the right to purchase from Maxeon Solar Technologies, Ltd., a company incorporated in Singapore with company registration number 201934268H (the "***Company***"), from time to time, that certain number of Ordinary Shares in an amount determined pursuant to the terms hereof, subject to adjustment as provided herein, at a price equal to the Exercise Price (as defined in Section 3 below), at any time during the Term (as defined below).

The Holder agrees with the Company that this Warrant to Purchase Ordinary Shares of the Company (this "***Warrant***" or this "***Agreement***") is issued and all rights hereunder shall be held subject to all of the conditions, limitations and provisions set forth herein.

1. Date of Issuance and Term.

This Warrant shall be deemed to be issued on the date set forth above ("***Date of Issuance***"). The term of this Warrant begins on the Date of Issuance and ends at the Termination Time (the "***Term***"). This Warrant was issued in conjunction with that certain Securities Purchase Agreement, between the Company and Zhonghuan Singapore Investment and Development Pte. Ltd. (in such capacity, the "***Investor***") (as may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof, the "***SPA***"), and the Amended and Restated Registration Rights Agreement (as may be further amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof, the "***A&R Registration Rights Agreement***") by and between the Company and the Holder, each dated as of June 20, 2024.

For purposes hereof:

"***2025 Notes***" means the Company's 6.50% Green Convertible Senior Notes due 2025.

"***A&R Option Agreement***" means that certain amended and restated option agreement, dated May 30, 2024, by and between the Company and TZE.

"***Affiliate***" means any person or entity that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a person or entity, as such terms are used in and construed under Rule 144.

"***Business Day***" means any day, other than a Saturday, Sunday or other day on which commercial banks in the City of New York or Singapore are authorized or required by law to remain closed.

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

"***Exercisability Event***" means, the occurrence of any of the following,

(A) one or more holders of Second Lien Notes have effected a conversion (other than the Optional Exchange set out in clause (B) hereto) of all or a portion of the Second Lien Notes into Ordinary Shares in accordance with the terms of the Second Lien Notes Indenture (a "***Conversion Event***," and the Ordinary Shares issued in such Conversion Event, the "***Conversion Shares***"); or

(B) the Company has exercised its option with respect to the Optional Exchange (as defined in the Second Lien Notes Indenture) of the Tranche A Second Lien Notes, by delivering a written notice to the holders of the Tranche A Second Lien Notes in accordance with the terms of the Second Lien Notes Indenture (the "***Optional Exchange Event***," and the Ordinary Shares issuable in the Optional Exchange Event, the "***Optional Exchange Shares***");

Upon the occurrence of any Exercisability Event, the Company shall deliver written notice to the Holder (such notice, the "***Exercisability Notice***"), setting forth (1) the occurrence of the Exercisability Event, (2) the number of the Conversion Shares or the Optional Exchange Shares, as the case may be, issued or to be issued upon such Exercisability Event and (3) the applicable Relevant Ordinary Shares that may be purchased by the Holder as a result of such Exercisability Event, as soon as practicable (and in any event within three (3) Business Days) after the occurrence of a Conversion Event or the Optional Exchange Event, as the case may be.

For the avoidance of doubt, the Exercisability Notice, absent manifest error, shall be final and binding on the Company and the Holder.

"***Forward Purchase Agreement***" means a forward purchase agreement, dated as of June 14, 2024,between the Company and Zhonghuan Singapore Investment and Development Pte. Ltd. (in such capacity, the "**Forward Purchaser**"), pursuant to which the Company agrees to sell and the Forward Purchaser agrees to purchase certain Ordinary Shares (the "**FPA Shares**") for an aggregate purchase price of $100,000,000 (as such amount may be reduced to avoid the issuance of fractional shares), subject to the terms and conditions therein (the "**Forward Purchase Investment**"). The closing of the issuance, sale and purchase of the FPA Shares pursuant to the terms and conditions of the Forward Purchase Agreement is hereinafter referred to as "**Forward Purchase Closing**."

"***Fundamental Transaction***" means the consummation of:

(A) any sale, lease or other transfer, in one transaction or a series of transactions, of all or substantially all of the assets of the Company and its subsidiaries, taken as a whole, to any Person, other than solely to one or more of the Company's wholly owned subsidiaries; or

(B) any transaction or series of related transactions in connection with which (whether by means of merger, consolidation, share exchange, combination, reclassification, recapitalization, acquisition, liquidation or otherwise) (other than changes solely resulting from a subdivision or combination of the Ordinary Shares or solely a change in the par value or nominal value of the Ordinary Shares) all of the Ordinary Shares are exchanged for, converted into, acquired for, or constitute solely the right to receive, other securities, cash or other property.

"***HSR Approval***" means the expiration or termination of all waiting periods (and all extensions thereof) in connection with the exercise of this Warrant under the HSR Act.

"***Ordinary Shares***" means ordinary shares of the Company, of no par value.

"***Person***" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity or a government or any department or agency thereof.

"***Relevant Ordinary Shares***" means, at any time, the number of Ordinary Shares issuable under this Warrant upon the occurrence of any Exercisability Event that will result in TZE owning 23.53 % of the Company's total equity interests, calculated as follows:

$$\frac{A+B+C}{B+C+D+E+F+G}$$

Where:

A = the number of outstanding Ordinary Shares of the Company held by TZE as of the Date of Issuance;

B = the number of Ordinary Shares that have been issued to the Holder under this Warrant and pursuant to the A&R Option Agreement prior to the time of determination;

C = the number of Ordinary Shares issuable to the Holder in connection with the occurrence of such Exercisability Event under the Warrant in order that the Holder would hold 23.53% of the Company's outstanding Ordinary Shares immediately after the issuance of Ordinary Shares as a result of such Exercisability Event;

D = the aggregate number of the Conversion Shares and Optional Exchange Shares that have been issued to holders of Second Lien Notes in connection with previous Exercisability Events (which, for the avoidance of doubt, shall not include any Ordinary Shares that have been issued and/or will be issued in connection with such Exercisability Event);

E = the aggregate number of Conversion Shares or Optional Exchanges Shares that have been issued and/or will be issued to holders of Second Lien Notes in connection with such Exercisability Event;

F = the aggregate number of Ordinary Shares that have been issued to the holders of 2025 Notes prior to the time of determination in connection with the conversion of 2025 Notes; and

G = the number of outstanding Ordinary Shares of the Company as of the Date of Issuance.

"***Rule 144***" means Rule 144 under the Securities Act.

"***Sanctioned Person***" means an individual or entity ("***person***") (a) is the subject of any sanctions administered or enforced by the United States Government (including, without limitation, the Office of Foreign Assets Control of the U.S. Treasury Department ("**OFAC**")), the United Nations Security Council, the European Union, His Majesty's Treasury, or other applicable sanctions authority (collectively, "***Sanctions***") or (b) is located, organized or resident in a country or territory that is (x) the subject of comprehensive Sanctions (as of the date hereof, Cuba, Iran, North Korea, Syria, the Crimea region of Ukraine, the so-called Donetsk People's Republic and the so-called Luhansk People's Republic) or (y) Afghanistan, Belarus, Russia or the Kherson or Zaporizhzhia regions of Ukraine, or (c) any person owned or controlled by any such person or persons described in clauses (a) and (b).

"***Second Lien Notes***" means the Convertible Second Lien Senior Secured Notes due 2028 of the Company issued pursuant to the Second Lien Notes Indenture. The Second Lien Notes shall include both the Tranche A 4.0% Cash/5.5% PIK Convertible Second Lien Senior Secured Notes due 2028 (the "***Tranche A Second Lien Notes***") and the Tranche B Adjustable Rate Convertible Second Lien Senior Secured Notes due 2028 (the "***Tranche B Second Lien Notes***").

"***Second Lien Notes Indenture***" means the indenture dated as of the date hereof entered into among the Company, the Guarantors named therein, Deutsche Bank Trust Company Americas, as trustee, DB Trustees (Hong Kong) Limited, as the collateral trustee, and Rizal Commercial Banking Corporation—Trust and Investment Group, as Philippine Supplemental Collateral Trustee in relation to the Second Lien Notes, as may be amended and supplemented from time to time.

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

"***SFA***" means the Securities and Futures Act 2001 of Singapore, as amended.

"***Termination Time***" means the later of (A) the Forward Purchase Closing and (B) five (5) Business Days following the delivery to the Holder of the Exercisability Notice with respect to the occurrence of the Optional Exchange Event.

"***Trading Day***" means any day on which the Ordinary Shares are traded for any period on NASDAQ, or on the principal United States securities exchange or market on which the Ordinary Shares are then being traded; *provided*, *however*, that during any period in which the Ordinary Shares are not listed or quoted on NASDAQ, or any other United States securities exchange or market, the term "Trading Day" shall mean any Business Day.

2. Exercise.

(a) *Manner of Exercise*. During the Term, upon the occurrence of any Exercisability Event, this Warrant may be Exercised as to all or any lesser number of whole Ordinary Shares not exceeding the number of the Relevant Ordinary Shares (for purposes of clarification, including any Relevant Ordinary Shares for which this Warrant was eligible to be, but was not, Exercised upon the occurrence of any previous Exercisability Event) (the "***Exercise Shares***") at the Holder's election by the Holder delivering to the Company (by electronic mail in accordance with Section 14 below) the Exercise Form attached hereto as Exhibit A (the "***Exercise Form***") duly completed and executed, and the applicable Exercise Price (as defined below), which may be satisfied, at the option of the Holder, by a Cash Exercise or a Cashless Exercise (as each is defined below), for each Ordinary Share as to which this Warrant is exercised (any such exercise of the Warrant being hereinafter called an "***Exercise***" of this Warrant). The Holder shall not be required to deliver the original Warrant in order to effect an exercise hereunder, nor shall any ink-original signature or medallion guarantee (or other type of guarantee or notarization) with respect to any Exercise Form be required.

(b) *Date of Exercise*. The "***Date of Exercise***" of the Warrant shall be defined as the later of the date that (i) the Exercise Form attached hereto as Exhibit A, completed and executed, is delivered to the Company in accordance with Section 1.1(a), and (ii) the payment of the Exercise Price for the number of Exercise Shares as to which this Warrant is being exercised (which may take the form of a Cashless Exercise if so indicated in the Exercise Notice pursuant to Section 3 below). Upon delivery of the last of the items required in the definition of "***Date of Exercise***," the Holder shall be deemed for all corporate purposes to have become the holder of record of the Exercise Shares with respect to which this Warrant has been Exercised, irrespective of the date such Exercise Shares are credited to the Holder's or its designee's Depository Trust Company ("***DTC***") account or the date of delivery of the certificates evidencing such Exercise Shares, as the case may be. The Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Exercise Shares available hereunder and the Warrant has been exercised in full, in which case the Holder shall surrender this Warrant to the Company for cancellation within three Trading Days following the date the final Exercise Form is delivered to the Company. Execution and delivery of an Exercise Form with respect to a partial Exercise shall have the same effect as cancellation of the original Warrant and issuance of a new Warrant evidencing the right to purchase the remaining number of Exercise Shares. The Holder and the Company shall maintain records showing the number of Exercise Shares purchased and the remaining number of Exercise Shares. The Holder and any assignee of the Holder, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Exercise Shares hereunder, the number of Exercise Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.

(c) *Delivery of Ordinary Shares Upon Exercise*. Within (i) three (3) Trading Days, if the Holder elects to have the relevant Exercise Shares credited to its or its designee's DTC account, or (ii) ten (10) Trading Days, if the Holder elects to receive certificates evidencing such Exercise Shares, as the case may be, after any Date of Exercise (the "***Delivery Period***"), the Company shall issue and deliver (or cause its transfer agent (the "***Transfer Agent***") to issue and deliver) in accordance with the terms hereof to, or upon the order of, the Holder the Exercise Shares. Upon the Exercise of this Warrant or any part hereof, the Company shall, at its own cost and expense, take all necessary action to assure that the Transfer Agent shall transmit to the Holder in accordance with this Section 1.1(c) the number of Ordinary Shares issuable upon such Exercise.

(d) *Delivery Failure*. Subject to Section 3(b), in addition to any other remedies which may be available to the Holder, in the event that the Company fails for any reason to effect delivery of the applicable Exercise Shares by the end of the Delivery Period (a "***Delivery Failure***"), the Holder will be entitled to revoke all or part of the relevant Exercise by delivery of a notice to such effect to the Company, whereupon the Company and the Holder shall each be restored to their respective positions immediately prior to the delivery of such notice of revocation.

(e) *Legends*.

(i) *Restrictive Legend*. The Holder understands that, until such time as this Warrant and the Exercise Shares have been registered under the Securities Act or otherwise may be sold pursuant to Rule 144 or an exemption from registration under the Securities Act without any restriction as to the number of securities as of a particular date that can then be immediately sold, this Warrant and the Exercise Shares, as applicable, may bear a restrictive legend in substantially the following form (and a stop-transfer order consistent therewith may be placed against transfer of such shares):

> "THE OFFER AND SALE OF THIS SECURITY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT ONLY:
>
> (A) TO THE COMPANY, ITS PARENT OR ANY SUBSIDIARY THEREOF;
>
> (B) PURSUANT TO A REGISTRATION STATEMENT THAT IS EFFECTIVE UNDER THE SECURITIES ACT;
>
> (C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT;
>
> (D) PURSUANT TO RULE 144 UNDER THE SECURITIES ACT; OR
>
> (E) PURSUANT TO ANY OTHER EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT,
>
> BEFORE THE REGISTRATION OF ANY SALE OR TRANSFER IN ACCORDANCE WITH (C), (D) OR (E) ABOVE, THE COMPANY RESERVES THE RIGHT TO REQUIRE THE DELIVERY OF SUCH CERTIFICATES OR OTHER DOCUMENTATION OR EVIDENCE AS THEY MAY REASONABLY REQUIRE IN ORDER TO DETERMINE THAT THE PROPOSED SALE OR TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS."

"THIS WARRANT HAS NOT BEEN AND WILL NOT BE LODGED OR REGISTERED AS A PROSPECTUS WITH THE MONETARY AUTHORITY OF SINGAPORE. ACCORDINGLY, THIS WARRANT AND ANY OTHER DOCUMENT OR MATERIAL IN CONNECTION WITH THE OFFER OR SALE, OR INVITATION FOR SUBSCRIPTION OR PURCHASE, OF THIS WARRANT MAY NOT BE CIRCULATED OR DISTRIBUTED, NOR MAY THIS WARRANT BE OFFERED OR SOLD, OR BE MADE THE SUBJECT OF AN INVITATION FOR SUBSCRIPTION OR PURCHASE, WHETHER DIRECTLY OR INDIRECTLY, TO PERSONS IN SINGAPORE OTHER THAN (I) TO AN INSTITUTIONAL INVESTOR UNDER SECTION 274 OF THE SECURITIES AND FUTURES ACT 2001 OF SINGAPORE (THE "SFA"), (II) TO A RELEVANT PERSON PURSUANT TO SECTION 275(1), OR ANY PERSON PURSUANT TO SECTION 275(1A), AND IN ACCORDANCE WITH THE CONDITIONS SPECIFIED IN SECTION 275 OF THE SFA, OR (III) OTHERWISE PURSUANT TO, AND IN ACCORDANCE WITH THE CONDITIONS OF, ANY OTHER APPLICABLE PROVISION OF THE SFA, IN EACH CASE SUBJECT TO COMPLIANCE WITH THE CONDITIONS SET FORTH IN THE SFA, INCLUDING APPLICABLE RESALE OR TRANSFER RESTRICTIONS UNDER THE SFA."

(ii) *Removal of Restrictive Legends*. Before the registration of any sale or transfer of this Warrant or any Exercise Shares in accordance with an effective registration statement relating to the resale of the Warrant and/or any Exercise Shares, the Company reserves the right to require the delivery of such certificates or other documentation or evidence as it may reasonably require in order to determine that the proposed sale or transfer is being made in compliance with the Securities Act and applicable state securities laws.

(iii) *Representations*. The Holder acknowledges and agrees that (i) the consideration for the Warrant is no less than S$200,000 (or its equivalent in a foreign currency) which shall be paid for in cash or by exchange of securities, securities-based derivatives contracts or other assets, (ii) it is not purchasing the Warrant with a view to all or any of such Warrant being subsequently offered for sale to another person, and (iii) this document has not been and no document or material will be lodged or registered as a prospectus with the Monetary Authority of Singapore.

(f) *Cancellation of Warrant*. This Warrant shall be canceled upon the full Exercise of this Warrant. If this Warrant is not Exercised in full, then as soon as practical after any Date of Exercise, the Holder shall be entitled to receive a new Warrant (containing terms identical to this Warrant) representing the unexercised portion of this Warrant (in addition to the Ordinary Shares issuable upon such Exercise); *provided*, *however*, as set forth in Section 1.1(b), the Holder shall not be required to physically surrender this Warrant if the Warrant is not Exercised in full.

(g) *Holder of Record*. Each person in whose name any Warrant for Ordinary Shares is issued shall, for all purposes, be deemed to be the holder of record of such shares on the Date of Exercise, irrespective of the date of delivery of the Ordinary Shares purchased upon the Exercise of this Warrant.

(h) *Delivery of Electronic Shares*. In lieu of delivering physical certificates representing the Exercise Shares or legend removal, upon written request of the Holder, the Company shall cause its Transfer Agent to electronically transmit Exercise Shares to the Holder by crediting the account of the Holder's prime broker with DTC through its Deposit/Withdrawal at Custodian (DWAC) system. The time periods for delivery and penalties described herein shall apply to the electronic transmittals described herein. Any delivery not effected by electronic transmission shall be effected by delivery of physical certificates.

(i) *Certain Government Submissions*. If the Holder determines that, in connection with any exercise of this Warrant, it and the Company are required to file premerger notification reports with the Federal Trade Commission (the "***FTC***") and the United States Department of Justice ("***DOJ***") and observe the Waiting Period under the Hart-Scott Rodino Antitrust Improvements Act of 1976, as amended, and the related rules and regulations promulgated thereunder (collectively, the "***HSR Act***"), or to seek approval under applicable law from any other U.S. or foreign governmental authority for the issuance of Ordinary Shares to the Holder upon such exercise, (a) the Company agrees to (i) cooperate with the Holder in the Holder's preparing and making any such submission or application for approval and any responses to inquiries of the FTC and DOJ or such other governmental authority; and (ii) prepare and make any submission or application required to be filed by the Company under the HSR Act or such other applicable law and respond to inquiries of the FTC and DOJ or such other governmental authority in connection therewith, and (b) the Holder agrees to not exercise any portion of this Warrant as to which HSR Approval or such other governmental approval is required prior to the receipt of HSR Approval or such other required governmental approval. The Company shall bear, or reimburse the Holder for, any necessary filing fees and all of the Holder's reasonable costs and expenses in connection with such submission, including any of its attorneys' fees associated therewith.

(j) *Taxes*. The Company shall be responsible for paying all present or future stamp, court or documentary, intangible, recording, filing or similar taxes that arise from the execution or delivery of, or the Company's performance of this Agreement; *provided* that the Company shall not be required to pay any tax which may be payable in respect of any transfer and the issuance and delivery of any Ordinary Shares in a name other than that of the initial Holder.

3. Payment of Warrant Exercise Price for Cash Exercise or Cashless Exercise.

(a) *Exercise Price*. The exercise price shall initially equal $0.01 per share, subject to adjustment pursuant to the terms hereof (as so adjusted, the "***Exercise Price***"), including but not limited to Section 5 below.

Payment of the Exercise Price may be made by any of the following, or a combination thereof, at the election of the Holder:

(i) Cash Exercise: The Holder may pay all or any portion of the Exercise Price in cash, bank or cashier's check or wire transfer (a "***Cash Exercise***"); or

(ii) Cashless Exercise: In lieu of paying all or any portion of the Exercise Price in cash, the Holder, at its option, may exercise this Warrant (in whole or in part) on a cashless basis by making appropriate notation on the applicable Exercise Form in which event the Company shall issue to the Holder a number of Ordinary Shares computed using the following formula (a "***Cashless Exercise***"):

$$X = Y [(A-B)/A]$$

where: X = the number of Ordinary Shares to be issued to the Holder.

Y = the number of Ordinary Shares for which this Warrant is being Exercised.

A = the Market Price of one Ordinary Share (for purposes of this Section 1.1(a)(ii)), where "Market Price," as of any date, means the arithmetic average of the VWAP of the Company's Ordinary Shares on each of the ten (10) consecutive Trading Days immediately preceding the Date of Exercise, or other date in question, as applicable.

B = the Exercise Price.

As used herein, the "***VWAP***" means, for any Trading Day, the per share volume-weighted average price of the Ordinary Shares as displayed under the heading "Bloomberg VWAP" on Bloomberg page identified by "MAXN" (or such other ticker symbol for such Ordinary Shares) appended by the suffix "<EQUITY> AQR" (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such Trading Day (or, if such volume- weighted average price is unavailable, the market value of one Ordinary Share on such Trading Day, reasonably determined, using a volume-weighted average price method, by a nationally recognized independent investment banking firm selected by the Company. The VWAP will be determined without regard to after-hours trading or any other trading outside of the regular trading session.

For purposes of Rule 144 and subsection (d)(3)(ii) thereof, it is intended, understood and acknowledged that the Ordinary Shares issuable upon Exercise of this Warrant in a Cashless Exercise shall be deemed to have been acquired, and the holding period thereof shall be deemed to have commenced, at the time this Warrant was issued. As provided in Section 1.1(b), the Holder shall only be required to physically surrender this Warrant in the event that the Holder is exercising this Warrant in full.

(b) *Dispute Resolution*. In the case of a dispute as to the determination of the closing price or the VWAP of the Company's Ordinary Shares, the Company shall submit the disputed determinations or arithmetic calculations via electronic mail within two Trading Days of receipt, or deemed receipt, of the Exercise Form, or other event giving rise to such dispute, as the case may be, to the Holder. If the Holder and the Company are unable to agree upon such determination or calculation within two Trading Days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Company shall, within two Trading Days, submit via electronic mail the disputed determination of the closing price or the VWAP of the Company's Ordinary Shares to an independent, reputable investment bank selected by the Company and approved by the Holder, which approval shall not be unreasonably withheld. The Company shall use its reasonable best efforts to cause the investment bank to perform the determinations or calculations and notify the Company and the Holder of the results no later than five Trading Days from the time it receives the disputed determinations or calculations. Such investment bank's determination shall be binding upon all parties absent demonstrable error, and the Company and Holder shall each pay one half of the fees and costs of such investment bank.

For the avoidance of doubt, in the event that a dispute referred to in this Section 3(b) occurs and is continuing, the Company may suspend its obligations to issue and deliver any Exercise Share within the relevant Delivery Period pursuant to Section 2(c). If so suspended, the Company shall resume performing such obligations to issue and deliver the relevant Exercise Shares within the relevant Delivery Period starting from the date that a binding resolution of such dispute is reached in accordance with Section 3(b) (such date, the "**Resolution Date**"), as if such date is the relevant Date of Exercise for the purpose of calculating the relevant Delivery Period. Notwithstanding the existence of a dispute contemplated by this paragraph, if requested by the Holder, the Company shall issue to the Holder the Exercise Shares, if any, that are not in dispute in accordance with the terms hereof.

4. Transfer and Registration.

(a) *Transfer Rights*. Subject to the provisions of Section 8, this Warrant may be transferred on the books of the Company, in whole or in part, upon surrender of this Warrant properly completed and endorsed. Subject to the provisions of Section 8, this Warrant shall be canceled upon such surrender and, as soon as practicable thereafter, the person to whom such transfer is made shall be entitled to receive a new Warrant or Warrants as to the portion of this Warrant transferred, and the Holder shall be entitled to receive a new Warrant as to the portion hereof retained, if any.

(b) *Registrable Securities*. The Ordinary Shares issuable upon Exercise of this Warrant entitles the Holder (and applicable assignees or transferees of this Warrant and/or Ordinary Shares issuable upon Exercise of this Warrant) to registration and other rights in respect of the Ordinary Shares issuable upon Exercise of this Warrant pursuant to the A&R Registration Rights Agreement.

5. Adjustments Upon Certain Events.

(a) *Recapitalization or Reclassification*. If, following the Date of Issuance, the Company shall at any time effect any subdivision of outstanding Ordinary Shares (by any share split, share dividend, recapitalization or otherwise), combination of outstanding Ordinary Shares (by consolidation, combination, reverse share split or otherwise), reclassification or other similar transaction of such character that Ordinary Shares shall be changed into or become exchangeable for a larger or smaller number of shares (a "***Share Event***"), then upon the effective date thereof, (i) the number of Ordinary Shares which the Holder shall be entitled to purchase upon Exercise of this Warrant shall be increased or decreased, as the case may be, in direct proportion to the increase or decrease in the number of Ordinary Shares by reason of such Share Event, and (ii) in the case of an increase in the number of shares, the Exercise Price shall be proportionally decreased. The Company shall give the Holder the same notice it provides to holders of Ordinary Shares of any transaction described in this Section 5(a).

(b) *Fundamental Transaction*. If, at any time while this Warrant is outstanding, the Company effects a Fundamental Transaction, then following such Fundamental Transaction the Holder shall have the right to receive, upon exercise of this Warrant, the same amount and kind of securities, cash or property as it would have been entitled to receive upon the occurrence of such Fundamental Transaction if it had been, immediately prior to such Fundamental Transaction, the holder of the number of Ordinary Shares then issuable upon exercise in full of this Warrant (the "***Alternate Consideration***"). The Company shall not effect any Fundamental Transaction in which the Company is not the surviving entity or the Alternate Consideration includes securities of another Person unless (i) the Alternate Consideration is solely cash and the Company provides for the simultaneous "cashless exercise" of this Warrant pursuant to Section 3(ii) above or (ii) prior to or simultaneously with the consummation thereof, any successor to the Company, surviving entity or other Person (including any purchaser of assets of the Company) shall assume the obligation to deliver to the Holder such Alternate Consideration as, in accordance with the foregoing provisions, the Holder may be entitled to receive, and the other obligations under this Warrant. The provisions of this Section 5(b) shall similarly apply to subsequent transactions analogous of a Fundamental Transaction type.

(c) *Exercise Price Adjusted.* As used in this Warrant, the term "**Exercise Price**" shall mean the purchase price per share specified in Section 3(a) of this Warrant, until the occurrence of an event resulting in an adjustment to the Exercise Price as stated in this Section 5 or otherwise set forth in this Warrant, and thereafter shall mean said price as adjusted from time to time in accordance with the provisions of this Section 5. No adjustment made pursuant to any provision of this Section 5 shall have the net effect of increasing the Exercise Price.

(d) *Additional Shares, Securities or Assets*. In the event that at any time, as a result of an adjustment made pursuant to this Section 5 or otherwise, the Holder shall, upon Exercise of this Warrant, become entitled to receive shares and/or other securities or assets (other than Ordinary Shares) then, wherever appropriate, all references herein to Ordinary Shares shall be deemed to refer to and include such shares and/or other securities or assets; and thereafter the number of such shares and/or other securities or assets shall be subject to adjustment from time to time in a manner and upon terms as nearly equivalent as practicable to the provisions of this Section 5.

(e) *Notice of Adjustments*. Whenever the Exercise Price and/or number or type of securities issuable upon Exercise is adjusted pursuant to the terms of this Warrant, the Company shall promptly deliver to the Holder a notice (an "***Exercise Price Adjustment Notice***") setting forth the Exercise Price and/or number or type of securities issuable upon Exercise after such adjustment and setting forth a statement of the facts requiring such adjustment. The Company shall, upon the written request at any time of the Holder, furnish to the Holder a like Warrant setting forth (i) such adjustment or readjustment, (ii) the Exercise Price at the time in effect and (iii) the number of Ordinary Shares and the amount, if any, of other securities or property which at the time would be received upon Exercise of the Warrant. For purposes of clarification, whether or not the Company provides an Exercise Price Adjustment Notice pursuant to this Section 5(e), upon the occurrence of any event that leads to an adjustment of the Exercise Price, the Holder shall be entitled to receive a number of Exercise Shares based upon the new Exercise Price, as adjusted, for exercises occurring on or after the date of such adjustment, regardless of whether the Holder accurately refers to the then-current Exercise Price in the Exercise Form.

(f) *Choice of Consideration*. If holders of Ordinary Shares are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then Holder shall be given the same choice as to the type of consideration it receives upon any Exercise of this Warrant in connection with such Fundamental Transaction.

6. Fractional Interests.

No fractional shares or scrip representing fractional shares shall be issuable upon the Exercise of this Warrant, but on Exercise of this Warrant, the Holder may purchase only a whole number of Ordinary Shares. If, on Exercise of this Warrant, the Holder would be entitled to a fractional share of Ordinary Shares or a right to acquire a fractional share of Ordinary Shares, such fractional share shall be disregarded and the number of Ordinary Shares issuable upon Exercise shall be the next higher whole number of shares.

7. Ordinary Shares issued at the exercise of the Warrant.

All Ordinary Shares (or other securities substituted therefor as provided herein above) to be issued upon the exercise of all or any portion of the Warrant, shall be duly and validly issued, fully paid and not subject to preemptive rights, rights of first refusal or similar rights of any Person. The Company covenants and agrees that all Ordinary Shares issuable upon Exercise of this Warrant shall be approved for listing on NASDAQ, or, if that is not the principal trading market for the Ordinary Shares, such principal market on which the Ordinary Shares are traded or listed. The Company shall use commercially reasonable efforts to take all such actions as may be necessary to assure that all Ordinary Shares issuable upon Exercise may be so issued without violating the Company's governing documents, any requirement of law or any requirement of NASDAQ or any other national securities exchange upon which the Ordinary Shares may be listed.

8. Restrictions on Transfer.

(a) *Registration or Exemption Required*. This Warrant has been issued in a transaction exempt from the registration requirements of the Securities Act by virtue of Regulation D and exempt from state registration or qualification under applicable state securities (or "blue sky") laws and under Section 275(1A), of the SFA and in accordance with the conditions specified in Section 275 of the SFA. None of the Warrant or the Exercise Shares may be transferred, sold or assigned except (i) in compliance with the applicable resale and transfer restrictions specified in the SFA, including Section 276, (ii) to the Company, its parent or any subsidiary thereof, (iii) pursuant to an effective registration statement or an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and applicable state laws.

(b) *Assignment*. This Warrant may not be assigned by the Company without the written consent of the Holder, except to a successor in the event of a Fundamental Transaction. Subject to Section 1.1(a), the Holder may sell, transfer, assign, pledge, or otherwise dispose of this Warrant, in whole or in part, *provided* that the Holder shall not sell, transfer, assign, pledge, or otherwise dispose of this Warrant, in whole or in part to a Sanctioned Person. The Holder shall deliver a written notice to the Company, substantially in the form of the Assignment attached hereto as Exhibit B, indicating the Person or Persons to whom the Warrant shall be assigned and the respective number of warrants to be assigned to each assignee. Subject to the last two sentences of this paragraph, the Company shall effect the assignment within three Trading Days (the "Transfer Delivery Period"), and shall deliver to the assignee(s) designated by the Holder a Warrant or Warrants of like tenor and terms entitling the assignee(s) to purchase the appropriate number of shares. This Warrant and the rights evidenced hereby shall inure to the benefit of and be binding upon the successors and assigns of the Holder. The provisions of this Warrant are intended to be for the benefit of all Holders from time to time of this Warrant, and shall be enforceable by any such Holder. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company unless the Holder has assigned this Warrant in full, in which case, the Holder shall surrender this Warrant to the Company within three Trading Days of the date on which the Holder delivers an Assignment form to the Company assigning this Warrant in full. Notwithstanding anything herein to the contrary, this Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Exercise Shares immediately upon effectiveness of such assignment without having a new Warrant issued.

9. Non-circumvention.

The Company hereby covenants and agrees that the Company will not, by amendment of its constitutional documents or through any reorganization, transfer of assets, consolidation, merger, scheme of arrangement, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, and will at all times in good faith carry out all the provisions of this Warrant and take all action as may be required to protect the rights of the Holder. Without limiting the generality of the foregoing, the Company (i) shall not increase the par value of any Ordinary Shares receivable upon the exercise of this Warrant above the Exercise Price then in effect, and (ii) shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Ordinary Shares upon the exercise of this Warrant.

10. Benefits of this Warrant.

Nothing in this Warrant shall be construed to confer upon any person other than the Company and the Holder any legal or equitable right, remedy or claim under this Warrant, and this Warrant shall be for the sole and exclusive benefit of the Company and the Holder.

11. No Rights as a Shareholder.

Except as otherwise set forth in this Warrant, the Holder, solely in such Person's capacity as a holder of this Warrant, shall not be entitled to vote or be deemed the holder of share capital of the Company for any purpose, nor shall anything contained in this Warrant be construed to confer upon the Holder, solely in such Person's capacity as the Holder of this Warrant, any of the rights of a shareholder of the Company or any right to vote, give or withhold consent to any corporate action (whether any reorganization, issue of shares, reclassification of shares, consolidation, merger, amalgamation, conveyance or otherwise), receive notice of meetings, or otherwise, prior to the issuance to the Holder of the Exercise Shares which such Person is then entitled to receive upon the due exercise of this Warrant. In addition, nothing contained in this Warrant shall be construed as imposing any liabilities on the Holder to purchase any securities (upon exercise of this Warrant or otherwise) or as a shareholder of the Company, whether such liabilities are asserted by the Company or by creditors of the Company.

12. Governing Law; Process Agents.

This Agreement and all matters concerning the construction, validity, enforcement and interpretation hereof or otherwise relating hereto shall be governed by and construed in accordance with the internal laws of the State of New York. Each party agrees that all legal proceedings concerning the interpretation, enforcement or defense of the transactions contemplated by this Agreement or otherwise arising hereunder or relating hereto (whether brought against a party hereto or its respective affiliates, directors, officers, stockholders, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York, borough of Manhattan. Each party hereby irrevocably submits to the non-exclusive jurisdiction of the state and federal courts sitting in the City of New York, borough of Manhattan for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is improper or is an inconvenient venue for such proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. **THE PARTIES HEREBY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF, THIS AGREEMENT AND ANY TRANSACTIONS CONTEMPLATED. THIS WAIVER APPLIES TO ANY ACTION, SUIT OR PROCEEDING WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE.**

The Company hereby agrees to irrevocably designate and appoint Corporation Service Company, as its agent for service of process (together with any successor appointment below, the "**Company Process Agent**") on or before the date of this Warrant in any suit, action or proceeding described in the preceding paragraph and agrees that service of process in any such suit, action or proceeding may be made upon it at the office of such then current Company Process Agent and such service shall be deemed in every respect effective service of process upon the Company in any such suit or proceeding. The Company waives, to the fullest extent permitted by law, any other requirements of or objections to personal jurisdiction with respect thereto. The Company represents and warrants that such agent has agreed to act as the Company's agent for service of process, and the Company agrees to take any and all action, including the filing of any and all documents and instruments, that may be necessary to continue such appointment in full force and effect.

The Holder hereby agrees to irrevocably designate and appoint Corporation Service Company, as its agent for service of process (together with any successor appointment below, the "**Holder Process Agent**") on or before the date of this Agreement in any suit, action or proceeding described in the preceding paragraph and agrees that service of process in any such suit, action or proceeding may be made upon it at the office of such then current Holder Process Agent and such service shall be deemed in every respect effective service of process upon the Holder in any such suit or proceeding. The Holder waives, to the fullest extent permitted by law, any other requirements of or objections to personal jurisdiction with respect thereto. The Holder represents and warrants that such agent has agreed to act as the Holder's agent for service of process, as the case may be, and the Holder agrees to take any and all action, including the filing of any and all documents and instruments, that may be necessary to continue such appointment in full force and effect.

13. Loss of Warrant.

Upon receipt by the Company of evidence of the loss, theft, destruction or mutilation of this Warrant, and (in the case of loss, theft or destruction) of indemnity or security reasonably satisfactory to the Company, and upon surrender and cancellation of this Warrant, if mutilated, the Company shall execute and deliver a new Warrant of like tenor and date.

14. Notice or Demands.

Except as otherwise provided herein, notices or demands pursuant to this Warrant, including, without limitation, an Exercise Form, shall be given in writing, (i) if delivered (a) from within the domestic United States, by U.S. Postal Service priority registered or certified airmail, or nationally recognized overnight express courier, postage prepaid or electronic mail or (b) from outside the United States, by International Federal Express or electronic mail, and (ii) will be deemed given (a) if delivered by U.S. Postal Service priority registered or certified mail domestic, three Business Days after so mailed, (b) if delivered by nationally recognized overnight carrier, one Business Day after so mailed, (c) if delivered by International Federal Express, two Business Days after so mailed, and (d) at the time of transmission, if delivered by electronic mail to the email address specified in this Section 14 prior to 5:00 p.m. (New York time) on a Trading Day, and will be delivered and addressed as follows:

If to the Company:

Maxeon Solar Technologies, Ltd.
8 Marina Boulevard #05-02
Marina Bay Financial Center, 018981
Singapore
Attention: Lindsey Wiedmann, Chief Legal Officer
Email: lindsey.wiedmann@maxeon.com

with copies (which shall not constitute notice) to:

White & Case
16th floor, York House, The Landmark
15 Queen's Road Central
Hong Kong
Attention: Jessica Zhou; Kaya Proudian
Email: jessica.zhou@whitecase.com; kproudian@whitecase.com

If to the Holder:

Zhonghuan Singapore Investment and Development Pte. Ltd.
c/o TCL Zhonghuan Renewable Energy Technology Co., Ltd.
No. 10 South Haitai Road, Huayuan Industrial Park,
Xiqing District, Tianjin, China 300384
Attention: REN Wei (Head of Investment Dept.); XIA Leon (Head of Legal Dept.)
Email: renwei@tjsemi.com; leon.xia@tjsemi.com
Tel +86 22 23789766
Fax: +86 22 23788321

with copies (which shall not constitute notice) to:

Paul Hastings LLP
200 Park Avenue
New York, NY 10166
Attention: Chris Guhin; Jeff Lowenthal
Email: chrisguhin@paulhastings.com; jefflowenthal@paulhastings.com

or at such other address or other contact information delivered by the Holder to Company from time to time or as is on the books and records of the Company.

15. Amendment; Waiver.

This Warrant and all other Warrants outstanding as of the date of any required consent, amendment or waiver may be amended and provisions hereof may be waived and any other required approvals or consents obtained, only by written consent of the Company and the Holder.

16. Construction.

Unless the context otherwise requires, (a) all references to Articles, Sections, Schedules or Exhibits are to Articles, Sections, Schedules or Exhibits contained in or attached to this Warrant, (b) words in the singular or plural include the singular and plural and pronouns stated in either the masculine, the feminine or neuter gender shall include the masculine, feminine and neuter and (c) the use of the word "including" in this Warrant shall be by way of example rather than limitation.

17. Signatures.

An electronic signature (including a ".pdf" or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) to this Warrant shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such electronic (including ".pdf") signature page were an original thereof. At the request of any party, each other party shall promptly re-execute an original form of this Warrant or any amendment hereto and deliver the same to the other party. No party hereto shall raise the use of an electronic signature to this Warrant or any amendment hereto or the fact that such signature was transmitted or communicated through the use of e-mail delivery as a defense to the formation or enforceability of a contract, and each party hereto forever waives any such defense.

[*Signature pages follow*]

IN WITNESS WHEREOF, the undersigned has executed this Warrant as of the twentieth (20th) day of June, 2024.

MAXEON SOLAR TECHNOLOGIES, LTD.

By: /s/ Kai Strohbecke
Print Name: Kai Strohbecke
Title: Authorized Signatory

EXHIBIT A

EXERCISE FORM FOR WARRANT

TO: [ ]

CHECK THE APPLICABLE BOX:

Cash Exercise or Cashless Exercise

☐ The undersigned hereby irrevocably exercises Warrant Number _____ (the "Warrant") with respect to [_____] Ordinary Shares (the "Ordinary Shares") of Maxeon Solar Technologies, Ltd., a company incorporated in Singapore with company registration number 201934268H (the "Company").

[IF APPLICABLE: The undersigned is delivering $_____ as payment of the Exercise Price.]

☐ This undersigned is exercising the Warrant with respect to [_____] Ordinary Shares pursuant to a Cashless Exercise, and is deemed to have made payment of the Exercise Price with respect to such shares in full, all in accordance with the conditions and provisions of the Warrant applicable to such Cashless Exercise.

Delivery of Exercise Shares

The undersigned requests that the Ordinary Shares issued pursuant to the terms of Warrant and this Exercise Form to be:

☐ credited to the undersigned's, or its designee's, DTC account (account number: [_____]); or

☐ in case of the certificates evidencing such Ordinary Shares, delivered to the undersigned's address at the address set forth below.

1. If requested by the undersigned, a warrant representing any unexercised portion hereof be issued, pursuant to the Warrant in the name of the undersigned and delivered to the undersigned at the address set forth below.

2. Capitalized terms used but not otherwise defined in this Exercise Form shall have the meaning ascribed thereto in the Warrant.

Dated:

_____

Signature

_____

Print Name

_____

Address

NOTICE

The signature to the foregoing Exercise Form must correspond to the name as written upon the face of the attached Warrant.

EXHIBIT B

ASSIGNMENT

(To be executed by the registered holder
desiring to transfer the Warrant)

FOR VALUE RECEIVED, the undersigned holder of the attached warrant (the "Warrant") hereby sells, assigns and transfers unto the person or persons below named (the "Transferee") the right to purchase _____ Ordinary Shares of Maxeon Solar Technologies, Ltd., a company incorporated in Singapore with company registration number 201934268H (the "Company"), evidenced by the attached Warrant and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Warrant on the books of the Company, with full power of substitution in the premises. The undersigned holder of the Warrant hereby represents and warrants to the Company that the Transferee is not a Sanctioned Person (as defined in the Warrant).

Dated:_____

_____
Signature

Fill in for new registration of Warrant:

_____
Name

_____
Address

_____
Please print name and address of assignee
(including zip code number)

NOTICE

The signature to the foregoing Assignment must correspond to the name as written upon the face of the attached Warrant.

Exhibit 99.6

AMENDED AND RESTATED REGISTRATION RIGHTS AGREEMENT

June 20, 2024

TABLE OF CONTENTS

AMENDED AND RESTATED REGISTRATION RIGHTS AGREEMENT

This AMENDED AND RESTATED REGISTRATION RIGHTS AGREEMENT (this "**Agreement**") is dated as of June 20, 2024 by and between Maxeon Solar Technologies, Ltd., a company incorporated in Singapore with company registration number 201934268H (the "**Company**") and Zhonghuan Singapore Investment and Development Pte. Ltd., a private company limited by shares incorporated under the laws of Singapore with company registration number 201939428H ("**TZE**"), and any other Person that becomes a party hereto by executing and delivering a joinder agreement in accordance with this Agreement.

RECITALS

WHEREAS, TZE and the Company entered into a registration rights agreement, dated August 17, 2022, (the "**Original RRA**") pursuant to which the Company granted certain registration rights to TZE for the Ordinary Shares (as defined below) into which the Company's 7.50% Convertible First Lien Senior Secured Notes due 2027 (the "**Existing First Lien Notes**") are convertible;

WHEREAS, pursuant to a convertible notes purchase agreement, dated as of May 30, 2024, by and among the Company and TZE (the "**Bridge NPA**"), TZE agreed to purchase US$25,000,000 in aggregate principal amount of the Company's Existing First Lien Notes (the "**Additional Existing First Lien Notes**");

WHEREAS, pursuant to a supplemental indenture dated June 20, 2024, by and among the Company, Deutsche Bank Trust Company Americas, as trustee, and DB Trustees (Hong Kong) Limited, as collateral trustee, the Company (i) amended the terms of the indenture governing the Existing First Lien Notes; and (ii) made the corresponding changes to the terms of the certificated note representing the Existing First Lien Notes, upon which the Existing First Lien Notes were amended to become the Company's Variable Rate Convertible First Lien Senior Secured Convertible Notes due 2029 (such amended notes, the "**Amended 2029 First Lien Notes**");

WHEREAS, pursuant to a securities purchase agreement, dated as of May 30, 2024, by and among the Company and TZE (the "**SPA**"), TZE agreed to purchase (i) $97,500,000 in aggregate principal amount of the Company's 9.00% Convertible First Lien Senior Secured Convertible Notes due 2029 (the "**New 2029 First Lien Notes**," and together with the Amended 2029 First Lien Notes, the "**First Lien Notes**"), $25,000,000 principal amount of which shall be issued in exchange for the Additional Existing First Lien Notes being issued to TZE pursuant to the Bridge NPA and (ii) a warrant of the Company, which entitles the holder thereof to purchase certain number of Ordinary Shares pursuant to the terms thereof each at an exercise price of $0.01 per share (the "**Warrant**");

WHEREAS, pursuant to a forward purchase agreement , dated as of June 14, 2024 (the "**FPA**"), by and between the Company and TZE. (in such capacity, the "**Forward Purchaser**"), the Forward Purchaser agreed to purchase certain Ordinary Shares for an aggregate purchase price of $100,000,000 (the "**FPA Shares**"), subject to the terms and conditions therein; and

WHEREAS, in consideration of the amendment of the Existing First Lien Notes and the Company's offer and sale and TZE's agreement to purchase the New 2029 First Lien Notes, the Warrant pursuant to the SPA and the FPA Shares under the FPA, the Company and TZE desire to amend and restate the Original RRA in its entirety .

NOW, THEREFORE, in consideration of the covenants and promises to set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 **Certain Definitions.** As used in this Agreement, the following terms shall have the meanings set forth below:

(a) "**Adverse Disclosure**" means public disclosure of material non-public information that, in the reasonable good faith judgment of the Independent Directors serving on the Board, after consultation with independent outside counsel to the Company, (i) would be required to be made in any registration statement filed with the Commission by the Company so that such registration statement would not be materially misleading; (ii) would not be required to be made at such time but for the filing, effectiveness or continued use of such registration statement; and (iii) would have a material adverse effect on (A) the Company or its business or (B) the Company's ability to effect a proposed acquisition, disposition, financing, reorganization, recapitalization or other transaction involving the Company.

(b) "**Affiliate**" means, as to any Person, any other Person or entity who directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such Person. As used in this definition, the term "control," including the correlative terms "controlling," "controlled by" and "under common control with," means possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or any partnership or other ownership interest, by contract or otherwise) of a Person.

(c) "**Agreement**" shall have the meaning set forth in the Preamble.

(d) "**Amended 2029 First Lien Notes**" shall have the meaning given to such term in the Recitals.

(e) "**Board**" means the board of directors of the Company.

(f) "**Business Day**" means each day other than a Saturday, Sunday or any other day when commercial banks in (i) New York, New York, (ii) Beijing, People's Republic of China or (iii) Singapore are authorized or required by law to close.

(g) "**Commission**" means the U.S. Securities and Exchange Commission or any other federal agency at the time administering the Securities Act.

(h) "**Commission Guidance**" means any publicly-available written or oral guidance, comments, requirements or requests of the Commission staff.

(i) "**Company**" shall have the meaning set forth in the Preamble and includes the Company's successors by merger, acquisition, reorganization or otherwise.

(j) "**Conversion Shares**" means the Ordinary Shares issued or issuable upon the conversion of any Amended 2029 First Lien Notes or any New 2029 First Lien Notes.

(k) "**Effectiveness Period**" shall have the meaning set forth in **Section 2.1(d)**.

(l) "**Electronic Delivery**" shall have the meaning set forth in **Section 3.8**.

(m) "**Exchange Act**" means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

(n) "**Existing First Lien Notes**" shall have the meaning given to such term in the Recitals.

(o) "**First Lien Notes**" shall have the meaning given to such term in the Recitals.

(p) "**Forward Purchaser**" shall have the meaning given to such term in the Recitals.

(q) "**FPA**" shall have the meaning given to such term in the Recitals.

(r) "**FPA Shares**" shall have the meaning given to such term in the Recitals.

(s) "**Holder**" or "**Holders**" means TZE and any other Person (other than the Company) that becomes a party hereto by executing and delivering a joinder agreement in accordance with this Agreement. A Person shall cease to be a Holder hereunder at such time as it ceases to hold any Registrable Securities.

(t) "**Indemnified Party**" shall have the meaning set forth in **Section 2.6(c)**.

(u) "**Indemnifying Party**" shall have the meaning set forth in **Section 2.6(c)**.

(v) "**Independent Director**" means a director of the Company that satisfies both (i) any requirements to qualify as an "independent director" under the rules of any stock exchange or stock market on which the Ordinary Shares are then currently listed and (ii) the independence criteria set forth in Rule 10A-3 under the Exchange Act, for so long as such rule is applicable to the Company.

(w) "**Interest Payment Shares**" means the Ordinary Shares issued in payment of interest pursuant to the terms of the Existing First Lien Notes.

(x) "**Loss**" and "**Losses**" shall have the meaning set forth in **Section 2.6(a)**.

(y) "**New 2029 First Lien Notes**" shall have the meaning given to such term in the Recitals.

(z) "**Ordinary Shares**" means the ordinary shares of the Company, no par value per share.

(aa) "**Other Registration Rights Agreement**" means the Registration Rights Agreement, dated August 26, 2020, by and among the Company, TZE, Total Gaz Electricité Holdings France SAS and Total Solar INTL SAS.

(bb) "**Original RRA**" shall have the meaning given to such term in the Recitals.

(cc) "**Person**" means any natural person, company, partnership, limited liability company, firm, association, trust, government, governmental agency or other entity, whether acting in an individual, fiduciary or other capacity.

(dd) "**Prospectus**" means the prospectus included in any registration statement (including, without limitation, a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated under the Securities Act), all amendments and supplements to such prospectus, including pre- and post-effective amendments to such registration statement, and all other material incorporated by reference or deemed to be incorporated by reference in such prospectus.

(ee) "**Registrable Securities**" shall mean (i) the Conversion Shares issued or issuable upon the conversion of the Amended 2029 First Lien Notes, (ii) the Interest Payment Shares issued pursuant to the terms of the Existing First Lien Notes; (iii) the Conversion Shares issued or issuable upon the conversion of the New 2029 First Lien Notes, (iv) the FPA Shares; and (v) the Warrant Shares, in each case and any securities into or for which such securities have been converted or exchanged, and any security issued with respect thereto upon any stock dividend, split or similar event; provided, however, that the securities described in this definition shall cease to be Registrable Securities at the earliest to occur of (i) the Shelf Registration Statement with respect to such securities shall have been declared effective under the Securities Act and such securities shall have been disposed of pursuant to such Shelf Registration Statement, (ii) such securities shall have ceased to be outstanding, (iii) such securities may be sold by the applicable Holder pursuant to the provisions of Rule 144 without volume or manner-of-sale restrictions pursuant to Rule 144 and as to which any legend restricting further transfer with regard to such securities has been removed or (iv) such securities have been sold in a private transaction in which the transferor's rights pursuant to this Agreement are not validly transferred or assigned in accordance with this Agreement.

(ff) The terms "**register**" "**registered**" and "**registration**" shall refer to a registration effected by preparing and filing a registration statement in compliance with the Securities Act, and the declaration or ordering of the effectiveness of such registration statement.

(gg) "**Registration Expenses**" means all expenses incurred in effecting any registration pursuant to this Agreement, including all registration, qualification and filing fees; printing, duplication, messenger and delivery expenses; escrow fees; fees and disbursements of counsel for the Company and one independent counsel for the Holders (not to exceed $50,000, or $100,000 in the case of an underwritten offering); all fees, expenses and disbursements of independent certified public accountants of the Company (including the expenses of any special audit and "cold comfort" letters required by or incident to such performance); all fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange or quotation of the Registrable Securities on any inter-dealer quotation system; blue sky fees and expenses; all fees and expenses of underwriters customarily paid by the issuers or sellers of securities and all fees and expenses of any special experts or other persons retained by the Company in connection with any registration; and all of the Company's internal expenses (including all salaries and expenses of its officers and employees performing legal or accounting duties), but shall not include Selling Expenses.

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

(ii) "**Rule 415**" means Rule 415 as promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such Rule.

(jj) "**Rule 424**" means Rule 424 as promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such Rule.

(kk) "**Securities Act**" means the U.S. Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

(ll) "**Selling Expenses**" means all underwriting discounts, selling commissions and stock transfer taxes applicable to the sale of Registrable Securities.

(mm) "**Shareholders Agreement**" means the Shareholders Agreement, dated as of August 26, 2020, by and among the Company, TZE and Total Gaz Electricité Holdings France SAS and Total Solar INTL SAS, as amended from time to time.

(nn) "**Shelf Registration Statement**" means a registration statement of the Company filed with the Commission in accordance with the Securities Act for an offering to be made on a continuous or delayed basis pursuant to Rule 415 covering all Registrable Securities.

(oo) "**SPA**" shall have the meaning given to such term in the Recitals.

(pp) "**Suspension**" shall have the meaning set forth in **Section 2.2(a)**.

(qq) "**TZE**" shall have the meaning set forth in the Preamble.

(rr) "**TZE Registration Statement**" shall have the meaning set forth in **Section 2.1(a)**.

(ss) "**U.S.**" means the United States of America.

(tt) "**Warrant Shares**" means the Ordinary Shares issued or issuable upon the exercise of all or part of the Warrant.

ARTICLE II

REGISTRATION RIGHTS

Section 2.1 **Shelf Registration.**

(a) Filing and Initial Effectiveness. At any time and from time to time on or after the date hereof, TZE may make a written demand for Registration under the Securities Act of all of its Registrable Securities (the "**Written Demand**"). The Company shall prepare and file with the Commission a Shelf Registration Statement covering the resale of all of the Registrable Securities no later than 90 days after the receipt of the Written Demand and shall use its reasonable best efforts to cause such Shelf Registration Statement to be declared effective pursuant to the Securities Act as soon as practical after the filing thereof (such Shelf Registration Statement, including any amendments or supplements thereto or additional registration statements pursuant to **Section 2.1(b)**, the "**TZE Registration Statement**"), *provided* that no Registrable Securities that are then subject to an effective registration statement shall be required to be included therein. The TZE Registration Statement shall contain (except if otherwise reasonably directed by TZE) the "Plan of Distribution" in substantially the form attached hereto as Annex A.

(b) Rule 415; Cutback. In the event that the Commission does not permit the Company to register in a single Shelf Registration Statement all of the Registrable Securities in a secondary offering, the Company shall promptly notify each of the Holders thereof and amend such registration statement to register such maximum portion as permitted by Commission Guidance, including such guidance pertaining to Rule 415. In the event of a cutback pursuant to this **Section 2.1(b)**, the Company shall file and cause to become effective with the Commission, as promptly as allowed by Commission or Commission Guidance, one or more registration statements to register for resale those Registrable Securities that were not previously registered for resale.

(c) Form of Shelf Registration. The TZE Registration Statement shall be on Form F-3 (or, if the Company is not eligible to file the TZE Registration Statement on Form F-3, on Form F-1 (or any successor form or other appropriate form as is available for such a registration under the Securities Act)).

(d) Continued Effectiveness. The Company shall use its reasonable best efforts to keep the TZE Registration Statement continuously effective pursuant to the Securities Act (including filing post-effective amendments, appropriate qualifications pursuant to applicable blue sky or other state securities laws, and appropriate compliance with the Securities Act) in order to permit the sales of all of the Registrable Securities pursuant to the TZE Registration Statement on any day after the TZE Registration Statement has been declared effective by the Commission, for so long as the securities registered under the TZE Registration Statement continue to constitute Registrable Securities under this Agreement (the **"Effectiveness Period**"). If the TZE Registration Statement (for purposes of this **Section 2.1(d)**, including any other registration statements filed pursuant to **Section 2.1(b)** or this **Section 2.1(d)**, as applicable) ceases to be effective (including when the sales of all of the Registrable Securities included in such registration statement cannot be made pursuant to such registration statement on any day after it has first been declared effective by the Commission), the Company shall promptly notify each of the Holders thereof and shall file with the Commission another Shelf Registration Statement on an appropriate form within 20 Business Days and shall cause such Shelf Registration Statement to be declared effective pursuant to the Securities Act as promptly as possible following the initial filing of such Shelf Registration Statement with the Commission.

(e) Sale Notice. In the event that any Holder or group of Holders notifies the Company in writing that it wishes to sell Registrable Securities pursuant to the TZE Registration Statement, the Company shall use its reasonable best efforts to facilitate the sale and distribution of all or such portion of such Registrable Securities as are specified in such notice as soon as practicable, *provided* that the Company shall not be obligated to effect, or to take any action to effect, any sale of Registrable Securities:

(i) in case such sale is proposed to be done by means of an underwritten offering, if the aggregate net proceeds from such sale are expected to be less than $50,000,000;

(ii) in any jurisdiction in which the Company would be required to execute a general consent to service of process in effecting such registration, qualification or compliance, unless the Company is already subject to service of process in such jurisdiction and except as may be required by the Securities Act, or in which it would become subject to any material tax; or

(iii) if such sale of any Registrable Securities would cause the Holder requesting to sell such Registrable Securities or the Company to be in violation of the Shareholders Agreement, the Company's constitutional documents or applicable law.

Section 2.2 **Additional Provisions Applicable to Sales Pursuant to TZE Registration Statement.**

(a) Suspension of Registration. Notwithstanding the provisions of **Section 2.1**, if at any time the filing, initial effectiveness or continued use of the TZE Registration Statement would require the Company to make an Adverse Disclosure, the Company acting through the Independent Directors, may, upon giving written notice thereof to each Holder, delay the filing or initial effectiveness of, or suspend the use of, such registration statement (a "**Suspension**"), *provided* that the Company shall not be permitted to exercise a Suspension for a period exceeding an aggregate of 90 days in any 12-month period. In the case of a Suspension, each Holder agrees to suspend use of the applicable Prospectus in connection with any sale or purchase of, or offer to sell or purchase, Registrable Securities promptly upon receipt of the notice referred to above until it is advised in writing by the Company that the Prospectus may be used. Upon termination of any Suspension, the Company shall promptly (A) notify each Holder, (B) amend or supplement the Prospectus, if necessary, so that it does not contain any untrue statement of a material fact contained or incorporated by reference therein or any omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and (C) furnish to each Holder such number of copies of the Prospectus as so amended or supplemented as such Holder may reasonably request.

(b) [Reserved].

(c) Underwriting.

(i) If any Holder or group of Holders intends to sell Registrable Securities pursuant to the TZE Registration Statement by means of an underwritten offering, it shall so advise the Company in writing. Subject to **Section 2.1(e)** and **Section 2.6**, such Holder or group of Holders and the Company shall enter into an underwriting agreement in customary form with the managing underwriter selected for such underwriting by such Holder or group of Holders after consultation with the Company, which managing underwriter shall be reasonably acceptable to the Company.

(ii) Within 10 days after receiving a request for an underwritten offering meeting the requirements of **Section 2.1(e)**, the Company shall give written notice of such request to each other Holder and shall, subject to the provisions hereof, include in such underwritten offering all such Registrable Securities with respect to which the Company has received written requests for inclusion therein within 20 days after the Company's giving of such notice; *provided*, *however*, that such Registrable Securities are not already covered by an existing and effective TZE Registration Statement that may be utilized for the offering and sale of the Registrable Securities requested to be registered in the manner so requested.

(iii) The price, underwriting discount and other financial terms for any underwritten offering of Registrable Securities pursuant to the TZE Registration Statement shall be determined by the Holder or group of Holders participating in such underwritten offering.

(iv) The provisions of **Section 2.2(a)** shall be applicable to any underwritten offering pursuant to this **Section 2.2(c)**.

Section 2.3 **Expenses of Registration.** Except as specifically provided in this Agreement, all Registration Expenses incurred in connection with the TZE Registration Statement shall be borne by the Company. In addition, if and to the extent applicable in connection with any underwritten offering meeting the requirements of **Section 2.1(e)**, any Holder or group of Holders participating in such underwritten offering refuses to enter into an underwriting agreement with any underwriter in form reasonably necessary to effect the offer and sale of Registrable Securities and such form, at the time of such refusal complies with the terms of this Agreement, and as a result such underwritten offering is not consummated, then the Company shall not be required to pay any Registration Expenses incurred in connection with such underwritten offering (and such Holder or group of Holders shall reimburse the Company for such Registration Expenses) unless such withdrawal is the result of an adverse event occurring at the Company not known to such Holder or group of Holders at the time of such underwritten offering. All Selling Expenses incurred in connection with any sales pursuant to the TZE Registration Statement, including any underwritten offering, shall be borne by such Holder or group of Holders, as applicable.

Section 2.4 **Registration Procedures.** In the case of each registration effected by the Company pursuant to this **Article II**, the Company will use its reasonable best efforts to effect such registration to permit the sale of securities in accordance with the intended method or methods of distribution thereof as expeditiously as reasonably practicable and will keep the Holders advised on a reasonably current basis as to the initiation of each registration and as to the completion thereof. At its expense, the Company will use its reasonable best efforts to:

(a) Prepare the required TZE Registration Statement, including all exhibits and financial statements required pursuant to the Securities Act to be filed therewith, and before filing such registration statement, or any amendments or supplements thereto, or Prospectus, furnish to the Holder or group of Holders copies of all documents prepared to be filed, which documents shall be subject to the review of, the Holder or group of Holders and their respective counsel;

(b) (i) Prepare and file with the Commission such amendments, including post-effective amendments, to the TZE Registration Statement and the Prospectus used in connection therewith as may be necessary to keep the TZE Registration Statement continuously effective as to the Registrable Securities for the Effectiveness Period, (ii) prepare and file with the Commission as promptly as practicable any additional registration statements as may be necessary in order to register for resale under the Securities Act all of the Registrable Securities, (iii) cause any related Prospectus to be amended or supplemented by any required Prospectus supplement (subject to the terms of this Agreement), and, as so supplemented or amended, to be filed pursuant to Rule 424, (iv) respond as promptly as reasonably possible to any comments received from the Commission with respect to a Registration Statement or any amendment thereto, and (v) comply in all material respects with the provisions of the Securities Act and the Exchange Act with respect to the disposition of all Registrable Securities covered by the TZE Registration Statement during the applicable period in accordance (subject to the terms of this Agreement) with the intended methods of disposition by the Holders thereof as set forth in the TZE Registration Statement.

(c) Furnish to the Holder or group of Holders and each underwriter, if any, without charge, as many conformed copies as such Holder or group of Holders or any underwriter may reasonably request of the TZE Registration Statement and any amendment or post-effective amendment thereto, including financial statements and schedules, all documents incorporated therein by reference and all exhibits (including those incorporated by reference);

(d) Furnish, without charge, such number of Prospectuses, including any preliminary Prospectuses, and other documents incident thereto, including any amendment of or supplement to the Prospectus, as the Holder or group of Holders may from time-to-time reasonably request;

(e) On or prior to the date on which the TZE Registration Statement is declared effective, to the extent required by applicable law, register and qualify the securities covered by such registration statement pursuant to the securities or blue sky laws of each jurisdiction as shall be reasonably requested by the Holder or group of Holders; *provided*, *however*, that the Company shall not be required in connection therewith or as a condition thereto to qualify to do business or to file a general consent to service of process in any such states or jurisdictions where it is not then so subject;

(f) Notify the Holder or group of Holders and the managing underwriter, if any, and (if requested) confirm such advice in writing and provide copies of the relevant documents, as soon as reasonably practicable after notice thereof is received by the Company, (i) when the TZE Registration Statement, or any amendment or supplement thereto, has been filed or becomes effective and when the applicable Prospectus has been filed; and (ii) of any written comments by the Commission or any request by the Commission or any other federal or state governmental authority or regulatory authority for amendments or supplements to the TZE Registration Statement or the Prospectus or for additional information;

(g) Promptly notify the Holder or group of Holders (i) of the issuance by the Commission of any stop order suspending the effectiveness of the TZE Registration Statement or any order by the Commission or any other federal or state governmental authority or regulatory authority preventing or suspending the use of any preliminary or final Prospectus or the initiation, or written threatened initiation, of any proceedings for such purposes; (ii) of the receipt by the Company of any notification with respect to the suspension of the qualification of the securities so registered for offering or sale in any jurisdiction or the initiation, or written threatened initiation, of any proceeding for such purpose; and (iii) at any time when a Prospectus relating to the TZE Registration Statement is required to be delivered pursuant to the Securities Act of the occurrence of any event as a result of which the Prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein in light of the circumstances under which they were made, not misleading, and following such notification promptly prepare and furnish to the Holder or group of Holders a reasonable number of copies of a supplement to, or an amendment of, such Prospectus as may be necessary so that, as thereafter delivered to the purchasers of such securities, such Prospectus shall not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein in light of the circumstances under which they were made not misleading;

(h) Prevent or obtain the withdrawal of any stop order or other order suspending the use of any preliminary or final Prospectus;

(i) Promptly incorporate in a Prospectus supplement or post-effective amendment such information as the managing underwriter and the Holder or group of Holders agree should be included therein relating to the plan of distribution with respect to such securities, and make all required filings of such Prospectus supplement or post-effective amendment as soon as reasonably practicable after being notified of the matters to be incorporated in such Prospectus supplement or post-effective amendment;

(j) Cooperate with the Holder or group of Holders and the managing underwriter, if any, to facilitate the timely preparation and delivery of certificates representing securities to be sold that are in a form eligible for deposit with The Depository Trust Company and that do not bear any restrictive legends, and enable such securities to be in such denominations and registered in such names as the managing underwriter may request at least two Business Days prior to any sale of securities in any underwritten offering that meets the requirements of **Section 2.1(e)**;

(k) Provide a transfer agent and registrar for all Registrable Securities registered pursuant to the TZE Registration Statement and a CUSIP number for all such securities, in each case not later than the effective date of such registration;

(l) Cause all such securities registered hereunder to be listed on each securities exchange on which the same securities issued by the Company are then listed;

(m) In connection with any underwritten offering meeting the requirements of **Section 2.1(e)**, enter into an underwriting agreement in form reasonably necessary to effect the offer and sale of such securities, *provided* that (i) such underwriting agreement contains reasonable and customary provisions, (ii) if participating in such underwriting, a Holder shall also enter into and perform its respective obligations pursuant to such agreement, (iii) if participating in such underwriting, the indemnification and contribution obligations of such Holder shall be several and not joint, and (iv) if participating in such underwriting, the aggregate amount of such Holder's liability shall not exceed its net proceeds from such underwritten offering;

(n) In connection with any underwritten offering meeting the requirements of **Section 2.1(e)**, obtain for delivery to any Holder or group of Holders and the underwriter an opinion from counsel for the Company dated the date of the closing pursuant to the underwriting agreement, in customary form, scope and substance, which opinion shall be reasonably satisfactory to such Holder or group of Holders and to the underwriter, as the case may be, and their respective counsel;

(o) In connection with any underwritten offering meeting the requirements of **Section 2.1(e)**, pursuant to the TZE Registration Statement, obtain for delivery to the Company and the managing underwriter, with copies to any Holder or group of Holders, a "cold comfort" letter from the Company's independent certified public accountants in customary form and covering such matters of the type customarily covered by "cold comfort" letters as the managing underwriter reasonably requests, dated the date of execution of the underwriting agreement and brought down to the closing pursuant to the underwriting agreement;

(p) In connection with any underwritten offering meeting the requirements of **Section 2.1(e)**, cooperate with any Holder or group of Holders and each underwriter, if any, participating in the disposition of such securities and their respective counsel in connection with any filings required to be made with the Financial Industry Regulatory Authority, Inc.;

(q) Make available to its security holders, as soon as reasonably practicable, an earnings statement satisfying the provisions of Section 11(a) of the Securities Act;

(r) In connection with any underwritten offering meeting the requirements of **Section 2.1(e)**, make available upon reasonable notice at reasonable times and for reasonable periods for inspection by a representative appointed by any Holder, by the managing underwriter and by any attorney, accountant or other agent retained by any such Holder or any such underwriter, all pertinent financial and other records, corporate documents and properties of the Company, and cause all of the Company's officers, directors and employees and the independent public accountants who have certified the Company's financial statements to make themselves available to discuss the business of the Company and to supply all information reasonably requested by any such Person in connection with such disposition as shall be necessary to enable them to exercise their due diligence responsibility, *provided* that any such Person gaining access to information regarding the Company pursuant to this **Section 2.4(r)** shall agree to hold such information in strict confidence and shall not make any disclosure or use any such information that the Company determines in good faith to be confidential, and of which determination such Person is notified, unless (i) the release of such information is required by law; (ii) such information is or becomes publicly known other than through a breach of this or any other agreement; (iii) such information is or becomes available to such Person on a non-confidential basis from a source other than the Company, which source had no contractual or other duty of confidentiality to the Company with respect to such information and of which the Holder is aware; or (iv) such information is independently developed by such Person; and

(s) In connection with any underwritten offering meeting the requirements of **Section 2.1(e)**, cause the senior executive officers of the Company to participate in the customary "road show" presentations that may be reasonably requested by the managing underwriter in any such underwritten offering and otherwise to facilitate, cooperate with, and participate in each proposed offering contemplated herein and customary selling efforts related thereto.

Section 2.5 **Suspension of Sales.** Upon any notification by the Company pursuant to **Section 2.4(g)**, no Holder shall offer or sell Registrable Securities unless and until, as applicable (a) the Company has notified such Holder that it has prepared a supplement or amendment to such Prospectus that meets the requirements set out in **Section 2.4(g)** and delivered copies of such supplement or amendment to such Holder, or (b) the Company has advised such Holder in writing that the use of the applicable Prospectus may be resumed. It is acknowledged and agreed that this **Section 2.5** shall in no way diminish or otherwise impair the Company's obligations pursuant to **Section 2.4(h)** or **Section 2.4(i)**.

Section 2.6 **Indemnification.**

(a) To the fullest extent permitted by law, the Company will indemnify and hold harmless each Holder, each of its officers, directors and stockholders, each Person controlling such Persons within the meaning of Section 15 of the Securities Act, and each Holder's legal counsel and accountants against any and all expenses, claims, losses, damages and liabilities, joint or several, or actions, proceedings or settlements in respect thereof (each, a "**Loss**" and collectively "**Losses**") arising out of or based on (i) any untrue statement (or alleged untrue statement) of a material fact contained or incorporated by reference in any final, preliminary or summary Prospectus, any registration statement, any issuer free writing prospectus (as defined in Rule 433 of the Securities Act), or any issuer information (as defined in Rule 433 of the Securities Act) filed or required to be filed by the Company pursuant to Rule 433(d) promulgated under the Securities Act; (ii) any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein (in the case of a Prospectus or preliminary Prospectus, in light of the circumstances under which they were made) not misleading; or (iii) any violation (or alleged violation) by the Company of the Securities Act, any state securities laws or any rule or regulation thereunder applicable to the Company and relating to action or inaction required of the Company in connection with any offering covered by such registration, qualification or compliance. Subject to **Section 2.6(b)**, the Company will reimburse each such indemnified Person for any legal and any other expenses reasonably incurred in connection with investigating and defending or settling any such Loss; *provided*, *however*, that the Company will not be liable in any such case to the extent that any such Loss arises out of or is based on any untrue statement or omission based upon written information furnished to the Company by such indemnified Person and stated to be specifically for use therein; and *provided*, *further*, *however*, that the obligations of the Company hereunder shall not apply to amounts paid in settlement of any such Losses if such settlement is effected without the consent of the Company unless such settlement (A) includes an unconditional release of the Company from all liability on claims that are the subject matter of such proceeding and (B) does not include a statement as to, or an admission of, fault, culpability or a failure to act, by or on behalf of the Company. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of any Holder or any other indemnified party and shall survive the transfer of any Registrable Securities.

(b) To the fullest extent permitted by law, each Holder will, severally and not jointly, indemnify and hold harmless the Company, each of its directors and officers, and each Person (other than such Holder) who controls the Company within the meaning of Section 15 of the Securities Act against all Losses (or actions in respect thereof) arising out of or based on (i) any untrue statement (or alleged untrue statement) of a material fact contained or incorporated by reference in any preliminary or summary Prospectus, registration statement, any free writing prospectus (as defined in Rule 433 of the Securities Act) prepared or used by or on behalf of such Holder, or any information filed or required to be filed by such Holder pursuant to Rule 433(d), (ii) any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, or (iii) any violation (or alleged violation) by such Holder of the Securities Act, any state securities laws or any rule or regulation thereunder applicable to such Holder and relating to action or inaction required of such Holder in connection with any offering covered by such registration, qualification or compliance, and will reimburse the Company and such indemnified Persons for any legal or any other expenses reasonably incurred in connection with investigating or defending any such Loss, in each case to the extent, but only to the extent, that such untrue statement (or alleged untrue statement) or omission (or alleged omission) is made in reliance upon and in conformity with written information furnished to the Company by such Holder specifically for use therein; *provided*, *however*, that the obligations of any Holder hereunder shall not apply to amounts paid in settlement of any such Losses if such settlement is effected without the consent of such Holder unless such settlement (A) includes an unconditional release of such Holder from all liability on claims that are the subject matter of such proceeding and (B) does not include a statement as to, or an admission of, fault, culpability or a failure to act, by or on behalf of such Holder; and *provided*, *further*, *however*, that in no event shall any indemnity pursuant to this **Section 2.6(b)** exceed the net proceeds from the offering received by such Holder.

(c) Each Person entitled to indemnification pursuant to this **Section 2.6** (each, an "**Indemnified Party**") shall give notice to the party hereto required to provide indemnification pursuant to this **Section 2.6** (the "**Indemnifying Party**") promptly after such Indemnified Party has actual knowledge of any claim as to which indemnity may be sought, and shall permit the Indemnifying Party to assume the defense of such claim or any litigation resulting therefrom, *provided* that counsel for the Indemnifying Party, who shall conduct the defense of such claim or any litigation resulting therefrom, shall be approved by the Indemnified Party (whose approval shall not be unreasonably withheld), and the Indemnified Party may participate in such defense at its own expense, and *provided further* that the failure of any Indemnified Party to give notice as provided herein shall not relieve the Indemnifying Party of its obligations pursuant to this **Section 2.6** except to the extent that the Indemnified Party is materially prejudiced thereby. No Indemnifying Party, in the defense of any such claim or litigation, shall, except with the consent of each Indemnified Party, consent to the entry of any judgment or enter into any settlement that does not include as an unconditional term thereof a full and unconditional release of the Indemnified Party from all liability in respect of such claim or litigation. Each Indemnified Party shall furnish such information regarding itself or the claim in question as an Indemnifying Party may reasonably request in writing and as shall be reasonably required in connection with defense of such claim and litigation resulting therefrom.

(d) If the indemnification provided for in this **Section 2.6** is held by a court of competent jurisdiction to be unavailable to an Indemnified Party with respect to any Loss, then the Indemnifying Party, in lieu of indemnifying such Indemnified Party hereunder, shall contribute to the amount paid or payable by such Indemnified Party as a result of such Loss in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party, on the one hand, and of the Indemnified Party, on the other hand, in connection with the statements or omissions that resulted in such Loss as well as any other relevant equitable considerations. The relative fault of the Indemnifying Party and of the Indemnified Party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the Indemnifying Party or by the Indemnified Party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. No Person will be required pursuant to this **Section 2.6(d)** to contribute any amount in excess of the net proceeds from the offering received by such Person, except in the case of fraud or willful misconduct by such Person. The parties hereto agree that it would not be just and equitable if contribution pursuant to this **Section 2.6(d)** were determined by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to in this **Section 2.6(d)**. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any Person who was not guilty of fraudulent misrepresentation.

(e) Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with any underwritten public offering are in conflict with the foregoing provisions, the provisions of this Agreement shall control.

(f) Indemnification similar to that specified in the preceding provisions of this **Section 2.6** (with appropriate modifications) shall be given by the Company and each seller of securities (including any Holder) with respect to any required registration or other qualification of securities pursuant to any federal or state law or regulation or governmental authority other than the Securities Act.

Section 2.7 **Information by Holders.** As a condition to the Company's obligations to register securities for the account of any Holder, such Holder shall furnish to the Company such information regarding it and the distribution proposed by it as the Company may reasonably request and as shall be reasonably required in connection with any registration, qualification or compliance referred to in this **Article II**.

Section 2.8 **Subsequent Registration Rights.** Except for the Other Registration Rights Agreement, the Company is not currently a party to any agreement with any holder or prospective holder of any securities of the Company giving such holder or prospective holder any registration rights the terms of which are on parity with or senior to, or inconsistent with, the registration rights granted to the Holders pursuant to this Agreement. From and after the date of this Agreement until the date the TZE Registration Statement is declared effective by the SEC, the Company shall not enter into any agreement with any holder or prospective holder of any securities of the Company giving such holder any registration rights the terms of which are materially more favorable to the registration rights granted to the Holders pursuant to this Agreement.

Section 2.9 **Rule 144 Reporting.** With a view to making available the benefits of certain rules and regulations of the Commission that may permit the sale of the Registrable Securities to the public without registration, the Company agrees to use its reasonable best efforts to:

(a) make and keep available in accordance with Rule 144 adequate current public information with respect to the Company at all times; and

(b) file with the Commission in a timely manner all reports and other documents required of the Company pursuant to the Securities Act and the Exchange Act at any time.

Section 2.10 **Termination of Registration Rights.** Each Holder's rights pursuant to **Section 2** (other than **Section 2.6**) shall terminate on the first date on which it no longer holds any Registrable Securities or the Company ceases to be subject to the periodic reporting requirements pursuant to Section 13 or 15(d) of the Exchange Act. From and after the termination of such rights, such Holder shall have no further right to offer or sell any of the Registrable Securities pursuant to any registration statement (or any Prospectus relating thereto).

Section 2.11 **Transfer or Assignment of Registration Rights.** This Agreement may not be assigned by (a) the Company without the prior written consent of each Holder, except that the Company may assign this Agreement at any time in connection with a sale or acquisition of the Company, whether by merger, consolidation, sale of all or substantially all of the Company's assets or similar transaction, *provided* that if the successor or acquiring Person has publicly traded equity securities, such Person will agree in writing to assume all of the Company's rights and obligations under this Agreement, or (b) a Holder without the prior written consent of the Company, except that each Holder may assign its rights and obligations under this Agreement without such consent in connection with a transfer of its Securities to an Affiliate of such Holder but only if such Affiliate has agreed in writing to be bound by the terms of this Agreement as a Holder to the extent and for the duration that such terms remain in effect. Any purported assignment or delegation in violation of this **Section 2.11** shall be void and of no effect.

Section 2.12 **Joinder.** Notwithstanding **Section 2.11**, if the Holder sells, conveys or disposes of any First Lien Notes or all or part of the Warrant to any other Person, such Person shall be entitled to become a party to this Agreement with the substantially the same rights, duties and obligations as the Holder, *provided* that (x) in case of a sale, conveyance or disposal of any series of First Lien Notes, such Person shall: (i) hold at least $25,000,000 in aggregate principal amount of the applicable series of First Lien Notes (or an equivalent amount of Registrable Securities upon conversion of the applicable series of First Lien Notes, in each case, subject to appropriate adjustment for stock splits, stock dividends, combinations of the like); and (ii) agrees in writing to be bound under this Agreement on substantially the same terms as a Holder; and/or (y) in case of a sale, conveyance or disposal of all or part of the Warrant, such Person shall agree in writing to be bound under this Agreement on substantially the same terms as a Holder.

ARTICLE III

MISCELLANEOUS

Section 3.1 **Modification; Waiver.** This Agreement may be amended, modified or supplemented only by a written instrument duly executed by the Company and each Holder. No course of dealing between the Company or its subsidiaries and any Holder or any delay in exercising any rights hereunder will operate as a waiver of any rights of any party to this Agreement. The failure of any party hereto to enforce any of the provisions of this Agreement will in no way be construed as a waiver of such provisions and will not affect the right of such party thereafter to enforce each and every provision of this Agreement in accordance with its terms.

Section 3.2 **Notices.** All notices and other communications hereunder shall be in writing and shall be deemed to have been duly delivered and received hereunder (i) one Business Day after being sent for next Business Day delivery, fees prepaid, via a reputable international overnight courier service, (ii) if sent by electronic email before 5:00 p.m. in the time zone of the receiving party, when transmitted and receipt is confirmed, (iii) if sent by electronic email after 5:00 p.m. in the time zone of the receiving party and receipt is confirmed, on the following Business Day, and (iv) if otherwise actually personally delivered by hand, when delivered, in each case to the intended recipient, at the following addresses or email addresses (or at such other address or email address for a party as shall be specified by similar notice):

(a) If to TZE, to:

Zhonghuan Singapore Investment and Development Pte. Ltd.
c/o TCL Zhonghuan Renewable Energy Technology Co., Ltd.
No. 10 South Haitai Road, Huayuan Industrial Park,
Xiqing District, Tianjin, China
Attention: REN Wei (Head of Investment Dept.); XIA Leon (Head of Legal Dept.)
Email: renwei@tzeco.com; leon.xia@tzeco.com
Tel: +86 22 23789766
Fax: +86 22 23788321

with copies (which shall not constitute notice) to:

Paul Hastings LLP
200 Park Avenue
New York, NY 10166
Attention: Chris Guhin; Jeff Lowenthal
Email: chrisguhin@paulhastings.com; jefflowenthal@paulhastings.com

(b) If to the Company, to:

Maxeon Solar Technologies, Ltd.
8 Marina Boulevard #05-02
Marina Bay Financial Center, 018981
Singapore
Attention: Lindsey Wiedmann, Chief Legal Officer
Email: lindsey.wiedmann@maxeon.com

with copies (which shall not constitute notice) to:

White & Case
16th floor, York House, The Landmark
15 Queen's Road Central
Hong Kong
Attention: Jessica Zhou; Kaya Proudian
Email: jessica.zhou@whitecase.com; kproudian@whitecase.com

(c) if to any Holder other than TZE, at such Holder's address as it appears in the records of the Company or the records of the transfer agent or registrar, if any, for the Securities.

Section 3.3 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of New York, regardless of the laws that might otherwise govern pursuant to applicable principles of conflicts of law thereof.

Section 3.4 **Submission to Jurisdiction.**

(a) Each of the Company and TZE irrevocably submits to the non-exclusive jurisdiction of any New York State or United States Federal court sitting in the Borough of Manhattan, The City of New York over any suit, action or proceeding arising out of or relating to this Agreement. Each of the Company and TZE irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding brought in such a court and any claim that any such suit, action or proceeding brought in such a court has been brought in an inconvenient forum. To the extent that any of the Company and TZE has or hereafter may acquire any immunity (on the grounds of sovereignty or otherwise) from the jurisdiction of any court or from any legal process with respect to itself or its property, each of the Company and TZE irrevocably waives, to the fullest extent permitted by law, such immunity in respect of any such suit, action or proceeding.

(b) The Company hereby agrees to irrevocably designate and appoint Corporation Service Company, as its agent for service of process (together with any successor appointment below, the "**Company Process Agent**") on or before the date of this Agreement in any suit, action or proceeding described in the preceding paragraph and agrees that service of process in any such suit, action or proceeding may be made upon it at the office of such then current Company Process Agent and such service shall be deemed in every respect effective service of process upon the Company in any such suit or proceeding. The Company waives, to the fullest extent permitted by law, any other requirements of or objections to personal jurisdiction with respect thereto. The Company represents and warrants that such agent has agreed to act as the Company's agent for service of process, as the case may be, and the Company agrees to take any and all action, including the filing of any and all documents and instruments, that may be necessary to continue such appointment in full force and effect.

(c) TZE hereby agrees to irrevocably designate and appoint Corporation Service Company , as its agent for service of process (together with any successor appointment below, the "**TZE Process Agent**") on or before the date of this Agreement in any suit, action or proceeding described in the preceding paragraph and agrees that service of process in any such suit, action or proceeding may be made upon it at the office of such then current TZE Process Agent and such service shall be deemed in every respect effective service of process upon the Investor in any such suit or proceeding. TZE waives, to the fullest extent permitted by law, any other requirements of or objections to personal jurisdiction with respect thereto. TZE represents and warrants that such agent has agreed to act as TZE's agent for service of process, as the case may be, and TZE agrees to take any and all action, including the filing of any and all documents and instruments, that may be necessary to continue such appointment in full force and effect.

Section 3.5 **Entire Agreement.** This Agreement and the exhibits hereto constitute the full and entire understanding and agreement between the parties hereto with regard to the subject matter hereof. No party hereto shall be liable or bound to any other party in any manner with regard to the subject matter hereof by any warranties, representations or covenants except as specifically set forth herein.

Section 3.6 **Delays or Omissions.** Except as expressly provided herein, no delay or omission to exercise any right, power or remedy accruing to any party to this Agreement upon any breach or default of any other party pursuant to this Agreement shall impair any such right, power or remedy of such non-defaulting party, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring, nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part hereto of any party of any breach or default pursuant to this Agreement, or any waiver on the part of any party hereto of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either pursuant to this Agreement or by law or otherwise afforded to any party to this Agreement shall be cumulative and not alternative.

Section 3.7 **Severability.** If any provision of this Agreement, or the application of such provision to any Person or circumstance or in any jurisdiction, shall be held to be invalid, illegal and unenforceable to any extent by any court of law or arbitration tribunal of competent jurisdiction, (i) the remaining provisions of this Agreement shall not be affected thereby, and each other provision hereof shall be valid and enforceable to the fullest extent permitted by applicable law, (ii) as to such Person or circumstance or in such jurisdiction such provision shall be reformed to be valid and enforceable to the fullest extent permitted by applicable law and (iii) the application of such provision to other persons or circumstances or in other jurisdictions shall not be affected thereby.

Section 3.8 **Titles and Subtitles.** The table of contents, titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. All references in this Agreement to articles, sections, paragraphs and exhibits shall, unless otherwise provided, refer to articles, sections and paragraphs hereof and exhibits attached hereto.

Section 3.9 **Counterparts.** This Agreement may be executed in separate counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts will together constitute the same agreement. Any such counterpart, to the extent delivered by means of a fax machine or by .pdf, .tif, .gif, .jpeg or similar attachment to electronic mail (any such delivery, an "**Electronic Delivery**") shall be treated in all manner and respects as an original executed counterpart and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. No party hereto shall raise the use of Electronic Delivery to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of Electronic Delivery as a defense to the formation of a contract, and each such party forever waives any such defense, except to the extent that such defense relates to lack of authenticity.

Section 3.10 **Further Assurances.** Each party hereto shall do and perform or cause to be done and performed all such further acts and things and shall execute and deliver all such other agreements, certificates, instruments and other documents as any other party hereto reasonably may request in order to carry out the provisions of this Agreement and the consummation of the transactions contemplated hereby.

Section 3.11 **Interpretation.** This Agreement shall be construed reasonably to carry out its intent without presumption against or in favor of any party hereto. The parties hereto have participated jointly in negotiating and drafting this Agreement.

Section 3.12 **Attorneys' Fees.** In the event that any suit or action is instituted to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party such reasonable fees and expenses of attorneys and accountants, which shall include all fees, costs and expenses of appeals.

Section 3.13 **Certain References.** Whenever the context may require, any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." The terms "herein," "hereof" or "hereunder" or similar terms as used in this Agreement refer to this entire Agreement and not to the particular provision in which the term is used. Unless the context otherwise requires, "neither," "nor," "any," "either" and "or" shall not be exclusive. All references herein to "days" in this Agreement (excluding references to Business Days) are references to calendar days. Any reference to any statute or regulation refers to the statute or regulation as amended, modified, supplemented or replaced from time to time (and, in the case of statutes, includes any rules and regulations promulgated pursuant to the statue) and any reference to any section of any statute or regulation includes any successor to the section. Any reference herein to "$" will mean U.S. dollars. When used herein, "to the extent" means the degree to which a subject or other thing extends, and such phrase does not mean simply "if."

Section 3.14 **Specific Performance.** The parties hereto acknowledge and agree that the failure of any party to perform its agreements and covenants hereunder, including its failure to take all actions as are necessary on its part to the consummation of the transactions contemplated hereby, will cause irreparable injury to the other parties for which damages, even if available, will not be an adequate remedy. Accordingly, each party hereto hereby consents to the issuance of injunctive relief by any court or arbitration tribunal of competent jurisdiction to compel performance of such party's obligations, to prevent breaches of this Agreement by such party and to the granting by any court or arbitration tribunal of the remedy of specific performance of such party's obligations hereunder, without bond or other security being required, in addition to any other remedy to which any party is entitled at law or in equity. Each party hereto irrevocably waives any defenses based on adequacy of any other remedy, whether at law or in equity, that might be asserted as a bar to the remedy of specific performance of any of the terms or provisions hereof or injunctive relief in any action brought therefor by any party.

[Execution page follows.]

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

COMPANY:

Maxeon Solar Technologies, Ltd.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

[Signature Page to Registration Rights Agreement]

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

HOLDER:

Zhonghuan Singapore Investment and Development Pte. Ltd.

By: /s/ Qin Shilong
Name: Qin Shilong
Title: Director

[Signature Page to Registration Rights Agreement]

ANNEX A

Plan of Distribution

The selling securityholders, which as used herein includes donees, pledgees, transferees or other successors-in-interest selling securities received after the date of this prospectus from a selling securityholder as a gift, pledge, partnership distribution or other transfer, may, from time to time, sell, transfer or otherwise dispose of any or all of their convertible notes and ordinary shares issued upon the conversion of any convertible note on any stock exchange, market or trading facility on which the securities are traded or in private transactions. These dispositions may be at fixed prices, at prevailing market prices at the time of sale, at prices related to the prevailing market price, at varying prices determined at the time of sale, or at negotiated prices.

The selling securityholders may use any one or more of the following methods when disposing of securities or interests therein:

- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the securities as agent, but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- privately negotiated transactions;
- through the writing or settlement of options or other hedging transactions, whether through an options exchange or otherwise;
- broker-dealers may agree with the selling securityholders to sell a specified number of securities at a stipulated price per security;
- through one or more underwriters;
- a combination of any such methods of sale; and
- any other method permitted by applicable law.

The selling securityholders may, from time to time, pledge or grant a security interest in some or all of the securities owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the securities, from time to time, under this prospectus, or under an amendment to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act of 1933, as amended (the "**Securities Act**"), amending the list of selling securityholders to include the pledgee, transferee or other successors in interest as selling securityholders under this prospectus. The selling securityholders also may transfer the securities in other circumstances, in which case the transferees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

In connection with the sale of securities, the selling securityholders may enter into hedging transactions with broker-dealers or other financial institutions, which may in turn engage in short sales of the securities in the course of hedging the positions they assume. The selling securityholders may also enter into option or other transactions with broker-dealers or other financial institutions or the creation of one or more derivative securities which require the delivery to such broker-dealer or other financial institution of securities offered by this prospectus, which securities such broker-dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction).

The aggregate proceeds to the selling securityholders from the sale of securities offered by them will be the purchase price of such shares less discounts or commissions, if any. Each of the selling securityholders reserves the right to accept and, together with their agents from time to time, to reject, in whole or in part, any proposed purchase of securities to be made directly or through agents. We will not receive any of the proceeds from this offering.

The selling securityholders also may resell all or a portion of their respective securities in open market transactions in reliance upon Rule 144 under the Securities Act of 1933, provided that they meet the criteria and conform to the requirements of that rule.

The selling securityholders and any underwriters, broker-dealers or agents that participate in the sale of the securities or interests therein may be "underwriters" within the meaning of Section 2(11) of the Securities Act. Any discounts, commissions, concessions or profit they earn on any resale of securities may be underwriting discounts and commissions under the Securities Act. Selling securityholders will be subject to the prospectus delivery requirements of the Securities Act, unless the sale of securities is exempt from the registration requirements of the Securities Act.

To the extent required, the securities to be sold, the names of the selling securityholders, the respective purchase prices and public offering prices, the names of any agents, dealer or underwriter, and any applicable commissions or discounts with respect to a particular offer will be set forth in an accompanying prospectus supplement or, if appropriate, a post-effective amendment to the registration statement that includes this prospectus.

In order to comply with the securities laws of some states, if applicable, the securities may be sold in these jurisdictions only through registered or licensed brokers or dealers. In addition, in some states the securities may not be sold unless they have been registered or qualified for sale or an exemption from registration or qualification requirements is available and is complied with.

We have advised the selling securityholders that the anti-manipulation rules of Regulation M under the Securities Exchange Act of 1934, as amended, may apply to sales of securities in the market and to the activities of the selling securityholders and their affiliates. In addition, to the extent applicable, we will make copies of this prospectus (as it may be supplemented or amended from time to time) available to the selling securityholders for the purpose of satisfying the prospectus delivery requirements of the Securities Act. The selling securityholders may indemnify any broker-dealer that participates in transactions involving the sale of the securities against certain liabilities, including liabilities arising under the Securities Act.

We have agreed to indemnify the selling securityholders against liabilities, including liabilities under the Securities Act and state securities laws, relating to the registration of the securities offered by this prospectus.

We have agreed with the selling securityholders to use commercially reasonable efforts to cause the registration statement of which this prospectus constitutes a part to become effective and to remain continuously effective, subject to certain exceptions, until the earlier of (1) such time as all of the securities covered by this prospectus have been disposed of pursuant to and in accordance with such registration statement, (2) such securities cease to be outstanding or (3) the date on which all of the convertible notes and the ordinary shares issued upon the conversion of any convertible note may be sold pursuant to Rule 144 of the Securities Act with volume or manner-of-sale restrictions and all restrictive legends associated with the securities have been removed.

Exhibit 99.7

SUPPLEMENTAL DEED
TO SHAREHOLDERS AGREEMENT

AMONGST

MAXEON SOLAR TECHNOLOGIES, LTD.

AND

TOTALENERGIES SOLAR INTL SAS

AND

TOTALENERGIES GAZ & ELECTRICITÉ HOLDINGS SAS

AND

ZHONGHUAN SINGAPORE INVESTMENT AND DEVELOPMENT PTE. LTD.

DATED THE 20th DAY OF June 2024

RAJAH & TANN | *Singapore*

CONTENTS

SUPPLEMENTAL DEED
TO THE SHAREHOLDERS AGREEMENT

THIS DEED is made on the 20th day of June 2024

AMONGST:

(1) **MAXEON SOLAR TECHNOLOGIES, LTD.** (Company Registration No. 201934268H), a company incorporated in Singapore and having its registered office at 8 Marina Boulevard, #05-02, Marina Bay Financial Centre, Singapore 018981 (the "**Company**");

(2) **TOTALENERGIES SOLAR INTL SAS** (Company Registration No. 505 028 118), a société par actions simplifiée incorporated in France and having its registered office at 2 place Jean Millier La Défense 92400 Courbevoie France ("**TotalEnergies Solar**");

(3) **TOTALENERGIES GAZ & ELECTRICITÉ HOLDINGS SAS** (Company Registration No. 402 975 825), a société par actions simplifiée incorporated in France and having its registered office at 2 place Jean Millier La Défense 92400 Courbevoie Cedex France ("**TEGEH**" and together with TotalEnergies Solar, "**TotalEnergies**"); and

(4) **ZHONGHUAN SINGAPORE INVESTMENT AND DEVELOPMENT PTE. LTD.** (Company Registration No. 201939428H), a company incorporated in Singapore and having its registered office at 6 Raffles Quay, #14-06, Singapore 048580 ("**TZS**" and together with TotalEnergies, the "**Shareholders**" and each, a "**Shareholder**"),

(collectively, the "**Parties**" and each, a "**Party**").

WHEREAS:

(A) The Parties had entered into a shareholders agreement dated 26 August 2020 in relation to the Company (the "**Shareholders Agreement**"), a copy of which is set out in Appendix A.

(B) TZS has agreed to provide additional financing to the Company through, amongst others, the subscription of additional 7.50% convertible first lien senior secured notes due 2027 and new 9.0% convertible first lien senior secured notes due 2029 (the "**Proposed Transactions**"). In connection with the Proposed Transactions, the Parties have agreed to execute this Deed to amend and supplement the Shareholders Agreement on the terms and conditions of this Deed, which is supplemental to the Shareholders Agreement.

(C) Under Section 19 of the Shareholders Agreement, the Shareholders Agreement may be amended, modified or supplemented only by a written instrument duly executed by the Company and each Shareholder (as hereinafter defined). In addition, pursuant to Section 3(c)(viii) of the Shareholders Agreement, subject to the provisions of the Companies Act 1967 of Singapore, for so long as a Shareholder Beneficially Owns (as defined under the Shareholders Agreement) at least 15% of the outstanding ordinary shares in the capital of the Company, the Company shall not amend, modify or waive any of the provisions of the Shareholders Agreement without first obtaining Independent Director Approval (as defined under the Shareholders Agreement).

(D) On June 18, 2024, Independent Director Approval for the amendment of the Shareholders Agreement in accordance with the terms and conditions of this Deed was obtained by the resolutions of the Independent Directors (as defined under the Shareholders Agreement), each of whom comprise the audit committee of the board of directors of the Company.

IT IS AGREED as follows:

1. DEFINITIONS & INTERPRETATION

1.1 Definitions

All terms and expressions used in this Deed which are defined or construed in the Shareholders Agreement but are not defined or construed in this Deed shall have the same meanings and construction as in the Shareholders Agreement, unless context requires otherwise.

1.2 Interpretation

(a) References to "**Clauses**", "**Recitals**" and "**Appendix**" are, respectively, to the clauses of, and the recitals, appendix and schedule to, this Deed. The Recitals and the Appendix to this Deed shall form an integral part of, and shall be deemed to be incorporated into, this Deed.

(b) The headings in this Deed are inserted for convenience only and shall not affect the interpretation hereof.

(c) Unless the context otherwise requires, references to the singular number shall include references to the plural number and *vice versa*, and the use of any gender shall include all genders.

(d) References to any agreement or document including this Deed shall include such agreement or document as amended, modified, varied or supplemented from time to time.

(e) Any reference in this Deed to a statute or statutory provision shall include that statute or provision and any regulations made in pursuance thereof as from time to time modified or re-enacted, whether before or after the date of this Deed, so far as such modification or re-enactment applies or is capable of applying to any transactions entered into after the date hereof and (so far as liability thereunder may exist or can arise) shall include also any past statute or statutory provision or regulation (as from time to time modified or re-enacted) which such provision or regulation has directly or indirectly replaced.

(f) References in this Deed to anything which any Party is required to do or not to do shall include its acts, defaults and omissions, whether direct or indirect, on its own account, or for or through any other person, and those which it permits or suffers to be done or not done by any other person.

(g) Any reference to "**person**" shall include any individual, partnership, joint venture, corporation, limited liability company, trust, association, government, governmental agency or department or any other entity.

(h) The word "**including**" and similar words and terms shall not be construed as being by way of limitation and shall mean "**including without limitation**" and "**otherwise**" shall not be construed as limited by words with which it is associated.

2. AMENDMENTS TO THE SHAREHOLDERS AGREEMENT

The Parties agree that, notwithstanding anything contrary in the Shareholders Agreement, the Shareholders Agreement shall stand amended with effect on and from the date of this Deed, as follows:

(a) that the definition of "Beneficially Own" at Section 1(a)(vi) (*Definitions; Interpretation*) of the Shareholders Agreement be amended to reflect the additions indicated by the underlined text below and the deletions as indicated by the deleted text below:

> "*"**Beneficially Own**" (and, with correlative meanings, "**Beneficial Ownership**" and "**Beneficially Owned**") has the meaning set forth in Rule 13d-3 promulgated under the Exchange Act, provided that, for purposes of this Agreement, TZS shall, at any given time, be deemed to Beneficially Own all of the Ordinary Shares (i) it is then entitled to purchase under the Option, whether at such time or at the Option Expiration Date, and (ii) issuable to TZS on account of accrued interest for any completed interest period for which the Company has elected, by giving notice in accordance with the applicable indenture, to exercise a right under such indenture to pay such interest in Ordinary Shares for any Convertible Debentures held by TZS~~; provided, further, that, for purposes of this Agreement, neither TZS nor Total shall, at any given time, be deemed to Beneficially Own any Ordinary Shares that have been issued or may be issuable to such Shareholder under such Shareholder's Mirror Confirmation Agreement~~.";

(b) that the definition of "Convertible Debentures" at Section 1(a)(xvii) (*Definitions; Interpretation*) of the Shareholders Agreement be amended to reflect the additions indicated by the underlined text below:

"*"**Convertible Debentures**" means the Company's 6.5% Green Convertible Notes due 2025, adjustable rate convertible second lien senior secured notes due 2028, 7.5% convertible first lien senior secured notes due 2027 (which is to be amended to Variable-Rate convertible first lien senior secured notes due 2029) and 9.0% convertible first lien senior secured notes due 2029, in each case as any of the foregoing may be amended from time to time*.";

(c) that a new definition of "Strategy and Transformation Committee" be inserted immediately after Section 1(a)(lvii) of the Shareholders Agreement, as follows:

"*(lvii)(A) "Strategy and Transformation Committee" means the strategy and transformation committee of the Board, or such committee performing the functions of overseeing and implementing the strategic and transformation initiatives in accordance with its transformation plan as approved by the Board*.";

(d) that Section 1(c)(v) be amended to reflect the additions indicated by the underlined text below and the deletions as indicated by the deleted text below:

(v) the term "outstanding Ordinary Shares" and terms of similar import mean, at any given time, the total number of Ordinary Shares actually issued and outstanding as of such time but without regard to (x) any Equity Securities or other securities or instruments, including any Convertible Debentures, that are exercisable or exchangeable for or convertible into Ordinary Shares, or (y) any Ordinary Shares that are at such time, or previously were, subject to or intended to be repurchased ~~repurchase~~ by the Company (whether or not such repurchase is or was subject to conditions) under the Physical Delivery Forward Transaction ~~or the Mirror Confirmation Agreements~~, unless expressly specified otherwise;

(e) that Section 2(h)(i) (*Shareholder Representation*) of the Shareholders Agreement be amended to reflect the additions indicated by the underlined text below:

"*Shareholder Representation. Save for the Strategy and Transformation Committee, so ~~So~~ long as a Shareholder has the right to designate at least one (1) Director for election to the Board pursuant to Section 2(d), the Company shall, to the fullest extent permitted by applicable law, cause each committee of the Board to (A) include in its membership at least one (1) of such Shareholder's Designees and (B) if the other Shareholder has the right to designate at least one (1) Director for election to the Board pursuant to Section 2(d), an equal number of Designees of such other Shareholder, except, in each case of clauses (A) and (B), (x) to the extent that such membership would violate applicable securities laws or the rules of the stock exchange or stock market on which the Ordinary Shares are then listed or (y) if the primary purpose of such committee is to consider any matter in which there is a potential conflict of interests between the Company (or any of its Subsidiaries), on the one hand, and such Shareholder (or any of its Affiliates), on the other hand, as determined by the members of the Board (excluding such Shareholder's Designee(s)) in their reasonable judgment.*";

(f) that Section 2(h)(iii) (*Coordination Committee*) of the Shareholders Agreement be amended to reflect the additions indicated by the underlined text below and the deletions as indicated by the deleted text below:

"~~*Coordination Committee*~~ *Strategy and Transformation Committee. Effective as of June 20, 2024~~the Effective Time~~, the Board shall designate and, ~~until the second anniversary of the Effective Date and for so long as TZS Beneficially Owns at least 15% of the outstanding Ordinary Shares,~~ maintain a ~~Coordination Committee~~ Strategy and Transformation Committee, the members of which shall consist of ~~include at least~~ one (1) TZS Designee and ~~such~~ two (2) other Directors as are selected by the Board. The ~~Coordination Committee~~ Strategy and Transformation Committee shall convene no less than a ~~quarterly~~ monthly basis to oversee and implement the strategic and transformation initiatives in accordance with the Company's transformation plan as approved by the Board.*"

; and

(g) that Section 2(l) (*Board Approval*) of the Shareholders Agreement be amended to reflect the additions indicated by the underlined text below and the deletions as indicated by the deleted text below:

"*Board Approval. Except as otherwise provided in this Agreement and except for any action of the any committee of the Board taken within the scope of the authority delegated to such committee by the Board (which actions shall require approval or consent of members of such committee in accordance with such committee's charter), any action by the Board will require the approval or consent of a majority of the Directors present and competent to vote.*"

3. REPRESENTATIONS & WARRANTIES

3.1 Each Party hereby represents and warrants to the other Party that:

(a) it is a company duly organised, validly existing and in good standing under the laws of its place of incorporation and has full power, capacity and authority to enter into, and perform and comply with its obligations under, this Deed;

(b) the execution, delivery and performance of this Deed will not conflict with, violate or breach any law to which it is subject, or relationship or business, contractual or otherwise, to which it is a party;

(c) the execution, delivery and performance of this Deed has been duly and effectively authorised by all necessary corporate actions on its part (if applicable) and this Deed will be duly and validly executed, and delivered by it and when so executed, constitutes binding and enforceable obligations on it in accordance with its terms; and

(d) it shall have and maintain in effect at all times during the term of this Deed, all licences, authorisations, permits, consents and approvals from the relevant governmental, regulatory or other competent authorities to perform its obligations under this Deed.

3.2 Each of the warranties set out in this Clause 3 shall be construed as a separate warranty and (save as expressly provided to the contrary) shall not be limited or restricted by reference to or inference from the terms of any other warranty or other term of this Deed.

4. MISCELLANEOUS

4.1 Release and Indulgence

Any liability to any of the Parties under this Deed may in whole or in part be released, compounded or compromised, or time or indulgence given, by any other Party in its absolute discretion in writing without in any way prejudicing or affecting any of its other rights against that Party.

4.2 No Implied Waivers; Remedies Cumulative

No failure on the part of any party to exercise, and no delay on its part in exercising, any right or remedy under this Deed will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

4.3 Time of Essence

Any time or period mentioned in any provision of this Deed may be extended by mutual agreement in writing between the Parties but as regards any time, date or period originally fixed or any time, date or period so extended as aforesaid, time shall be of the essence.

4.4 Costs

Each Party shall bear its own costs and expenses in connection with this Deed, including without limitation, the preparation, execution and enforcement of this Deed.

4.5 Severability

The illegality, invalidity or unenforceability of any provision of this Deed under the law of any jurisdiction shall not affect its legality, validity or enforceability under the law of any other jurisdiction nor the legality, validity or enforceability of any other provision.

4.6 Amendments and Modifications

This Deed or any provisions of this Deed may be amended, modified, waived or terminated only by written agreement duly signed by all the Parties (and the approval of the directors, representatives and employees of the Company shall not be required in respect of any such amendment, modification, waiver or termination).

4.7 Further Assurance

Each Party agrees to perform (or procure the performance of) all further acts and things, and execute and deliver (or procure the execution and delivery of) such further documents, as may be required by law or as may be required to implement and/or give effect to this Deed and the transactions contemplated by it. For this purpose, each Shareholder hereby irrevocably appoints the Company acting by any one or more of the Directors or any persons authorised by the Directors, to be its attorney and on its behalf and in its name or otherwise, and with full power of substitution, to execute and do all such assurances, acts and things which such Shareholder is required to do under this Deed and (without prejudice to the generality of the foregoing) to seal and deliver and otherwise perfect any deed, assurance, agreement, instrument or act which it may deem proper. Each Shareholder hereby ratifies and confirms and agrees to ratify and confirm whatever any such attorney as is mentioned aforesaid shall do or purport to do as aforesaid.

4.8 Counterparts

This Deed may be signed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one agreement. Any Party may enter into this Deed by signing any such counterpart. Each counterpart may be signed and executed by the parties and transmitted by facsimile transmission and shall be as valid and effectual as if executed as an original.

4.9 Agreement to Bind Successors and Assigns

This Deed shall be binding on and shall enure to the benefit of each of the Parties' successors and permitted assigns. Any reference in this Deed to any of the Parties shall be construed accordingly.

4.10 Contracts (Rights of Third Parties) Act

A person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 2001 to enforce any term of this Deed.

4.11 Continuing Effect of Agreement

(a) All provisions of this Deed shall insofar as they are capable of being performed or observed continue in full force and effect notwithstanding any completion except in respect of those matters then already performed.

(b) This Deed shall be binding on and shall enure for the benefit of each Party's successors and assigns.

4.12 Rights Several

The rights of the Parties hereunder are several. Each Party to this Deed shall have the right to protect and enforce its rights arising under this Deed and it shall not be necessary for any other Party to be joined in any proceedings for this purpose.

4.13 No Merger

Save insofar as the same has been performed in full and save as otherwise set out in this Deed, the representations, warranties, undertakings, agreements, indemnities and releases and other provisions contained in this Deed shall not be extinguished or affected by completion and shall remain in full force and effect notwithstanding completion.

4.14 Construction

As the Parties have participated in the drafting of this Deed, the Parties agree that any applicable rule requiring the construction of this Deed or any provision hereof against the Party drafting this Deed shall not apply.

4.15 Confirmation and Incorporation

(a) Except to the extent supplemented, varied or amended by the provisions of this Deed, the terms and conditions of the Shareholders Agreement are hereby confirmed and shall remain in full force and effect.

(b) The Shareholders Agreement and this Deed shall be read and construed as one document and this Deed shall be considered to be part of the Shareholders Agreement and, without prejudice to the generality of the foregoing, where the context so allows, all references in the Shareholders Agreement to "this Agreement", "hereof", "herein", "herewith", "hereunder" and words of similar effect, shall be read and construed as references to the Shareholders Agreement as amended, modified or supplemented by this Deed.

(c) For the avoidance of doubt, nothing in this Deed shall affect any accrued rights or interests of the Parties under the Shareholders Agreement existing immediately prior to the date of this Deed.

(d) This Deed shall be governed by and construed in accordance with the laws of Singapore and the Parties agree that Sections 15 (*Governing Law*) and 18 (*Notices*) of the Shareholders Agreement shall apply, *mutatis mutandis*, to this Deed.

4.16 Prevalence of Deed

In the event of any inconsistency between the provisions of this Deed and the Shareholders Agreement and/or the Constitution, the provisions of this Deed shall prevail and the Shareholders shall procure the amendment of the Shareholders Agreement and/or the passing of special resolutions for the amendment of the Constitution to reflect the provisions of this Deed.

(*Signature page follows*)

IN WITNESS WHEREOF this Deed has been duly executed and delivered on the date stated at the beginning of the document.

The Company

EXECUTED as a Deed by
MAXEON SOLAR TECHNOLOGIES, LTD.

By:

/s/ William Patrick Mulligan III
Director

Name: William Patrick Mulligan III

in the presence of:

/s/ Imee Ancheta
Signature of Witness

Name of Witness: Imee Ancheta

Address: 51 Rio Robles

San Jose, CA 95134

The Shareholders

TOTALENERGIES SOLAR INTL SAS

/s/ Vincent Stoquart
President

Name: Vincent Stoquart

Execution page to Supplemental Deed

TOTALENERGIES GAZ & ELECTRICITÉ HOLDINGS SAS

/s/ Laurent Wolffsheim

President

Name: Laurent Wolffsheim

Execution page to Supplemental Deed

EXECUTED as a Deed by
ZHONGHUAN SINGAPORE INVESTMENT AND DEVELOPMENT PTE. LTD.

By:

/s/ Qin Shilong
Director

Name: Qin Shilong

in the presence of:

/s/ Ren Wei
Signature of Witness

Name of Witness: Ren Wei

Address: c/o TCL Zhonghuan Renewabl Energy Technology Co., Ltd.

No. 10 South Haitai Road, Huayuan Industrial Park,

Xiqing District, Tianjin, China

Attention: REN Wei (Head of Investment Dept.); XIA Leon (Head of Legal Dept.)

Email:renwei@tjsemi.com; leon.xia@tjsemi.com

Execution page to Supplemental Deed

APPENDIX A
SHAREHOLDERS AGREEMENT

SHAREHOLDERS AGREEMENT (this "Agreement"), dated as of August 26, 2020 by and among Maxeon Solar Technologies, Ltd., a Singapore public limited company (the "Company"), Total Solar INTL SAS, a French société par actions simplifiée ("Total Solar"), Total Gaz Electricité Holdings France SAS, a French société par actions simplifiée ("TGEHF," and together with Total Solar and any of their respective Affiliates that Beneficially Own Ordinary Shares, "Total"), and Zhonghuan Singapore Investment and Development Pte. Ltd., a private company limited by shares incorporated under the laws of Singapore (together with its Affiliates that Beneficially Own Ordinary Shares, "TZS" and, together with Total, the "Shareholders" and each individually, a "Shareholder").

WHEREAS, SunPower Corporation ("SunPower") and the Company entered into a Separation and Distribution Agreement, dated November 8, 2019 (the "Separation Agreement"), pursuant to which, among other things, SunPower agreed to distribute all outstanding Ordinary Shares (as defined below) owned by SunPower, on a pro rata basis, to holders of ordinary shares of SunPower (the "Distribution").

WHEREAS, SunPower, the Company, Tianjin Zhonghuan Semiconductors Co., Ltd., an Affiliate of TZS ("TZS Co"), and Total Solar (solely for purposes of Sections 5.2, 6.1, 6.3, 6.4, 6.6, 6.8, 6.9(d), 6.10, 8.2(a) and Article IX thereof), entered into an Investment Agreement, dated November 8, 2019 (the "Investment Agreement"), pursuant to which, among other things, the Company agreed to issue and sell to TZS Co, and TZS Co agreed to acquire and purchase from the Company, newly-issued Ordinary Shares, subject to the terms and conditions set forth in the Investment Agreement, immediately following the Distribution.

WHEREAS, as a condition to the Closing (as defined below), the Company, Total Solar, TGEHF and TZS have executed and delivered this Agreement prior to the Closing.

WHEREAS, (i) Total Solar and TGEHF each became a direct holder of Ordinary Shares as a result of the Distribution, which was effected immediately prior to execution of this Agreement and the Closing, and (ii) TZS (as TZS Co's designee) will become a direct holder of Ordinary Shares as a result of the Closing.

WHEREAS, concurrently with the execution of this Agreement, the Company, Total Solar, TGEHF and TZS are entering into a Registration Rights Agreement, dated as of the date hereof, providing for certain registration rights which the Company is granting to Total and TZS.

WHEREAS, in connection with the Distribution and the Closing, the Company and the Shareholders (i) wish to set forth certain understandings among the Company and the Shareholders, including with respect to certain governance matters, (ii) have executed and delivered this Agreement prior to the Closing, and (iii) wish for this Agreement to become automatically effective immediately after the Closing (the "Effective Time").

NOW, THEREFORE, in consideration of the foregoing, and the representations, warranties, covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto hereby agree as follows:

Section 1. Definitions; Interpretation.

(a) Definitions. As used herein, the following terms shall have the following respective meanings:

(i) "13D Group" means any group of Persons formed for the purpose of acquiring, holding, voting or disposing of Voting Securities that would be required under Section 13(d) of the Exchange Act, and the rules and regulations thereunder (as in effect on, and based on legal interpretations thereof existing on, the date hereof), to file a statement on Schedule 13D pursuant to Rule 13d-1(a) with the SEC as a "person" within the meaning of Section 13(d)(3) of the Exchange Act if such group Beneficially Owned Voting Securities representing more than 5% of any class of Voting Securities then outstanding.

(ii) "Act" means the Companies Act, Chapter 50 of Singapore, as amended.

(iii) "Affiliate" means as to any Person, any other Person or entity who directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such Person. As used in this definition, the term "control," including the correlative terms "controlling," "controlled by" and "under common control with," means possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or any partnership or other ownership interest, by contract or otherwise) of a Person. For the avoidance of doubt, for purposes of this Agreement, none of the Shareholders shall be deemed to be an Affiliate of the Company or any of its Subsidiaries, and neither the Company nor any of its Subsidiaries shall be deemed to be an Affiliate of any Shareholder.

(iv) "Agreement" shall have the meaning set forth in the Preamble.

(v) "Anti-Corruption Laws and Obligations" means, with respect to any party to this Agreement, (i) the laws, statutes, rules and regulations governing the activities of the Company or this Agreement which prohibit bribery and corruption and, where applicable, the principles described in the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, signed in Paris on December 17, 1997, which entered into force on February 15, 1999, and such Convention's Commentaries, and (ii) laws prohibiting bribery and corruption in the jurisdictions in which such party is organized or registered, carries out most of its business activities or is listed on a stock exchange or stock market, or in the jurisdiction in which the ultimate parent entity of such party is organized or registered, carries out most of its business activities or is listed on a stock exchange or stock market.

(vi) "Beneficially Own" (and, with correlative meanings, "Beneficial Ownership" and "Beneficially Owned") has the meaning set forth in Rule 13d-3 promulgated under the Exchange Act, provided that, for purposes of this Agreement, TZS shall, at any given time, be deemed to Beneficially Own all of the Ordinary Shares it is then entitled to purchase under the Option, whether at such time or at the Option Expiration Date; provided, further, that, for purposes of this Agreement, neither TZS nor Total shall, at any given time, be deemed to Beneficially Own any Ordinary Shares that have been issued or may be issuable to such Shareholder under such Shareholder's Mirror Confirmation Agreement.

(vii) "Board" means the board of directors of the Company.

(viii) "Business Day" means a day that is not a Saturday, Sunday or day on which banking institutions in (i) New York, New York, (ii) Paris, France, (iii) Beijing, People's Republic of China or (iv) Singapore are authorized or required by law to close.

(ix) "CEO" means the Chief Executive Officer of the Company.

(x) "Close Family Member" means, with respect to a Person, any member of the family of such Person: (i) that may be expected to exercise influence over such Person; or (ii) where the business of such family member (whether or not conducted through an entity or subsidiary) is influenced by such Person, including, in each case, any (a) children or dependents of such Person, (b) spouse or companion of such Person, or (c) children or dependents of the spouse or companion of such Person.

(xi) "Closing" means the closing of the issuance of Ordinary Shares to TZS pursuant to and in accordance with the Investment Agreement, which occurred on the date of this Agreement.

(xii) "Company" shall have the meaning set forth in the Preamble and includes the Company's successors by merger, acquisition, reorganization or otherwise.

(xiii) "Company Equity Plan" means any option or other equity benefit plan of the Company.

(xiv) "Confidential Information" means all confidential and proprietary information (irrespective of the form of communication) obtained by or on behalf of any Shareholder from the Company or its representatives, through the ownership of Ordinary Shares or other securities of the Company or any of its Subsidiaries or such Shareholder's governance rights pursuant to this Agreement, other than information which (i) was or becomes generally available to the public other than as a result of a breach of this Agreement by such Shareholder or its representatives, (ii) was or becomes available to such Shareholder or its representatives on a non-confidential basis prior to disclosure to such Shareholder or its representatives by or on behalf of the Company or its representatives, (iii) was or becomes available to such Shareholder or its representatives from a source other than the Company or its representatives, provided, that such source is not known by such Shareholder or its representatives to be bound by a confidentiality obligation to the Company with respect to such information at the time of its disclosure or (iv) is independently developed by or on behalf of such Shareholder or its representatives without the use of any Confidential Information.

(xv) "Control Acquisition" means any transaction or series of transactions involving: (i) (a) any acquisition (whether direct or indirect, including by way of merger, share exchange, consolidation, business combination or other similar transaction) or purchase from the Company that would result in any Person or group of Persons Beneficially Owning more than fifty percent (50%) of the total outstanding Equity Securities of the Company (measured by voting power or economic interest), or (b) any tender offer, exchange offer, other secondary acquisition or similar transaction that would result in any Person or group of Persons Beneficially Owning more than fifty percent (50%) of the total outstanding Equity Securities of the Company (measured by voting power or economic interest), or (c) any merger, consolidation, share exchange, business combination or similar transaction involving the Company that would result in the shareholders of the Company immediately preceding such transaction Beneficially Owning less than fifty percent (50%) of the total outstanding Equity Securities in the surviving or resulting entity of such transaction (measured by voting power or economic interest); or (ii) any sale or lease or exchange, transfer, license or disposition of a business, deposits or assets that constitute more than fifty percent (50%) of the consolidated assets, business, revenues, net income, assets or deposits of the Company and its Subsidiaries.

(xvi) "Control Acquisition Proposal" means any proposal, offer, inquiry, indication of interest or expression of intent (whether binding or non-binding) by any Person or group of Persons relating to a Control Acquisition.

(xvii) "Convertible Debentures" means the Company's 6.5% Green Convertible Senior Notes due 2025.

(xviii) "Convertible Securities" means any securities of the Company which are or by their terms will be convertible into, exchangeable for or otherwise exercisable to acquire Voting Securities, including convertible securities, warrants, rights or options to purchase Voting Securities whether or not then in the money.

(xix) "Designees" means the Total Designees and TZS Designees, collectively.

(xx) "Director" means any director of the Company.

(xxi) "Distribution" shall have the meaning set forth in the Recitals.

(xxii) "EBITDA" means, for any period, the total of the following calculated for Company and its Subsidiaries on a consolidated basis and without duplication, with each component thereof determined in accordance with the accounting principles applied by the Company in its good faith calculation of its financial results for such period: (a) consolidated net income; plus (b) any deduction for (or less any gain from) income, franchise or other taxes included in determining such consolidated net income; plus (c) interest expense deducted in determining such consolidated net income; plus (d) amortization and depreciation expense deducted in determining such consolidated net income; plus (e) any non-recurring charges and any non-cash charges resulting from application of the accounting principles applied by the Company in its good faith calculation of its financial results for such period insofar as the foregoing requires a charge against earnings for the impairment of goodwill and other acquisition related charges to the extent deducted in determining such consolidated net income and not added back pursuant to another clause of this definition; plus (f) any non-cash expenses that arose in connection with the grant of equity or equity-based awards stock to officers, directors, employees and consultants of the Company and its Subsidiaries and were deducted in determining such consolidated net income; plus (g) non-cash restructuring charges; plus (h) non-cash charges related to negative mark-to-market valuation adjustments as may be required by the accounting principles applied by the Company in its good faith calculation of its financial results for such period from time to time; plus (i) non-cash charges arising from changes in the accounting principles applied by the Company in its good faith calculation of its financial results for such period occurring after the date hereof; less (j)(1) non-cash adjustments related to positive mark-to-market valuation adjustments as may be required by the accounting principles applied by the Company in its good faith calculation of its financial results for such period from time to time and (2) any extraordinary gains; plus (k) any publicly disclosed amounts attributable to the incremental costs of above-market polysilicon in any period (however realized or incurred); and plus or minus, as appropriate (l) other quarterly cash and non-cash adjustments that are deemed by the Controller and Chief Financial Officer of the Company not to be part of the normal course of business and not necessary to reflect the regular, ongoing operations of the Company and its Subsidiaries and are reflected in adjusted EBITDA amounts publicly reported by the Company from time to time. As used in this definition, "non-cash charge" shall mean a charge in respect of which no cash is paid during the applicable period (whether or not cash is paid with respect to such charge in a subsequent period).

(xxiii) "Effective Date" means the date on which Closing occurred under the Investment Agreement.

(xxiv) "Effective Time" shall have the meaning set forth in the Recitals.

(xxv) "Equity Securities" means any and all (i) shares, interests, participations or other equivalents (however designated) of capital stock or other voting securities of a corporation, any and all equivalent or analogous ownership (or profit) or voting interests in a Person (other than a corporation), (ii) securities convertible into or exchangeable for shares, interests, participations or other equivalents (however designated) of capital stock or voting securities of (or other ownership or profit or voting interests in) such Person, and (iii) any and all warrants, rights or options to purchase any of the foregoing, whether voting or nonvoting, and, in each case, whether or not such shares, interests, participations, equivalents, securities, warrants, options, rights or other interests are authorized or otherwise existing on any date of determination.

(xxvi) "Exchange Act" means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder, as the same may be amended from time to time.

(xxvii) "General Waiver" means the waiver granted by the SIC on January 30, 2020 with respect to the applicability of the Singapore Code to the Company in all cases except in the case of a tender offer (within the meaning of the Exchange Act) where the Tier I Exemption is available and the Company relies on the Tier I Exemption to avoid full compliance with the tender offer rules promulgated under the Exchange Act.

(xxviii) "Independent Director" means a director that satisfies both (i) any requirements to qualify as an "independent director" under the rules of any stock exchange or stock market on which the Ordinary Shares are then currently listed and (ii) the independence criteria set forth in Rule 10A-3 under the Exchange Act, for so long as such rule is applicable to the Company.

(xxix) "Independent Director Approval" means the affirmative vote or written consent of a majority of the Independent Directors, duly obtained in accordance with the applicable provisions of the Company's constitution and applicable law.

(xxx) "Independent Shareholder" means any shareholder of the Company who is not (x) a Shareholder, an Affiliate of such Shareholder or an officer or director of such Shareholder or Affiliate or (y) an officer or director of the Company or any of its Subsidiaries.

(xxxi) "Indebtedness" means (i) any obligation for borrowed money, (ii) any obligation evidenced by bonds, debentures, notes or other similar instruments, (iii) any obligation to pay the deferred purchase price of property or services (other than accounts payable and accrued expenses incurred in the ordinary course of business determined in accordance with accounting principles applied by the Company in its good faith calculation of its financial results for the period to which such Indebtedness is being calculated), (iv) any obligation with respect to capital leases, (v) any obligation created or arising under any conditional sale or other title retention agreement with respect to property acquired by the Company or any of its Subsidiaries, (vi) all reimbursement and other payment obligations, contingent or otherwise, in respect of letters of credit and similar surety instruments (including construction performance bonds), (vii) any obligation under currency, interest rate or other swaps and any hedging or other obligation under other derivative instruments other than any such swap, hedge or obligation under other derivative instruments that can be implemented by the Company's management without Board approval pursuant to Company policy, (viii) any guaranty obligation with respect to the types of Indebtedness listed in clauses (i) through (vii) above, and (ix) non-recourse obligations but only to the extent secured by assets of the Company or any of its Subsidiaries.

(xxxii) "Investment Agreement" shall have the meaning set forth in the Recitals.

(xxxiii) "LTM EBITDA" shall mean, as of any date, EBITDA for the most recently completed four fiscal quarters for which the Company's financial statements are publicly available immediately preceding such date.

(xxxiv) "Mirror Confirmation Agreements" shall mean that certain Letter Agreement that may be entered into between Total Solar (or its designee) and the Company providing for a share forward transaction and that certain Letter Agreement, dated as of the date hereof, between TZS and the Company providing for a share forward transaction.

(xxxv) "New Securities" means Voting Securities or Convertible Securities, excluding securities issued pursuant to the exercise by any Shareholder of its rights pursuant to Section 6 and, to the extent the securities purchased by such Shareholder upon exercise of its rights pursuant to Section 6 are Convertible Securities, any securities issued upon exercise, conversion or exchange of such Convertible Securities.

(xxxvi) "Nominating and Corporate Governance Committee" means the nominating and corporate governance committee of the Board, or another committee performing the functions of nominating or selecting individuals for election or appointment to the Board.

(xxxvii) "Nominating and Corporate Governance Committee Charter" means the charter of the Nominating and Corporate Governance Committee.

(xxxviii) "Ordinary Shares" means the ordinary shares issued from time to time in the capital of the Company, or any successor shares or class of shares in the capital of the Company or combination thereof.

(xxxix) "Option" means that certain option agreement to be entered into as of the date hereof by and between the Company and TZS granting TZS (or its designee) an option to purchase Ordinary Shares as set forth therein.

(xl) "Option Exercise Date" shall have the meaning set forth in the Option.

(xli) "Organizational Documents" means, with respect to any specified Person, the articles of association, the memorandum of association, the constitution, the certificate of incorporation, the by-laws or other equivalent corporate charter document(s) of such specified Person.

(xlii) "Outstanding Indebtedness" means the aggregate amount, without duplication, of all outstanding Indebtedness of the Company and its Subsidiaries; provided that the amount of any non-recourse obligations shall only be included to the extent secured by assets of the Company or any of its Subsidiaries, and then only in the lesser of the amount of such non-recourse obligation or the book value of such assets.

(xliii) "Permitted Transfer" means, in respect of a Shareholder: (i) a Transfer to an Affiliate of such Shareholder if such Affiliate has agreed in writing to be bound by the terms of this Agreement as a Shareholder to the extent and for the duration that such terms remain in effect at the time of the Transfer; (ii) a Transfer in connection with any Control Acquisition approved by the Board or a duly-authorized committee thereof (including if the Board or such committee affirmatively publicly recommends that the Company's shareholders tender in response to a tender offer or exchange offer that, if consummated, would constitute a Control Acquisition (which recommendation has not been publicly withdrawn or changed); (iii) a Transfer to the Company or any of its Subsidiaries; or (iv) a Transfer to the other Shareholder pursuant to Section 2(m)(iii).

(xliv) "Person" means any natural person, company, partnership, limited liability company, firm, association, trust, government, governmental agency or other entity, whether acting in an individual, fiduciary or other capacity.

(xlv) "Physical Delivery Forward Transaction" means that certain privately negotiated forward-starting physical delivery forward transaction entered into on July 17, 2020 between the Company and Merrill Lynch International.

(xlvi) "Public Official" means any individual who is (A) an elected or appointed official of any government or state, (B) an employee or agent of any government or state, any department, body or agency thereof, or any company in which a government or state owns, directly or indirectly, a majority or controlling interest, (C) an official of a political party, (D) a candidate for public office, or (E) an official, employee or agent of any public international organization.

(xlvii) "SEC" means the U.S. Securities and Exchange Commission.

(xlviii) "Separation Agreement" shall have the meaning set forth in the Recitals.

(xlix) "Shareholder" and "Shareholders" (as applicable) shall have the meaning set forth in the Preamble.

(l) "Shareholder Merger" means a statutory merger (or equivalent concept) under applicable law providing for the acquisition by a Shareholder or one or more of its Affiliates of one hundred percent (100%) of the then-outstanding Voting Securities, which is conditioned (which condition may not be waived) on at least a majority of the Voting Securities that are held by the Independent Shareholders being voted in favor of such merger (or such equivalent concept).

(li) "Shareholder Tender Offer" means a *bona fide* public tender offer subject to the provisions of Regulation 14D when first commenced within the meaning of Rule 14d-2(a) of the rules and regulations under the Exchange Act, by any combination of a Shareholder or one or more of its Affiliates to purchase or exchange for cash or other consideration Voting Securities and which consists of an offer to acquire one hundred percent (100%) of the total Voting Securities then outstanding (other than the Voting Securities Beneficially Owned by such Shareholder) and is conditioned (which conditions may not be waived) on at least a majority of the Voting Securities that are held by the Independent Shareholders being tendered and not withdrawn with respect to such offer.

(lii) "Shareholder Transaction" means any transaction or series of transactions involving: (i) (a) any acquisition or purchase of Equity Securities of the Company or any of its Subsidiaries, (b) any tender offer or exchange offer for or other secondary acquisition of Equity Securities of the Company or any of its Subsidiaries, or (c) any merger, consolidation, share exchange, business combination or similar transaction involving the Company or any of its Subsidiaries; or (ii) any sale or lease or exchange, transfer, license or disposition of a business, deposits or assets of the Company or any of its Subsidiaries.

(liii) "Shareholder Transaction Proposal" means any proposal, offer, inquiry, indication of interest or expression of intent (whether binding or non-binding) by any Person or group of Persons relating to a Shareholder Transaction.

(liv) "SIC" means the Securities Industry Council of Singapore.

(lv) "Singapore" means the Republic of Singapore.

(lvi) "Singapore Code" means the Singapore Code on Take-Overs and Mergers.

(lvii) "Spin-off Debt" means any financing contemplated by Section 6.9 of the Investment Agreement and which is consummated in connection with the Distribution or the Closing.

(lviii) "Subsidiary" means, with respect to any Person, any company, limited liability company, partnership, joint venture or other legal entity of which such Person (either above or through or together with any other Subsidiary) owns, directly or indirectly, more than 50% of the stock or other equity interests the holders of which are generally entitled to vote for the election of the board of directors or other governing body of such company or other legal entity.

(lix) "SunPower" shall have the meaning set forth in the Recitals.

(lx) "Tier I Exemption" means the Tier I exemption set forth in Rule 13e-4(h) of the Exchange Act.

(lxi) "Total" shall have the meaning set forth in the Preamble.

(lxii) "Total Designee" means any Director who has been designated by Total pursuant to Section 2.

(lxiii) "Total Designee Approval" means the affirmative vote or written consent of a majority of the Total Designees, duly obtained in accordance with the applicable provisions of the Company's constitution and applicable law.

(lxiv) "Transfer" (and, with correlative meanings, "Transferee", "Transferor", "Transferred" and "Transferring") means, with respect to any Ordinary Shares, (i) when used as a verb, to sell, assign, dispose of, exchange, pledge, encumber, hypothecate or otherwise transfer such Ordinary Shares, whether directly or indirectly (including pursuant to a derivative transaction), or agree or commit to do any of the foregoing and (ii) when used as a noun, a direct or indirect sale, assignment, disposition, exchange, pledge, encumbrance, hypothecation, or other transfer of such Ordinary Shares or any participation or interest therein or any agreement or commitment to do any of the foregoing.

(lxv) "TZS" shall have the meaning set forth in the Preamble.

(lxvi) "TZS Co" shall have the meaning set forth in the Recitals.

(lxvii) "TZS Designee" means any Director who has been designated by TZS pursuant to Section 2.

(lxviii) "TZS Designee Approval" means the affirmative vote or written consent of a majority of the TZS Designees, duly obtained in accordance with the applicable provisions of the Company's constitution and applicable law.

(lxix) "U.S." means the United States of America.

(lxx) "Voting Securities" means the Ordinary Shares and any other securities of the Company having the power to vote in the election of members of the Board.

(b) Additional Definitions. Any capitalized term used in any Section of this Agreement (or in the Preamble or Recitals of this Agreement) that is not defined in this Section 1 shall have the meaning ascribed to it in such other Section (or in the Preamble or Recitals, as applicable).

(c) Rules of Construction. The language used in this Agreement will be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction will be applied against any party. The headings and captions of this Agreement are for convenience of reference only and shall not define, limit or otherwise affect any of the terms hereof. Section references are to this Agreement unless otherwise specified and references to clauses without a cross-reference to a Section or subsection are references to clauses within the same Section or, if more specific, subsection. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period is excluded. If the last day of such period is a non-Business Day, the period in question ends on the next succeeding Business Day. For all purposes of this Agreement, unless otherwise expressly provided or the context otherwise requires:

(i) the term "or" is disjunctive but not exclusive;

(ii) the terms "hereof", "herein" and "hereunder" and terms of similar import when used in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement;

(iii) the term "including" and terms of similar import when used in this Agreement are not limiting and mean "including without limitation" unless otherwise specified;

(iv) the term "extent" in the phrase "to the extent" means the degree to which a subject or other thing extends and such phrase shall not mean simply "if";

(v) the term "outstanding Ordinary Shares" and terms of similar import mean, at any given time, the total number of Ordinary Shares actually issued and outstanding as of such time but without regard to (x) any Equity Securities or other securities or instruments, including any Convertible Debentures, that are exercisable or exchangeable for or convertible into Ordinary Shares, or (y) any Ordinary Shares subject to repurchase by the Company (whether or not such repurchase is subject to conditions) under the Physical Delivery Forward Transaction or the Mirror Confirmation Agreements, unless expressly specified otherwise;

(vi) references to "day" mean a calendar day unless otherwise indicated as a "Business Day";

(vii) references to "$" means U.S. dollars, the lawful currency of the United States of America; and

(viii) whenever the context requires, the gender of all words used herein shall include the masculine, feminine and neuter, and the number of all words shall include the singular and plural.

Section 2. Board of Directors.

(a) Board Size. For so long as a Shareholder Beneficially Owns at least 10% of the outstanding Ordinary Shares, the size of the Board shall, subject to Section 2(d), be fixed at ten (10) directors.

(b) Initial Board. As of the Effective Time, the Board shall initially consist of the following Directors (the "Initial Board"):

(i) three (3) Directors designated by Total as Total Designees;

(ii) three (3) Directors designated by TZS as TZS Designees;

(iii) three (3) Directors who are Independent Directors; and

(iv) the CEO,

The Company and the Board shall take all action necessary to cause three (3) Total Designees, three (3) TZS Designees, three (3) Independent Directors and the CEO to comprise the Board as of the Effective Time.

(c) Chairman. The Board shall elect an Independent Director to serve as chairman of the Board.

(d) Designation of Directors. After the appointment of the Initial Board as set forth in Section 2(b), for so long as a Shareholder Beneficially Owns the applicable percentage of Ordinary Shares set forth below, such Shareholder shall have the right to designate, and the individuals nominated for election as Directors by or at the direction of the Board shall include:

(i) the lowest number of Directors representing a majority of the Directors on the Board, assuming no vacancies, so long as such Shareholder Beneficially Owns at least 50% of the outstanding Ordinary Shares;

(ii) three (3) Directors, so long as such Shareholder Beneficially Owns at least 25% of the outstanding Ordinary Shares but less than 50% of the outstanding Ordinary Shares;

(iii) two (2) Directors, so long as such Shareholder Beneficially Owns at least 15% of the outstanding Ordinary Shares but less than 25% of the outstanding Ordinary Shares; and

(iv) one (1) Director, so long as such Shareholder Beneficially Owns at least 10% of the outstanding Ordinary Shares but less than 15% of the outstanding Ordinary Shares.

If a Shareholder Beneficially Owns at least 50% of the outstanding Ordinary Shares, the Company and the Board shall take all action necessary to cause the size of the Board to be fixed at the number of Directors required to permit compliance with Section 2(d)(i). In the event that the number of Total Designee(s) or TZS Designee(s), as applicable, exceeds the number of Designee(s) that Total or TZS, as applicable, is entitled to designate pursuant to this Section 2(d) (such excess number of Designee(s) of Total or TZS, as applicable, its "Excess Designee(s)") Total or TZS, as applicable, shall as promptly as practicable cause a number of its Designee(s) equal to its Excess Designee(s) to resign from the Board, and the Nominating and Corporate Governance Committee shall as promptly as practicable thereafter, in accordance with the Nominating and Corporate Governance Committee Charter, recommend to the Board an individual who would qualify as an Independent Director for election or appointment to the Board to fill the vacancy that is caused by each such resignation. The Board shall as promptly as practicable thereafter take all action necessary (and Total and TZS shall cause their respective Designees to promptly take all action necessary and shall vote all of their respective Voting Securities or, if applicable, consent in writing) to elect or appoint any such individual identified by the Nominating and Corporate Governance Committee, in accordance with the Nominating and Corporate Governance Committee Charter, to the Board.

(e) Election of Directors.

(i) The Company shall, to the fullest extent permitted by applicable law, cause each individual designated pursuant to Section 2(d) to be included in the slate of nominees recommended by the Board to the Company's shareholders for election as Directors at each annual meeting of the shareholders of the Company (and/or in connection with any election by written consent) and the Company shall use its reasonable best efforts to cause the election of each such individual as a Director, including nominating such individual to be elected as a Director as provided herein, recommending such individual's election as a Director and soliciting proxies or consents in favor thereof. Without limiting the foregoing, at any annual meeting of shareholders of the Company at which Directors are to be elected, the Company shall, in the sole discretion of Total or TZS, as applicable, either re-nominate for election to the Board each of the respective then-serving Designees of Total or TZS, as applicable, or nominate such other individuals that Total or TZS, as applicable, may designate to the Company in writing. Total shall vote all of its Ordinary Shares in favor of the election to the Board of all individuals designated by TZS pursuant to Section 2(d) or Section 2(f)(i), and TZS shall vote all of its Ordinary Shares in favor of the election to the Board of all individuals designated by Total pursuant to Section 2(d) or Section 2(f)(i).

(ii) At any annual meeting of the shareholders of the Company at which Directors are to be elected, the Company shall re-nominate for election the then-serving CEO. Each of Total and TZS shall vote all of its Ordinary Shares in favor of electing the then-serving CEO to the Board.

(iii) Prior to the time that any individual designated pursuant to Section 2(d) or the CEO becomes a Director, such individual shall tender (and if a Designee, the Shareholder designating such Designee shall take all action to cause such Designee to tender) a resignation letter to the Board to the effect that such individual will (A) in the case of a Designee, unless otherwise agreed by the Board or the Nominating and Corporate Governance Committee, resign as a director effective as of the date on which the Shareholder designating such Designee ceases to have the right to designate a Director pursuant to Section 2(d) or (B) in the case of the CEO, resign as a Director effective as of the date on which such individual no longer serves as CEO.

(iv) Each individual included in the slate of nominees recommended by the Board to the Company's Shareholders for election as Directors, other than a Designee or the CEO, shall be an Independent Director and be selected by the Nominating and Corporate Governance Committee in accordance with the Nominating and Corporate Governance Committee Charter. The Board shall as promptly as practicable thereafter take all action necessary (and Total and TZS shall cause their respective Designees to promptly take all action necessary and shall vote all of their respective Voting Securities or, if applicable, consent in writing) to elect or appoint any such individual identified by the Nominating and Corporate Governance Committee, in accordance with the Nominating and Corporate Governance Committee Charter, to the Board.

(f) Replacement of Directors.

(i) In the event that (A) a vacancy on the Board is created at any time by the death, disability, retirement, resignation or removal (with or without cause) of a Designee (other than any Excess Designee(s)) designated by a Shareholder pursuant to Section 2(d) or designated by a Shareholder pursuant to this Section 2(f)(i) or (B) a Designee designated by a Shareholder pursuant to Section 2(d) or designated by a Shareholder pursuant to this Section 2(f)(i) is not elected by the Company's shareholders at an annual meeting of the shareholders of the Company (or in connection with any election by written consent), in each case of clauses (A) and (B), such Shareholder shall have the right to designate a replacement to fill such vacancy (which, in the case of clause (B), shall be an individual that is different from the Designee who was not elected by the Company's shareholders at such annual meeting). The Company shall, to the fullest extent permitted by applicable law, cause such vacancy to be filled by the individual so designated by such Shareholder, and the Board shall promptly take all action necessary (and Total and TZS shall cause their respective Designees to promptly take all action necessary and shall vote all of their respective Voting Securities or, if applicable, consent in writing) to elect or appoint any such individual to the Board in accordance with the Act. Upon the written request of a Shareholder, the Company and the Board shall take all action necessary to remove from the Board, with or without cause, a Designee designated by such Shareholder pursuant to Section 2(d) or designated by such Shareholder pursuant to this Section 2(f)(i), and to elect or appoint to the Board any individual designated by such Shareholder as provided in the first sentence of this Section 2(f)(i) to replace such Designee (and Total and TZS shall cause their respective Designees to promptly take all action necessary and shall vote all of their respective Voting Securities or, if applicable, consent in writing to effect the foregoing). Any Director designated pursuant to this Section 2(f)(i) shall be considered to be a Total Designee or TZS Designee, as applicable, following such designation and election or appointment to the Board.

(ii) In the event that any Independent Director or the CEO shall cease to serve as a Director for any reason, the Nominating and Corporate Governance Committee shall as promptly as practicable thereafter, in accordance with the Nominating and Corporate Governance Committee Charter, recommend to the Board an individual who meets the qualifications of an Independent Director or is the CEO, as applicable, for election or appointment to the Board to fill such vacancy, and the Board shall as promptly as practicable thereafter take all action necessary (and Total and TZS shall cause their respective Designees to promptly take all action necessary and shall vote all of their respective Voting Securities or, if applicable, consent in writing) to elect or appoint any such individual identified by the Nominating and Corporate Governance Committee, in accordance with the Nominating and Corporate Governance Committee Charter, to the Board.

(g) Increase or Decrease in the Size of the Board. In the event that the size of the Board is increased or decreased at any time, the number of Directors subject to designation by a Shareholder pursuant to Section 2(d) following such increase or decrease shall equal the product of the total number of Directors on the increased or decreased Board *multiplied by* the percentage of Directors on the Board subject to such Shareholder's designation rights pursuant to Section 2(d) immediately prior to such increase or decrease, rounded down to the nearest whole number.

(h) Committees.

(i) Shareholder Representation. So long as a Shareholder has the right to designate at least one (1) Director for election to the Board pursuant to Section 2(d), the Company shall, to the fullest extent permitted by applicable law, cause each committee of the Board to (A) include in its membership at least one (1) of such Shareholder's Designees and (B) if the other Shareholder has the right to designate at least one (1) Director for election to the Board pursuant to Section 2(d), an equal number of Designees of such other Shareholder, except, in each case of clauses (A) and (B), (x) to the extent that such membership would violate applicable securities laws or the rules of the stock exchange or stock market on which the Ordinary Shares are then listed or (y) if the primary purpose of such committee is to consider any matter in which there is a potential conflict of interests between the Company (or any of its Subsidiaries), on the one hand, and such Shareholder (or any of its Affiliates), on the other hand, as determined by the members of the Board (excluding such Shareholder's Designee(s)) in their reasonable judgment.

(ii) Independent Director Representation. The Company shall, to the fullest extent permitted by applicable law, cause each committee of the Board to include in its membership at least two (2) Independent Directors, except to the extent that applicable securities laws or rules of the stock exchange or stock market on which the Ordinary Shares are then listed require a greater number of Independent Directors to be included in the membership of such committee, in which case the Company shall, to the fullest extent permitted by applicable law, cause such committee to include in its membership such greater number of Independent Directors.

(iii) Coordination Committee. Promptly following the Effective Time, the Board shall designate and, until the second anniversary of the Effective Date and for so long as TZS Beneficially Owns at least 15% of the outstanding Ordinary Shares, maintain a Coordination Committee, the members of which shall include at least one (1) TZS Designee, together with such other Directors as are selected by the Board. The Coordination Committee shall convene on a quarterly basis with the management team of the Company to discuss business opportunities for the Company and the Company's performance against targets set forth in the Company's Approved Annual Budget, including the research and development budget included therein.

(i) Compliance. Each Shareholder shall use its reasonable best efforts to cause each of its Designee(s) to comply with any qualification requirements for Directors set forth in the Company's constitution, and all policies, procedures, processes, codes, rules, standards and guidelines applicable to Directors, including the Company's code of business conduct and ethics, any related person transactions approval policy, any securities trading policies, any Directors' confidentiality policy and any corporate governance guidelines, and preserve the confidentiality of the Company's business information, including the discussions of matters considered in meetings of the Board or any committee thereof, at all times that such Designee serves as a Director; provided, however, that the Company understands and agrees that, subject to the terms of Section 10, each Designee may disclose information he or she obtains while serving as a member of the Board to the Shareholder who designated such Designee and such Shareholder's Affiliates and its and their respective directors, officers, employees and other representatives.

(j) No Limitation. The provisions of this Section 2 are intended to provide the Shareholders with minimum Board representation rights as set forth herein. Subject to Section 5, nothing in this Agreement shall prevent the Company from having a greater number of designees of a Shareholder on the Board than otherwise provided herein. In addition, nothing in this Section 2 shall be construed to prevent a Shareholder from choosing to designate a lesser number of designees on the Board than otherwise provided herein or pursuant to applicable law and the Company's constitution.

(k) Laws and Regulations. Nothing in this Section 2 shall be deemed to require that any party hereto, or any Affiliate thereof, act or be in violation of any applicable provision of law, regulation, legal duty or requirement or stock exchange or stock market rule.

(l) Board Approval. Except as otherwise provided in this Agreement, any action by the Board will require the approval or consent of a majority of the Directors.

(m) Deadlock.

(i) Escalation of Deadlock. If a Shareholder Approval Matter (as defined in Section 3) is considered by the Board and such Shareholder Approval Matter is not approved because one or more Designees of a Shareholder (the "Blocking Shareholder") did not vote (or provide consent) to approve such Shareholder Approval Matter (the "Deadlock Matter") as contemplated by Section 3(a) (a "Deadlock"), then the Shareholder (the "Non-Blocking Shareholder") that designated the Designee(s) who voted (or provided consent) to approve such Deadlock Matter may, by providing written notice to the Blocking Shareholder, initiate a dispute resolution procedure pursuant to which such Deadlock Matter will be discussed in good faith by appropriate members of management of the Blocking Shareholder and the Non-Blocking Shareholder, in order to attempt to resolve such Deadlock Matter within thirty (30) days from the date on which the Deadlock occurred (the "Initial Deadlock Date"), or such longer period as the Shareholders may agree in writing. Any resolution with respect to such Deadlock Matter agreed to by the Shareholders in writing as a result of the foregoing dispute resolution procedures shall be final and binding on the Shareholders with respect to the manner in which their respective Designees shall vote on such Deadlock Matter as provided in such written agreement.

(ii) Mediation. If the Shareholders remain unable to reach an agreement as to such Deadlock Matter following the implementation of the dispute resolution procedures set forth in Section 2(m)(i) and thirty (30) days have passed since the Initial Deadlock Date, the Non-Blocking Shareholder may refer such Deadlock Matter to mediation in Singapore in accordance with the Mediation Rules of the International Mediation Centre for the time being in force (the "Mediation"). The Mediation shall be conducted by a single mediator. The language of the Mediation shall be English. Any resolution agreed to by the Shareholders in writing as a result of the Mediation shall be final and binding on the Shareholders with respect to the manner in which their respective Designees shall vote on such Deadlock Matter as provided in such written agreement.

(iii) Deadlock Sale. If the Shareholders are unable to reach an agreement as to such Deadlock Matter in the Mediation and sixty (60) days have passed since the Initial Deadlock Date, the Non-Blocking Shareholder may request that a meeting of the Board be convened to vote on such Deadlock Matter (the "Second Meeting") and such Second Meeting shall occur within twenty (20) Business Days thereafter. If such vote at the Second Meeting results in such Deadlock Matter not being approved due to one or more Designees of the Blocking Shareholder voting against such Deadlock Matter, then the Non-Blocking Shareholder shall, subject to Section 3(d), have the right beginning sixty (60) days after the date of the Second Meeting, to purchase the Ordinary Shares Beneficially Owned by the Blocking Shareholder (such transaction, a "Deadlock Transaction"). The purchase price for the Ordinary Shares to be purchased by the Non-Blocking Shareholder in such Deadlock Transaction shall be equal to the fair market value of such Ordinary Shares as agreed in writing by the Shareholders. If the Shareholders cannot agree on the fair market value of such Ordinary Shares, then (i) each Shareholder shall select an internationally recognized investment bank or valuation firm, (ii) the two investment banks or valuation firms selected by the Shareholders shall together unanimously select a third internationally recognized investment bank or valuation firm which does not have a commercial relationship with either Shareholder (each such investment bank or valuation firm, a "Valuer"), and (iii) the three Valuers shall be instructed to make, within 45 days after the selection of the third Valuer, a final determination of the fair market value of the Ordinary Shares to be purchased by the Non-Blocking Shareholder in such Deadlock Transaction, which shall be binding upon the Shareholders, and to promptly notify the Shareholders and the Company in writing of their determination. All determinations and calculations by the Valuers pursuant to this Section 2(m)(iii) will take into account all factors that the Valuers determine relevant for such valuation but shall not consider in any respect or for any purpose any settlement discussions or settlement offer made by or on behalf of any of the Shareholders. In making such determination, each of the Valuers shall function as an appraiser and expert and not as an arbitrator. A judgment on the determination made by the Valuers pursuant to this Section 2(m)(iii) may be enforced by any arbitral tribunal in accordance with Section 14. During the review by the Valuers, the Company will provide the Valuers with such access to the books, records, accountants and relevant employees of the Company and its Subsidiaries as may be reasonably required by the Valuers to fulfill their obligations under this Section 2(m)(iii) (subject to each Valuer executing and delivering customary confidentiality and hold harmless agreements); provided, however, that any such access granted by the Company shall not unreasonably interfere with the conduct of the Company's and its Subsidiaries' businesses. Each Shareholder shall bear the fees and expenses of the Valuer selected by it, and the Shareholders shall each bear fifty percent (50%) of the fees and expenses of the third Valuer.

(n) Recusal. Each Shareholder shall use its reasonable best efforts to cause each of its Designees to recuse himself or herself from all deliberations of the Board and any committee thereof, and the Company shall have no obligation to provide such Designee with any information, (i) regarding (A) any acquisition, disposition, investment or similar transaction that the Company or any of its Subsidiaries elects to pursue if such Shareholder or any of its Affiliates has one or more individuals serving, or is entitled to designate one or more individuals to serve, on the board of directors or body serving in similar function of any other Person who is competing with, or that is otherwise adverse to, the Company with respect to such transaction or (B) any other matter in which there is a potential conflict of interest between the Company (or any of its Subsidiaries), on the one hand, and such Shareholder (or any of its Affiliates), on the other hand, as determined by the members of the Board (excluding such Shareholder's Designee(s)) in their reasonable judgment or (ii) when and to the extent required by applicable law.

(o) Fiduciary Duties of Directors. Nothing in this Section 2 or elsewhere in this Agreement shall be deemed to require any member of the Board (including any Designee), the Board or any committee thereof to take any action or refrain from any action if such member, the Board or any committee thereof determines in good faith that taking such action or refraining from taking such action would be inconsistent with such member's or the Board's fiduciary duties to the Company's shareholders under applicable law. Notwithstanding anything to the contrary set forth in this Agreement, each Shareholder acknowledges and agrees that each of such Shareholder's Designees shall, so long as such Designee serves as a member of the Board, be bound, in his or her capacity as a Director, by his or her or the Board's fiduciary duties to the Company's shareholders under applicable law.

(p) Director Indemnification. The Company shall at all times provide each Designee (in his or her capacity as a member of the Board) with the same rights to indemnification and exculpation and the same coverage under any directors' and officers' insurance policies or fiduciary liability insurance policies that it provides to other members of the Board.

Section 3. Certain Actions.

(a) Shareholder Approval Matters. Subject to the provisions of Section 3(b) and the Act, without first obtaining the Total Designee Approval and the TZS Designee Approval, the Company shall not, and (to the extent applicable) shall not permit any Subsidiary of the Company to, take any of the following actions (each, a "Shareholder Approval Matter"):

(i) amend, modify or repeal any provision of the constitution of the Company or the Organizational Documents of a material Subsidiary;

(ii) merge, amalgamate or consolidate with or into, or enter into any other business combination with, any other entity, or transfer (by lease, assignment, sale or otherwise) all or substantially all of the Company's and its Subsidiaries' assets, taken as a whole, to another entity;

(iii) (A) acquire the equity interests, any business, properties or assets of any Person or invest in another Person or business, in one transaction or a series of related transactions or (B) sell, transfer, lease, pledge or otherwise dispose of assets, businesses or interests of the Company or any of its Subsidiaries or the shares or other equity interests of the Company or any of its Subsidiaries, in each case where the amount of consideration for any such acquisition or disposition (or series of related acquisitions or related dispositions) exceeds the greater of (x) 10% of the value of the Company consolidated assets as set forth on the Company's most recent publicly available consolidated balance sheet and (y) 10% of the aggregate value of the outstanding Ordinary Shares, calculated as (1) the average of the daily volume weighted average trading price of an Ordinary Share on the NASDAQ Stock Exchange, or any other stock exchange or stock market on which the Ordinary Shares are then listed, over the thirty (30) consecutive trading day period immediately prior to the Company's entry into a definitive agreement with respect to such acquisition or disposition *multiplied* by (2) the number of Ordinary Shares outstanding on such date;

(iv) incur any Indebtedness (other than, for the avoidance of doubt, the Spin-off Debt), unless the ratio of Outstanding Indebtedness to LTM EBITDA for the most recently completed four fiscal quarters for which the Company's financial statements are publicly available immediately preceding the date on which such Indebtedness is proposed to be incurred would have been less than five (5), determined on a consolidated and pro forma basis as if the additional Indebtedness proposed to be incurred had been incurred at the beginning of such four-quarter period;

(v) declare or pay any cash or in-kind dividend, extraordinary or otherwise, to the shareholders of the Company, other than a quarterly dividend to the holders of Ordinary Shares in the ordinary course of business as approved by the Board, or redeem, repurchase or otherwise acquire any Ordinary Shares or other Equity Securities of the Company (other than in connection with the forfeiture of an award under a Company Equity Plan or as otherwise contemplated by a Company Equity Plan);

(vi) voluntarily dissolve or liquidate the Company or any of its Subsidiaries;

(vii) voluntarily file a petition for bankruptcy or receivership for the Company or any of its Subsidiaries, or fail to oppose any other Person's petition for bankruptcy or any other person's action to appoint a receiver of the Company or any of its Subsidiaries;

(viii) enter into, amend, or extend any transaction with Total or TZS or that would otherwise be required to be disclosed as a transaction with a related person pursuant to Item 404 of Regulation S-K of the U.S. Securities Act of 1933, as amended;

(ix) enter into or adopt any shareholder rights plan or other "poison pill" arrangement, or any amendment or termination thereof (other than the expiration by its terms);

(x) change the size of the Board; or

(xi) enter into any agreement, arrangement or commitment to do any of the foregoing.

(b) Termination of Shareholder Approval Rights. The requirement for approval of a Shareholder's Designees pursuant to Section 3(a) shall terminate at such time as such Shareholder no longer Beneficially Owns at least 20% of the outstanding Ordinary Shares.

(c) Independent Director Approval Matters. Subject to the provisions of the Act, for so long as a Shareholder Beneficially Owns at least 15% of the outstanding Ordinary Shares, the Company shall not, and (to the extent applicable) shall not permit any Subsidiary of the Company to, take any of the following actions without first obtaining Independent Director Approval:

(i) amend, modify or repeal any provision of the constitution of the Company or the Organizational Documents of a material Subsidiary;

(ii) enter into or consummate any transaction that, in the reasonable judgment of the Independent Directors, involves a conflict of interest between Total or TZS, on the one hand, and the Company or any of its Affiliates, on the other hand;

(iii) enter into or adopt any shareholder rights plan or other "poison pill" arrangement, or any amendment or termination thereof (other than the expiration by its terms);

(iv) approve or recommend the acceptance of a tender offer or exchange offer by a Shareholder or one or more of its Affiliates to purchase or exchange for cash or other consideration any Voting Security, or approve or recommend a merger of the Company or any of its Subsidiaries with such Shareholder or one or more of its Affiliates;

(v) voluntarily dissolve or liquidate the Company or any of its Subsidiaries;

(vi) voluntarily file a petition for bankruptcy or receivership for the Company or any of its Subsidiaries, or fail to oppose any other Person's petition for bankruptcy or any other person's action to appoint a receiver of the Company or any of its Subsidiaries;

(vii) delegate all or a portion of the authority of the Board to any committee of the Board;

(viii) amend, modify or waive any of the provisions of this Agreement;

(ix) modify (including a failure to maintain current levels of coverage in any successor policy), or take any action with respect to, director's and officer's insurance coverage; or

(x) subject to the Act and the Company's constitution, reduce the compensation of any Independent Director; or

(xi) enter into any agreement, arrangement or commitment to do any of the foregoing.

(d) Singapore Code; Prohibited Transactions. At any time at which the General Waiver is not in effect and the SIC has not otherwise issued a ruling that the Shareholders are not "acting in concert" for the purposes of the Singapore Code, without limiting any of the other provisions set forth in this Agreement (including Section 5), no Shareholder shall proceed with any transaction or acquisition of Ordinary Shares or take any other action that would require the Shareholders (if deemed to be acting in concert for the purposes of this Section 3(d) only) to make a mandatory general offer under Rule 14 of the Singapore Code (any such transaction, acquisition or action, a "Prohibited Transaction"). If, notwithstanding the foregoing, any Shareholder proceeds with or undertakes a Prohibited Transaction, such Shareholder (the "Defaulting Shareholder") shall, subject to the Singapore Code and any requirements of the SIC and subject to the other provisions set forth in this Agreement, undertake all necessary steps (including by selling or transferring all or some of its Ordinary Shares) to ensure that such mandatory general offer would not be required to be made. Without limiting any other rights and remedies that may be available to the other Shareholder, the Defaulting Shareholder shall: (i) as between the Shareholders, be deemed to have made such mandatory general offer on its own (and not acting in concert with the other Shareholder); (ii) be responsible for all costs and expenses associated with such mandatory general offer; and (iii) indemnify the other Shareholder and its directors, officers, employees and other representatives against any and all losses, claims, damages, liabilities and related expenses arising out of, in any way connected with or as a result of such Prohibited Transaction or such mandatory general offer.

Section 4. TZS Secondees and Total Secondees.

(a) TZS Secondees. For so long as TZS Beneficially Owns 15% or more of the outstanding Ordinary Shares, TZS shall have the right to second five (5) of its employees (or employees of its Affiliates) to the Company, after consideration of such candidates' personal experience, recognized expertise and potential for synergistic contributions, in agreement with the CEO.

(b) Total Secondees. For so long as Total Beneficially Owns 15% or more of the outstanding Ordinary Shares, Total shall have the right to second two (2) of its employees (or employees of its Affiliates) to the Company, after consideration of such candidates' personal experience, recognized expertise and potential for synergistic contributions, in agreement with the CEO.

(c) Each employee of TZS or Total (or their respective Affiliates), as applicable, seconded to the Company pursuant to this Section 4 shall remain an employee of TZS and Total (or their respective Affiliates), as applicable. The Company shall be solely responsible for all compensation and benefits of such employees seconded to the Company pursuant to this Section 4, as reasonably agreed and reflected in the agreement executed among such secondee and/or the Shareholder employing such secondee and the Company as contemplated in the immediately following sentence, and, in each case, for all withholding, workers' compensation and any other insurance and fringe benefits with respect to such secondees. No secondee may commence work until an appropriate agreement has been executed among such secondee and/or the Shareholder employing such secondee and the Company, which agreement is approved by the Independent Directors; provided that each such agreement shall address such matters not inconsistent with this Agreement as the Independent Directors shall require, provided, further, that substantially the same conditions shall be imposed on secondees of each of TZS and Total.

Section 5. Standstill.

(a) From and after the Effective Time until the date on which the Board no longer includes a director, officer or employee of a Shareholder or any of its Subsidiaries, subject in each case to the exceptions set forth in Section 5(b) and Section 5(c), such Shareholder shall not (and shall cause its Affiliates not to), directly or indirectly or alone or in concert with others:

(i) except for any acquisition of Voting Securities (x) of a Shareholder by another Shareholder (including pursuant to Section 2(m)(iii) or Section 8), (y) pursuant to a Shareholder's preemptive rights set forth in Section 6, a Shaeholder's Mirror Confirmation Agreement, or the Option, or (z) subject to Section 3(c), in connection with a public offering of Voting Securities by the Company that is underwritten by an internationally recognized investment bank, effect or seek, offer or agree to effect, or announce any intention to effect or cause or participate in or seek, offer or agree to effect or participate in any transaction that would result in such Shareholder Beneficially Owning Voting Securities (represented as a percentage of the total number of outstanding Voting Securities after giving effect to such transaction) in excess of the percentage that the total number of Voting Securities Beneficially Owned by such Shareholder as of the Effective Time represents relative to the total number of Voting Securities outstanding as of the Effective Time;

(ii) take any action which would reasonably be expected to require the Company to make a public announcement regarding an action prohibited by Section 5(a)(i) pursuant to applicable law, the Singapore Code (if applicable) or the rules of the stock exchange or stock market on which the Ordinary Shares are then listed;

(iii) except in connection with a Permitted Transfer or a Transfer permitted under Section 7 and Section 8 (including any proposed sale or Transfer by a Shareholder of all or any portion of its Ordinary Shares to a third-party Person following compliance with the procedures set forth in Section 8), seek, make or take any action to solicit, initiate or encourage, any offer or proposal for, or any indication of interest in, a merger, consolidation, tender offer or exchange offer, sale or purchase of assets or securities or other business combination or any dissolution, liquidation, restructuring, recapitalization or similar transaction, in each case, involving the Company or any of its Subsidiaries or a substantial portion of the assets of the Company or any of its Subsidiaries;

(iv) "solicit," or become a "participant" in any "solicitation" of, any "proxy" (as such terms are defined in Regulation 14A under the Exchange Act) from any holder of Voting Securities in connection with any vote on any matter (whether or not relating to the election or removal of directors), or agree or announce its intention to vote with any Person undertaking a "solicitation" (provided, that such Shareholder shall not be deemed to be a participant in any "solicitation" merely by reason of membership of such Shareholder's Designees on the Board);

(v) form, join or in any way participate in a 13D Group with respect to any Voting Security (other than a 13D Group solely composed of the Shareholders and/or their respective Affiliates);

(vi) grant any proxies with respect to any Voting Security to any Person (including the other Shareholder) (other than as recommended by the Board) or deposit any Voting Security in a voting trust or enter into any other arrangement or agreement with respect to the voting thereof;

(vii) seek, alone or in concert with other Persons, additional representation on the Board or seek the removal of any Independent Director or a change in the composition or size of the Board that is inconsistent with this Agreement;

(viii) enter into any discussions or arrangements, understandings or agreements (whether written or oral) with, or advise, finance or assist any other Persons in connection with any of the foregoing; or

(ix) request, propose or otherwise seek, directly or indirectly, any amendment or waiver of the provisions of this Section 5(a) (provided, however, that such Shareholder may privately propose such an amendment or waiver to the Board (which, for the avoidance of doubt, the Board can accept or reject in its sole discretion) in a manner that is not intended and would not reasonably be expected to require the Company to make any public disclosure or other public announcement regarding such request or proposal pursuant to applicable law, the Singapore Code (if applicable) or the rules of the stock exchange or stock market on which the Ordinary Shares are then listed), it being understood and agreed that this Section 5 shall not limit (x) the activities of any Designee taken in good faith in his or her capacity as a Director, (y) the participation of any Designee in any discussions, deliberations, negotiations or determinations of the Board (or any committee thereof), or (z) if the General Waiver is not in effect, any action required by the Singapore Code or the SIC.

(b) Notwithstanding Section 5(a), nothing in this Agreement shall prohibit any Shareholder or its Affiliate, as applicable, from: (i) either (A) making and consummating a Shareholder Tender Offer (or taking preparatory steps in connection therewith) or (B) proposing and effecting a Shareholder Merger (or taking preparatory steps in connection therewith); provided, that no such Shareholder Tender Offer or Shareholder Merger shall be publicly proposed or effected unless (x) at least one hundred and twenty (120) days prior to commencing such Shareholder Tender Offer within the meaning of Rule 14d-2(a) of the rules and regulations promulgated under the Exchange Act or soliciting shareholder approval of such Shareholder Merger within the meaning of Rule 14a-2 of the rules and regulations under the Exchange Act, (1) such Shareholder or its Affiliate, as applicable, has provided written notice to the Company that it is prepared to commence negotiations with the Independent Directors regarding such Shareholder Tender Offer or Shareholder Merger and will make its designees reasonably available during normal business hours on reasonable advance notice to such Shareholder or its Affiliate, as applicable, from the Independent Directors for the purpose of engaging in such negotiations and (2) such Shareholder or its Affiliate, as applicable, has caused its designees to be so available for such negotiations during such one hundred twenty (120)-day period (it being understood that the Independent Directors shall have the authority to hire independent legal and financial advisors for such purposes, the fees and expenses of which will be borne by the Company), and (y) such Shareholder or its Affiliate, as applicable, has not made any coercive or retributive threats to members of the Board, the Independent Directors or shareholders of the Company in connection with such Shareholder Tender Offer or Shareholder Merger; provided, however, that prior to asserting any breach by a Shareholder of this Section 5(b), the Company shall have, within five (5) Business Days of the occurrence of such breach, provided such Shareholder with written notice of such breach and provided such Shareholder with five (5) Business Days from the date of such notice to cure such breach (even if such cure period would extend beyond the one hundred and twenty (120) day period contemplated by sub-clause (x) of this Section 5(b)), which breach, if cured within such five (5) Business Days, shall be deemed to have never occurred; or (ii) making any public disclosure regarding clause (i) above that is required by applicable law or the Singapore Code (if applicable) in connection with actions taken in compliance with the terms of clause (i) above.

(c) Notwithstanding Section 5(a) and Section 5(b), nothing in this Agreement shall prohibit any Shareholder or its Affiliate, as applicable, from: (i) making and submitting to the Board a non-public, confidential Shareholder Transaction Proposal and, if such discussions are initiated by the Board, subsequently engaging in private discussions with the Board regarding such Shareholder Transaction Proposal, so long as such action would not be reasonably likely to require such Shareholder or its Affiliate, as applicable, the Company or any other Person to make a public announcement regarding such Shareholder Transaction Proposal pursuant to applicable law, the Singapore Code (if applicable) or the rules of any applicable stock exchange or stock market; or (ii) after the public announcement of a definitive agreement with respect to a Control Acquisition that was entered into between the Company and any Person other than such Shareholder or its Affiliate (a "Third Party Acquisition") and until the earlier of (x) the closing of such Third Party Acquisition and (y) ninety (90) days after the termination of such definitive agreement, notwithstanding anything to the contrary in this Agreement, (A) making and submitting to the Company, the Board, and/or the Company's shareholders, an alternative Control Acquisition Proposal on a publicly disclosed and announced basis for all outstanding Equity Securities of the Company, which, if such alternative Control Acquisition Proposal is being made in the form of a tender offer or exchange offer, shall be on the same terms for all Ordinary Shares and include a non-waivable condition that a majority of outstanding Ordinary Shares not Beneficially Owned by such Shareholder and its Affiliates are tendered into such offer, or (B) taking any other action, whether or not otherwise restricted by Section 5(a) (but subject to Section 5(a)(i)) in connection with evaluating, making, submitting, negotiating, effectuating or implementing any such alternative Control Acquisition Proposal (or any amendment, supplement or modification thereto), including actively soliciting shareholders of the Company not to vote in favor of or to vote against such Third Party Acquisition.

Section 6. Preemptive Rights.

(a) The Company shall not issue or agree to issue Ordinary Shares, other Equity Securities or any other securities of the Company that are convertible into or exercisable or exchangeable for Ordinary Shares (such securities, "Preemptive Securities"), unless, in each case, the Company shall have first given written notice (the "Preemptive Notice") to each Shareholder (each, a "Preemptive Right Holder") that shall (i) state the Company's intention to issue the Preemptive Securities (in each case, an "Initial Issuance"), the amount to be issued, the terms of such Preemptive Securities, the purchase price therefor and a summary of the other material terms and conditions of the proposed Initial Issuance, and (ii) offer (a "Preemptive Offer") to issue to such Shareholder up to such number of Preemptive Securities as such Shareholder has the right to acquire pursuant to Section 6(b) and as set forth in the Preemptive Notice (the "Offered Securities") on the terms and conditions (including purchase price) set forth in the Preemptive Notice, which Preemptive Offer by its terms shall remain open and irrevocable for a period of twenty (20) Business Days from the date it is delivered by the Company to such Shareholder (the "Preemptive Period") and, to the extent the Preemptive Offer is accepted during such Preemptive Period, until the closing of the Initial Issuance contemplated by the Preemptive Offer.

(b) Each Shareholder shall be entitled to participate in each Initial Issuance on a *pro rata* basis by purchasing a number of Offered Securities in an amount equal to the product of (i) the total number of Preemptive Securities to be issued in the Initial Issuance *multiplied by* (ii) a fraction in which the numerator is the number of Ordinary Shares Beneficially Owned by such Shareholder (excluding any Ordinary Shares obtainable by such Shareholder on conversion of any Convertible Debentures until such Ordinary Shares are actually issued) and the denominator is the aggregate number of Ordinary Shares outstanding, in each case immediately prior to such Initial Issuance and on a fully diluted basis (such fraction, such Shareholder's "Pro Rata Portion").

(c) Notice of a Shareholder's intention to accept a Preemptive Offer, in whole or in part, shall be evidenced by a writing signed by such Shareholder and delivered to the Company prior to the end of the Preemptive Period of such Preemptive Offer (each, a "Notice of Acceptance"), setting forth the portion of the Offered Securities that such Shareholder elects to purchase.

(d) If a Shareholder fails to exercise its preemptive right or elects to exercise such right with respect to less than such Shareholder's Pro Rata Portion of such Preemptive Securities (as determined pursuant to Section 6(c)) but the other Shareholder exercises its preemptive right for all of its Pro Rata Portion of such Preemptive Securities (any Shareholder that so exercises its preemptive right for all of its Pro Rata portion of such Preemptive Securities, a "Fully Participating Shareholder"), the Company shall, within two (2) Business Days after the end of the Preemptive Period, make such adjustment to the allotment of the Fully Participating Shareholder so that such Fully Participating Shareholder's Pro Rata Portion of any remaining Preemptive Securities not acquired by the other Shareholder may be allocated to it and notify such Fully Participating Shareholder in writing of its rights to subscribe for such remaining Preemptive Securities. The Fully Participating Shareholder shall have a period of five (5) Business Days after the end of the Preemptive Period to (ii) amend its Notice of Acceptance to include the number of remaining Preemptive Securities it wishes to subscribe for, if any, and (ii) deliver such amended Notice of Acceptance to the Company (such fifth (5th) Business Day being the "Final Preemptive Date").

(e) Upon the closing of the Initial Issuance (which shall occur within twenty (20) Business Days after (i) the end of the Preemptive Period if both Shareholders or neither of them are Fully Participating Shareholders or (ii) the Final Preemptive Date if only one Shareholder is a Fully Participating Shareholder), each electing Shareholder shall promptly purchase from the Company, and the Company shall issue to such Shareholder, the Offered Securities covered by such Shareholder's Notice of Acceptance (as amended in accordance with Section 6(d), if applicable) delivered to the Company by such Shareholder, on the terms and conditions (including purchase price) set forth in the Preemptive Offer. The purchase by a Shareholder of any Offered Securities is subject in all cases to the execution and delivery by the Company and such Shareholder of a purchase agreement relating to such Offered Securities in customary form and reflecting the price, terms and conditions set forth in the Preemptive Offer.

(f) In the event a Shareholder has elected to participate in an Initial Issuance and has timely delivered a Notice of Acceptance to the Company but any governmental approval(s) applicable to such Shareholder has prevented it from purchasing Offered Securities in the Initial Issuance (such Shareholder, an "Affected Shareholder"), from the closing of the Initial Issuance through the three-month anniversary of the date thereof, the Affected Shareholder shall have the right to purchase the amount of Offered Securities necessary for such Affected Shareholder to Beneficially Own its Pro Rata Portion of the share capital of the Company on a fully diluted basis as if the Affected Shareholder had participated in the Initial Issuance (the "Catch-Up Securities"). The Affected Shareholder's right to purchase Offered Securities pursuant to this Section 6(f) shall be satisfied pursuant to one of the following two methods, which shall be determined by the Shareholder that is not the Affected Shareholder (the "Unaffected Shareholder"), in such Unaffected Shareholder's sole discretion: (A) the Company shall reserve during the Initial Issuance and, upon the Affected Shareholder's receipt of the outstanding governmental approval(s), issue the Catch-Up Securities to the Affected Shareholder on the same terms and conditions, including the same purchase price, as the Initial Issuance or (B) the Unaffected Shareholder shall purchase the Catch-Up Securities from the Company at the time of consummation of the Initial Issuance and, upon the Affected Shareholder's receipt of the outstanding governmental approval(s), sell such Catch-Up Securities to the Affected Shareholder on the same terms and conditions as the Initial Issuance, provided, that, the Affected Shareholder's purchase price for the Catch-Up Securities shall be equal to the purchase price set forth in the Preemptive Offer plus interest accruing at a rate of 2.0% per annum from the date of the consummation of the Initial Issuance up to, but excluding, the date of such sale to the Affected Shareholder. The purchase by an Affected Shareholder of any Catch-Up Securities pursuant to this Section 6(f) is subject in all cases to the execution and delivery by the Affected Shareholder, the Company, and the Unaffected Shareholder, as applicable, of a purchase agreement relating to such securities in customary form and reflecting the price (subject to adjustment as contemplated by the foregoing clause (B)), terms and conditions set forth in the Preemptive Offer.

(g) The preemptive rights set forth in this Section 6 with respect to any Shareholder shall terminate at such time as such Shareholder no longer owns at least 10% of the outstanding Ordinary Shares.

(h) The provisions of this Section 6 shall not apply to issuances by the Company or any of its Subsidiaries as follows:

(i) the issuance of Ordinary Shares by the Company pursuant to the transactions contemplated by the Separation Agreement and the Investment Agreement (including for the avoidance of doubt the Convertible Debentures, the Physical Delivery Forward Transactions and Mirror Confirmation Agreements);

(ii) the issuance of New Securities as consideration in an acquisition of a business or assets of a business which has been approved pursuant to Section 3(a)(iii) to the extent required;

(iii) the issuance or grant of New Securities pursuant to any option or other equity benefit plan of the Company or any of its Subsidiaries (such plan, a "Company Equity Plan"), including the issuance of New Securities upon the conversion, exercise, vesting or exchange of a Convertible Security that was issued or granted under a Company Equity Plan; or

(iv) the issuance of New Securities under a shareholder rights plan or other "poison pill" arrangement entered into or adopted by the Company (subject to Section 3(a) and Section 3(c)).

Section 7. Transfers of Shares.

(a) Other than pursuant to a Permitted Transfer, prior to the second anniversary of the Effective Date, neither Shareholder shall offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise Transfer or dispose of, directly or indirectly, any Ordinary Shares Beneficially Owned by such Shareholder or any other securities so owned that are convertible into or exercisable or exchangeable for Ordinary Shares if following such transaction such Shareholder would cease to Beneficially Own at least 20% of the outstanding Ordinary Shares, where the determination of the Ordinary Shares Beneficially Owned by such Shareholder and the total outstanding Ordinary Shares shall be on an as converted, exercised or exchanged basis excluding any Ordinary Shares that may be issuable upon conversion of any Convertible Debentures held by any person until such Ordinary Shares are actually issued.

(b) Other than pursuant to a Permitted Transfer, prior to the second anniversary of the Effective Date, Total shall not offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise Transfer or dispose of, directly or indirectly, any Ordinary Shares Beneficially Owned by Total or any other securities so owned that are convertible into or exercisable or exchangeable for Ordinary Shares if (i) immediately before the consummation of such transaction, the percentage of the outstanding Ordinary Shares Beneficially Owned by Total is not greater than that Beneficially Owned by TZS or (ii) immediately after the consummation of such transaction, and as a result of such transaction, the percentage of the outstanding Ordinary Shares Beneficially Owned by Total would be less than or equal to the percentage of the outstanding Ordinary Shares Beneficially Owned by TZS.

(c) Any Transfers effected pursuant to this Agreement shall be made in compliance with applicable securities laws and shall, upon reasonable request of the Company in connection with a private placement, be made conditional upon delivery of an opinion of legal counsel reasonably acceptable to the Company.

Section 8. Right of First Offer.

(a) If any Shareholder desires to sell or Transfer (other than any Permitted Transfer) all or any portion of its Ordinary Shares to a third-party Person in a block sale transaction or other negotiated transaction with an identified counterparty, then such Shareholder (the "Selling Shareholder") shall first, before offering to sell or Transfer such Ordinary Shares to the third-party Person, give prior written notice to the other Shareholder (the "Offered Shareholder") of such intent and specify the aggregate amount of Ordinary Shares which such Selling Shareholder is proposing to sell and the price and other material terms and conditions on which the Selling Shareholder is offering to sell the Ordinary Shares (the "ROFO Notice"). Within twenty (20) days after the date of receipt of the ROFO Notice (the "Notice Period"), the Offered Shareholder may either decline in writing to offer to buy such Ordinary Shares, or propose in writing the price at and terms and conditions on which the Offered Shareholder offers to buy all (but not less than all) of such Ordinary Shares (the "Counteroffer"). The Selling Shareholder shall have twenty (20) days after receipt of the Counteroffer to either accept or decline in writing the Counteroffer. For a period of sixty (60) days from earlier of (i) the date on which the Offered Shareholder declines in writing to buy the Ordinary Shares specified in the ROFO Notice, (ii) the date on which the Selling Shareholder declines the Offered Shareholder's Counteroffer and (iii) the date of the expiration of the Notice Period, the Selling Shareholder may sell or enter into an agreement to sell all, but not less than all, of the Ordinary Shares covered by the ROFO Notice at a price and upon terms and conditions no more favorable to the Transferee than the price, terms and conditions specified in the ROFO Notice. To the extent Ordinary Shares are to be Transferred to the Offered Shareholder pursuant to this Section 8(a), the Selling Shareholder shall cause such Ordinary Shares to be Transferred free and clear of all liens, claims, encumbrances and other restrictions (other than as set forth in this Agreement) and shall be deemed to have represented that such Selling Shareholder has full right, title and interest in and to such Ordinary Shares and has all necessary power and authority and has taken all necessary actions to sell such Ordinary Shares. The closing of any Transfer pursuant to this Section 8(a) shall occur in accordance with the terms and provisions of the offer and this Agreement.

(b) Any proposed Transfer by a Selling Shareholder not consummated within the time periods set forth in this Section 8 shall again be subject to this Section 8 and shall require compliance by such Selling Shareholder with the procedures described in this Section 8. The exercise or non-exercise of the rights of any Shareholder under this Section 8 with respect to any proposed Transfer shall not adversely affect its rights with respect to subsequent Transfers by a Selling Shareholder under this Section 8.

Section 9. Access and Information Rights.

(a) Without limiting, and in addition to, the rights of inspection provided under the Act, for so long as a Shareholder Beneficially Owns at least 10% of the outstanding Ordinary Shares, such Shareholder will, subject to the other provisions of this Section 9, be entitled to the following access rights with respect to the Company and its Subsidiaries:

(i) Upon the reasonable request of such Shareholder, such Shareholder shall be entitled to consult with and advise the Company's CEO, President, Chief Financial Officer and Executive Vice Presidents (collectively, "Senior Management") and other employees with respect to the Company's business and financial matters, including Senior Management's proposed annual operating plans, and, upon reasonable request, members of Senior Management will meet with representatives of such Shareholder at the Company's and/or its Subsidiaries' facilities (or such other locations as the Company may designate) at mutually agreeable times for such consultation and advice, including to review progress in achieving said plans. The Company agrees to give due consideration in good faith to the advice given and any proposals made by such Shareholder, recognizing that the ultimate discretion with respect to all such matters shall be retained by the Company and the Board (except, for the avoidance of doubt, as otherwise specifically set forth in this Agreement).

(ii) Such Shareholder may, during normal business hours and upon seventy-two (72) hours' advance written notice, inspect all financial books and business records, facilities, offices and properties of the Company and its Subsidiaries at reasonable times and intervals; provided, however, that the Company may restrict or otherwise prohibit access to (A) any portion of any documents or information to the extent that (x) any applicable law requires the Company or any of its Subsidiaries to restrict or otherwise prohibit access to such portion of any documents or information, (y) access to such portion of such documents or information would result in the waiver of attorney-client privilege, work product doctrine or other applicable privilege applicable to such portion of documents or information or (z) such portion of any documents or information includes confidential intellectual property, including trade secrets, or (B) any contract, agreements or other documents of the Company or any of its Subsidiaries to the extent such access would violate or cause a material default under, or give a third party the right to terminate or accelerate the rights under, such contract, agreement or other document. In the event that the Company does not provide access or information in reliance on the proviso in the preceding sentence, it shall use its reasonable best efforts to communicate the applicable information to such Shareholder in a way that would not violate the applicable law, contract, agreement, document or obligation, waive such a privilege or disclose such confidential intellectual property or trade secret.

(b) Without limiting the rights set forth in Section 9(a), for so long as a Shareholder Beneficially Owns at least 20% of the outstanding Ordinary Shares, Senior Management shall provide each Shareholder (i) the proposed annual budget of the Company for any fiscal year at least sixty (60) days before such proposed annual budget is submitted to the Board for approval (such proposed annual budget as approved by the Board, the "Approved Annual Budget") and (ii) any proposed material amendment to, or deviation from, the Approved Annual Budget (it being understood that any immediate or future capital expenditure, in one or more installments, not included in the Approved Annual Budget that would be in excess of $10 million shall constitute such a material amendment or deviation) at least thirty (30) days before such proposed material amendment or deviation is submitted to the Board for approval. During such sixty (60)-day period or thirty (30)-day period, as applicable, members of Senior Management shall, upon a Shareholder's reasonable request and subject to the other provisions of this Section 9, provide such Shareholder any information reasonably requested by such Shareholder and necessary for such Shareholder's review of such proposed annual budget or material amendment or deviation of the Approved Annual Budget, as applicable, and meet with representatives of such Shareholder at mutually agreeable times to discuss, and consult with respect to, such proposed annual budget or proposed material amendment to, or deviation from, the Approved Annual Budget, as applicable. The Company agrees to give due consideration in good faith to the advice given and any proposals made by such Shareholder regarding such proposed annual budget or material amendment or deviation.

(c) Any consultation, meeting, inspection or investigation conducted by a Shareholder pursuant to Section 9(a) or Section 9(b) shall be conducted in a manner that does not unreasonably interfere with the conduct of the business of the Company and its Subsidiaries or create a risk of damage or destruction to any property or assets of the Company or any of its Subsidiaries. Any access to the facilities, offices or properties of the Company and its Subsidiaries granted pursuant to Section 9(a) shall be subject to the Company's reasonable security measures and insurance requirements and shall not include the right to perform invasive testing.

(d) For so long as a Shareholder Beneficially Owns at least 10% of the outstanding Ordinary Shares, the Company shall, subject to Section 10, provide such Shareholder with:

(i) as soon as practicable, and in any event within hundred and twenty (120) days after the end of each fiscal year (or such longer period as would be permitted under the rules and regulations promulgated under the Exchange Act), the audited consolidated financial statements of the Company for such fiscal year, which shall be prepared in accordance with International Financial Reporting Standards ("IFRS") and accompanied by the report of the Company's independent certified public accountants;

(ii) as soon as practicable, and in any event within ninety (90) days, after the end of each fiscal year, a business plan for the Company for the following five fiscal years;

(iii) as soon as practicable, and in any event within fifteen (15) Business Days after the end of each month, the unaudited consolidated financial statements for such month, which shall be prepared in accordance with IFRS; and

(iv) as soon as practicable, and in any event within fifty (50) days after the end of each of the first three fiscal quarters of each fiscal year of the Company, the unaudited consolidated financial statements for such quarter, which shall be prepared in accordance with IFRS;

provided, however, that, in each case of clauses (i), (ii) and (iii), the obligation of the Company to provide such information to such Shareholder shall be deemed satisfied and complied with to the extent such information has been made publicly available (including by filing or disclosing such information as required by applicable securities laws or rules of the stock exchange or stock market on which the Ordinary Shares are listed) within the applicable time period set forth above.

Section 10. Confidentiality. In furtherance of and not in limitation of any other similar agreement a Shareholder may have with the Company, from the Effective Time until the fifth (5th) anniversary of the termination of this Agreement, such Shareholder shall, and shall use its reasonable best efforts to cause each of its Designees to, keep all Confidential Information confidential and not disclose any Confidential Information in any manner whatsoever; provided, that notwithstanding anything to the contrary in this Agreement, Confidential Information may be disclosed by such Shareholder or such Shareholder's Designee(s) (a) to such Shareholder's Affiliates and its and their respective directors, officers, employees and other representatives, in each case, to the extent such Shareholder or such Shareholder's Designee(s) believe in good faith that such Person needs to be provided such Confidential Information to assist such Shareholder in evaluating or reviewing its investment in the Company (provided, that (i) such Person is subject to an obligation to keep such information confidential and (ii) such Shareholder shall be responsible for any breach of this Section 10 by any such Person), (b) to a prospective Transferee who is subject to an obligation to keep such information confidential (provided, that such Shareholder shall be responsible for any breach of this Section 10 by such prospective Transferee) and (c) if such Shareholder has received advice from its legal counsel that it is legally compelled to make such disclosure to comply with applicable law (provided, that prior to making such disclosure pursuant to this clause (c), such Shareholder shall use its reasonable best efforts to preserve the confidentiality of the Confidential Information, including, if permitted by applicable law, (i) consulting with the Company regarding such disclosure, and (ii) if reasonably requested by the Company, assisting the Company, at the Company's sole cost and expense, in seeking a protective order to prevent the requested disclosure, and provided, further, that such Shareholder, its Affiliates or its or their respective directors, officers, employees and other representatives, as the case may be, may disclose only that portion of the Confidential Information that is, based on the advice of its legal counsel, legally required or requested to be disclosed).

Section 11. Compliance.

(a) Each party to this Agreement undertakes and represents to the other parties that as of the date hereof: (i) any contract, license, concession or other asset contributed or likely to be contributed to the Company (or, in the case of the Company, to any of its Subsidiaries) (A) has been or will be procured in compliance with applicable law and (B) has been or will be obtained, and has been or will be transferred to the Company (or, in the case of the Company, to any of its Subsidiaries), without recourse to the use of unlawful payments; and (ii) except as contemplated by this Agreement or as may have been otherwise specified, none of its directors, officers or employees seconded to the Company (or, in the case of the Company, to any of its Subsidiaries) or likely to be involved in the supervision of the Company (or, in the case of the Company, the supervision of any of its Subsidiaries) is a Public Official or a Close Family Member of a Public Official.

(b) In connection with the transactions and activities contemplated by this Agreement, each party to this Agreement: (i) represents that it (and its directors and officers and, in the case of a Shareholder, its Affiliates and the directors and officers of such Shareholder's Affiliates or, in the case of the Company, its Subsidiaries and the directors and officers of such Subsidiaries) has not made, offered or authorized; and (ii) undertakes not to make, offer or authorize, any payment, gift, promise or other benefit, directly or indirectly, to any Person, for the purposes of bribery, or for the use or benefit of a Public Official, political party or any other Person to the extent such payment, gift, promise or benefit would be a violation of applicable Anti-Corruption Laws and Obligations or the undertakings and representations set out in this Section 11(b).

(c) The Company shall, and each Shareholder agrees and undertakes to exercise all of its voting rights to enable the Company to: (i) adopt, implement and comply with policies and procedures based on the principles set out in Schedule A hereto designed to ensure ethical commercial practices and to prevent violations of applicable Anti-Corruption Laws and Obligations, including all types of illegal payments, bribery and corruption; (ii) record and conserve accounting entries which accurately and reasonably reflect all transactions carried out by the Company and its Subsidiaries and the status of their respective assets; and (iii) organize and maintain a system for internally auditing accounting entries which is reasonably sufficient to detect and prevent any illegal payments, bribery or corruption.

Section 12. Duration of Agreement. This Agreement shall terminate automatically with respect to a Shareholder upon the first to occur of the following: (a) the dissolution, liquidation or winding up of the Company (unless the Company continues to exist after such dissolution, liquidation or winding up, including in another form); (b) the first date on which such Shareholder Beneficially Owns less than 10% of the outstanding Ordinary Shares; and (c) upon written agreement by the Company and such Shareholder.

Section 13. Severability. If any provision of this Agreement, or the application of such provision to any Person or circumstance or in any jurisdiction, shall be held to be invalid, illegal and unenforceable to any extent by any court of law or arbitration tribunal of competent jurisdiction, (i) the remaining provisions of this Agreement shall not be affected thereby, and each other provision hereof shall be valid and enforceable to the fullest extent permitted by applicable law, (ii) as to such Person or circumstance or in such jurisdiction such provision shall be reformed to be valid and enforceable to the fullest extent permitted by applicable law and (iii) the application of such provision to other Persons or circumstances or in other jurisdictions shall not be affected thereby.

Section 14. Arbitration. Each party hereto irrevocably agrees that any legal action or proceeding with respect to this Agreement, the transactions contemplated by this Agreement, any provision hereof, the breach, performance, validity or invalidity hereof or for recognition and enforcement of any judgment in respect hereof brought by another party hereto or its successors or permitted assigns will be referred to and finally resolved by binding confidential arbitration administered by the Singapore International Arbitration Centre in accordance with the Arbitration Rules of the Singapore International Arbitration Centre (the "Administered Rules") for the time being in force (which rules are deemed to be incorporated by reference in this Section 14), except as modified herein. The details of the arbitration will be as set forth in this Section 14. Unless otherwise agreed by the parties hereto in writing, any matter to be decided pursuant to this Section 14 will be decided by a panel of three arbitrators. The panel of three arbitrators will be chosen as follows: (i) within 15 days from the date of the receipt of the arbitration request, the party hereto submitting the arbitration request, on the one hand, and the two other parties hereto, on the other hand, will each name an arbitrator; and (ii) the two party-appointed arbitrators will thereafter, within 30 days from the date on which the second of the three arbitrators was named, name a third, independent arbitrator who will act as chairperson of the arbitral tribunal. In the event that the parties hereto fail to name an arbitrator within 15 days from the date of receipt of the Arbitration Request, then, upon written application by the parties hereto, that arbitrator will be appointed pursuant to the Administered Rules. In the event that the two party-appointed arbitrators fail to appoint the third independent arbitrator within the time frame specified above, then the third, independent arbitrator will be appointed pursuant to the Administered Rules. The arbitration will be conducted in English. Any document that a party hereto seeks to use that is not in English will be provided along with an English translation. The seat of arbitration will be Singapore.

Section 15. Governing Law. This Agreement will be governed by and construed and interpreted in accordance with the laws of the Singapore without regard to rules of conflicts of laws.

Section 16. Share Dividends, Etc. The provisions of this Agreement shall apply to any and all shares of the Company or any successor or assignee of the Company (whether by merger, consolidation, sale of assets or otherwise) which may be issued in respect of, in exchange for or in substitution for the Ordinary Shares, by reason of any share dividend, split, reverse split, combination, recapitalization, reclassification, merger, consolidation or otherwise in such a manner and with such appropriate adjustments as to reflect the intent and meaning of the provisions hereof and so that the rights, privileges, duties and obligations hereunder shall continue with respect to the shares of the Company as so changed.

Section 17. Benefits of Agreement. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and each of their respective successors and permitted assigns. Except as otherwise expressly provided herein, no Person not a party to this Agreement, as a third-party beneficiary or otherwise, shall be entitled to enforce any rights or remedies under this Agreement. For the avoidance of doubt, in no event shall any holder of common stock or any other voting securities of either Shareholder, in each case in their capacity as such, have any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement. Independent Director Approval shall be sufficient, but (subject to Section 3(c)) not required or necessary, for the Company to exercise any or all of its rights under this Agreement (including any remedies available to the Company hereunder), or to enforce any or all obligations of the other parties hereto.

Section 18. Notices.

(a) All notices or other communications which are required or permitted hereunder shall be in writing and shall be deemed to have been given and received if (a) personally delivered, (b) sent by electronic mail (with confirmation of receipt by the recipient, which confirmation shall be promptly delivered by the recipient if so requested by the sender in the applicable notice or other communication) or (c) sent by internationally recognized overnight courier, in each case, addressed as follows:

(i) If to the Company, to:

Maxeon Solar Technologies, Ltd.
8 Marina Boulevard #05-02
Marina Bay Financial Center, 018981
Singapore
Attention: Jeff Waters, Chief Executive Officer
Email: Jeff.Waters@sunpower.com with copies

with copies (which shall not constitute notice) to:

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
USA
Attention: Eric M. Swedenburg
Sebastian Tiller
Email: eswedenburg@stblaw.com
stiller@stblaw.com

and

Jones Day
250 Vesey Street
New York, New York 10281
USA
Attention: Randi C. Lesnick
Email: rclesnick@JonesDay.com

and

Jones Day
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
USA
Attention: Erin S. de la Mare
Email: esdelamare@JonesDay.com

(ii) If to Total Solar, to:

Total Solar INTL
2 place Jean Millier-Arche Nord Coupole/Regnault
92078 Paris La Défense Cedex
France
Attention: Jean-Charles Arrago
Email: Jean-charles.arrago@total.com

with copies (which shall not constitute notice) to:

Latham & Watkins LLP
45, rue Saint-Dominique
Paris, France 75007
Attention: Olivier du Mottay, Ryan Maierson
Email: Olivier.duMottay@lw.com, Ryan.Maierson@lw.com

(iii) If to TGEHF, to:

Total Solar INTL
2 place Jean Millier-Arche Nord Coupole/Regnault
92078 Paris La Défense Cedex
France
Attention: Jean-Charles Arrago
Email: Jean-charles.arrago@total.com

with copies (which shall not constitute notice) to:

Latham & Watkins LLP
Paris, France 75007
Attention: Olivier du Mottay, Ryan Maierson
Email: Olivier.duMottay@lw.com, Ryan.Maierson@lw.com

(iv) If to TZS, to:

Zhonghuan Singapore Investment and Development Pte. Ltd.
c/o Tianjin Zhonghuan Semiconductor Co., Ltd
No. 12 East Haitai Road, Huayuan Industrial Park,
Hi-tech Industrial Zone, Tianjin, PR China
Attention: JIANG Yuan (Head of Investment Dept.); ZHAN Huimei (Head of Finance Dept.)
Email: jiangyuan@tjsemi.com; zhanhuimei@tjsemi.com

with copies (which shall not constitute notice) to:

Weil, Gotshal & Manges LLP
3001-3003, Tower 2,
Jing An Kerry Centre 1539 Nan Jing Road(W),
Shanghai 200040, PR China

(b) Any such communication shall be deemed to have been received (a) when delivered, if personally delivered or sent by internationally recognized, overnight courier and (b) when delivered by or electronic mail, if such notice is sent prior to 5:00 P.M. in the time zone of the receiving party, on the date sent and, if such notice is sent after 5:00 P.M. in the time zone of the receiving party, on the Business Day after the date on which such notice is sent.

Section 19. Modification; Waiver. This Agreement may be amended, modified or supplemented only by a written instrument duly executed by the Company and each Shareholder. No course of dealing between the Company or its Subsidiaries and any Shareholder or any delay in exercising any rights hereunder will operate as a waiver of any rights of any party to this Agreement. The failure of any party hereto to enforce any of the provisions of this Agreement will in no way be construed as a waiver of such provisions and will not affect the right of such party thereafter to enforce each and every provision of this Agreement in accordance with its terms.

Section 20. Entire Agreement. Except as otherwise expressly provided herein, this Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings of the parties in connection therewith, from and after the Effective Time.

Section 21. Assignment. This Agreement shall not be assigned or delegated by any party hereto without the prior written consent of the other parties hereto; provided that any Shareholder may assign or delegate this Agreement to an Affiliate of such Shareholder to which such Shareholder has Transferred Ordinary Shares if such Affiliate has agreed in writing to be bound by the terms of this Agreement as a Shareholder to the extent and for the duration that such terms remain in effect. Any purported assignment or delegation in violation of this Section 21 shall be void and of no effect.

Section 22. Specific Performance. Each party to this Agreement acknowledges that in addition to a right to damages, a remedy at law for any breach or attempted breach of this Agreement may be inadequate, and agrees that each other party to this Agreement shall be entitled to seek specific performance and injunctive and other equitable relief in case of any such breach or attempted breach.

Section 23. Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed to be an original instrument, but all such counterparts taken together shall constitute but one agreement.

Section 24. Other Agreement. None of the Shareholders shall enter into any understanding, arrangement or agreement of any kind with any Person (including the other Shareholder) with respect to, directly or indirectly, any Voting Securities which is inconsistent with the provisions of this Agreement.

Section 25. Further Assurances. Each party hereto shall do and perform or cause to be done and performed all such further acts and things and shall execute and deliver all such other agreements, certificates, instruments and other documents as any other party hereto reasonably may request in order to carry out the provisions of this Agreement and the consummation of the transactions contemplated hereby.

Section 26. Effectiveness of this Agreement. This Agreement shall become automatically effective as of the Effective Time. To the extent the Closing does not occur, the provisions of this Agreement shall be without any force or effect and shall create no rights or obligations on the part of any party hereto.

[*Signature Page Follows*]

The parties hereto have signed this Agreement as of the date first written above.

Maxeon Solar Technologies, Ltd.

By: /s/ Jeffery W. Waters
Name: Jeffrey W. Waters
Title: Chief Executive Officer

The parties hereto have signed this Agreement as of the date first written above.

Total Solar INTL SAS

By: /s/ Noemie Malige
Name: Noemie Malige
Title: Managing Director

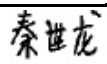
Total Gaz Electricité Holdings France SAS

By: /s/ Laurent Vivier
Name: Laurent Vivier
Title: Managing Director

The parties hereto have signed this Agreement as of the date first written above.

Zhonghuan Singapore Investment and Development Pte. Ltd.
中环新加坡投资发展私人有限公司

By: 

Name:  Shilong QIN
Title: Director

Signature Page to Shareholders Agreement

Schedule A

The following sets out the key principles of the Company's compliance program and policies to be adopted and implemented to ensure compliance with applicable Anti-Corruption Laws and Obligations in connection with projects, activities and operations of the Company and its Subsidiaries.

1. Prohibited Conduct

All activities of the Company and its Subsidiaries must be undertaken consistent with the requirements of applicable Anti-Corruption Laws and Obligations.

2. Designation of Compliance personnel

The Company shall have a Compliance and Ethics Officer responsible for overseeing the development, adequate resourcing and staffing of, communication, implementation and enforcement of the Company's compliance and ethics ("compliance") program and its related policies.

3. Development and implementation of a compliance risk mapping process

The Company shall undertake periodic compliance risk mapping to identify key risk points with respect to the Company's and its Subsidiaries' operations complying with applicable Anti-Corruption Laws and Obligations.

4. Compliance policies

The Company shall develop, implement and maintain compliance policies and procedures at least equivalent to the Total group compliance program. These shall include:

(i) Code of Conduct – a functional document applicable to all activities of the Company and its Subsidiaries, establishing the Company's zero tolerance for corruption, fraud, anti-trust violations and influence peddling;

(ii) A risk-based third party due diligence policy and procedures, which may include a formal Anti-Corruption Policy;

(iii) Gifts, Hospitality, Donations and Corporate Social Responsibility Activities;

(iv) Conflicts of Interest and Human Resources;

(v) The Company will assess the need for additional compliance policies necessary to ensure that the activities of the Company and its Subsidiaries are in compliance with applicable Anti-Corruption Laws and Obligations.

5. Risk-based compliance training and communication

The Company shall ensure that training is delivered in order that compliance risks are understood and properly managed.

6. Mechanisms for reporting and responding to allegations or evidence of misconduct

The Company will implement adequate reporting mechanisms to allow for the reporting of concerns and/or violations. Such mechanisms should be consistent with local law and ensure that individuals are appropriately protected and do not suffer any retaliation. The Company will also ensure that reports are properly and timely investigated, and formulate appropriate and effective responses to credible evidence of misconduct (including, but not limited to, disciplinary sanctions, where necessary).