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

FORM 8-K

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

Date of report (Date of earliest event reported): September 12, 2019

(Exact name of registrant as specified in its charter)

Delaware	001-35720	45-3052669
(State or other jurisdiction of incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

15 Koch Road, Suite K, Corte Madera, California 94925
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (415) 924-1005

N/A
(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

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

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

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

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

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, $0.0001 par value	**RH**	**New York Stock Exchange**

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

Emerging growth company ☐

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

Item 1.01. Entry into a Material Definitive Agreement.

Indenture

On September 17, 2019, RH (the "Company") entered into an indenture (the "Indenture") by and among the Company and U.S. Bank National Association, as trustee, in connection with the sale by the Company of $350,000,000 aggregate principal amount of its 0.00% Convertible Senior Notes due 2024 (the "Notes") in a private placement to qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933, as amended (the "Securities Act"). The Notes will not bear interest, except in certain limited circumstances (the Notes will be subject to "special interest" in connection with the failure of the Company to perform certain of its obligations under the Indenture), and the principal amount of the Notes will not accrete. The Notes will mature on September 15, 2024, unless earlier purchased by the Company or converted.

The initial conversion rate applicable to the Notes is 4.7304 shares of common stock per $1,000 principal amount of Notes (which is equivalent to an initial conversion price of approximately $211.40 per share). The conversion rate will be subject to adjustment upon the occurrence of certain specified events, but will not be adjusted for accrued and unpaid special interest. In addition, upon the occurrence of a "make-whole fundamental change" (as defined in the Indenture), the Company will, in certain circumstances, increase the conversion rate by a number of additional shares for a holder that elects to convert its Notes in connection with such make-whole fundamental change.

Prior to June 15, 2024, the Notes will be convertible only under the following circumstances: (1) during any calendar quarter commencing after December 31, 2019, if, for at least 20 trading days (whether or not consecutive) during the 30 consecutive trading day period ending on the last trading day of the immediately preceding calendar quarter, the last reported sale price of the Company's common stock on such trading day is greater than or equal to 130% of the applicable conversion price on such trading day; (2) during the five consecutive business day period after any ten consecutive trading day period in which, for each day of that period, the trading price per $1,000 principal amount of Notes for such trading day was less than 98% of the product of the last reported sale price of the Company's common stock and the applicable conversion rate on such trading day; or (3) upon the occurrence of specified corporate transactions. On and after June 15, 2024, until the close of business on the second scheduled trading day immediately preceding the maturity date, holders may convert all or a portion of their Notes at any time, regardless of the foregoing circumstances. Upon conversion, the Notes will be settled, at the Company's election, in cash, shares of the Company's common stock, or a combination of cash and shares of the Company's common stock.

The Company may not redeem the Notes; however, upon the occurrence of a "fundamental change" (as defined in the Indenture), holders may require the Company to purchase all or a portion of their Notes for cash at a price equal to 100% of the principal amount of the Notes to be purchased plus any accrued and unpaid special interest to, but excluding, the fundamental change purchase date.

The Notes will be unsecured and unsubordinated obligations of RH and will rank senior in right of payment to any of future indebtedness of RH that is expressly subordinated in right of payment to the Notes; rank equal in right of payment to any existing and future unsecured indebtedness of RH that is not so subordinated, including the 0.00% Convertible Senior Notes due 2020 and the 0.00% Convertible Senior Notes due 2023; be effectively subordinated in right of payment to any secured indebtedness of RH to the extent of the value of the assets securing such indebtedness; and be structurally subordinated to all existing and future indebtedness and other liabilities and obligations incurred by subsidiaries of RH, including trade payables and the guarantee in respect of the 0.00% Convertible Senior Notes due 2020 provided by RH's primary operating subsidiary, Restoration Hardware, Inc.

The following events are considered "events of default," which may result in the acceleration of the maturity of the Notes:

(1) the Company defaults in the payment of special interest on any Note when the same becomes due and payable and such default continues for a period of 30 days;

(2) the Company defaults in the payment of principal of any Note when the same becomes due and payable at the maturity date, upon declaration of acceleration, upon any fundamental change purchase date or otherwise;

(3) failure by the Company to deliver the consideration due upon the conversion of any Notes and such failure continues for a period of five business days following the due date for the delivery thereof;

(4) failure by the Company to give a fundamental change notice or a notice of a specified corporate transaction at the time, in the manner, and with the contents under the Indenture in each case when due and such failure is not cured within five days
after the due date for such notice;

(5) failure by the Company to comply with its obligations under the Indenture with respect to consolidation, merger and sale of assets of the Company;

(6) the Company defaults in the performance of or breaches any other covenant or agreement of the Company in the Indenture with respect to the Notes (other than a covenant or agreement in respect of which a default or breach is specifically addressed in clauses (1) through (5) above) and such default or breach continues for a period of 60 consecutive days after written notice of such default is delivered to the Company by the trustee or to the Company and the trustee by the holders of 25% or more in aggregate principal amount of the Notes then outstanding;

(7) an event of default as defined under any mortgage, indenture or instrument under which there may be issued, or by which there may be secured or evidenced, any indebtedness of the Company or any of the Company's "significant subsidiaries" (as defined in the Indenture) for money borrowed, whether such indebtedness now exists or shall hereafter be created, if that default:

- constitutes the failure to pay when due (at express maturity, upon acceleration as a result of an event of default or otherwise) indebtedness in an aggregate principal amount in excess of $20,000,000, and

- such default continues for a period of 30 days after written notice thereof is delivered to the Company by the trustee or to the Company and the trustee by the holders of 25% or more in aggregate principal amount of the Notes then outstanding without such default having been cured or waived, such acceleration having been rescinded or annulled (if applicable) and such indebtedness not having been paid or discharged; or

(8) certain events of bankruptcy, insolvency, or reorganization of the Company any of the Company's significant subsidiaries.

If an event of default, other than an event of default described in clause (8) above with respect to the Company, occurs and is continuing, and in each and every such case, except for any Notes the principal of which shall have already become due and payable, either the trustee by notice to the Company, or the holders of not less than 25% in aggregate principal amount of the Notes then outstanding, by notice to the Company and to the trustee, may declare 100% of the principal amount of, and accrued and unpaid special interest, if any, on all the Notes then outstanding, to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable. If an event of default described in clause (8) occurs and is continuing with respect to the Company (and not solely with respect to one or more of its significant subsidiaries), then 100% of the principal amount of, and all accrued and unpaid special interest, if any, on all the Notes then outstanding shall be and become immediately due and payable, without any notice or other action by any holder or the trustee, to the full extent permitted by applicable law.

The summary of the foregoing transactions is qualified in its entirety by reference to the text of the Indenture, which is included as Exhibit 4.1 hereto and is incorporated herein by reference.

Convertible Note Hedge Transactions

On September 12, 2019 and on September 13, 2019, in connection with the offering of the Notes and the exercise of the initial purchaser's option to buy additional Notes, the Company entered into convertible note hedge transactions with respect to its common stock (the "Purchased Options") with each of Barclays Bank PLC, Goldman Sachs & Co. LLC, Citibank N.A. and UBS AG London Branch (collectively, the "Counterparties"). The Company paid an aggregate amount of approximately $91.4 million to the Counterparties for the Purchased Options. The Purchased Options cover, subject to anti-dilution adjustments that are intended to be substantially identical to those in the Notes, approximately 1.66 million shares of the Company's common stock at a strike price that corresponds to the initial conversion price of the Notes, also subject to adjustment, and are exercisable upon conversion of the Notes. The Purchased Options will expire upon the maturity of the Notes. The forms of the confirmations relating to the Purchased Options are attached hereto as Exhibits 10.1 and 10.3 and are incorporated herein by reference.

The Purchased Options are intended to reduce the potential dilution impact resulting upon conversion of the Notes in the event that the market value per share of the Company's common stock, as measured under the Notes, at the time of exercise is greater than the conversion price of the Notes.

The Purchased Options are separate transactions, entered into by the Company with the Counterparties, and are not part of the terms of the Notes. Holders of the Notes will not have any rights with respect to the Purchased Options.

Warrant Transactions

Separately, on September 12, 2019 and on September 13, 2019, in connection with the offering of the Notes and the exercise of the initial purchaser's option to buy additional Notes, the Company also entered into warrant transactions (the "Warrants"), whereby the Company sold to the Counterparties warrants initially exercisable, subject to anti-dilution adjustments, for approximately 1.66 million shares of the Company's common stock at a strike price of $338.24 per share, also subject to adjustment, which is 100% higher than the closing price of shares of the Company's common stock of $169.12 on September 12, 2019. The Company received aggregate proceeds of approximately $50.2 million from the sale of the Warrants to the Counterparties. The Warrants were sold in private placements to the Counterparties pursuant to the exemptions from the registration requirements of the Securities Act afforded by Section 4(2) of the Securities Act. The forms of the confirmations relating to the Warrant transactions are attached hereto as Exhibits 10.2 and 10.4 and are incorporated herein by reference.

If the market value per share of the Company's common stock, as measured under the Warrants, exceeds the strike price of the Warrants, the Warrants will have a dilutive effect on the Company's earnings per share.

The Warrants are separate transactions, entered into by the Company with the Counterparties, and are not part of the terms of the Notes. Holders of the Notes will not have any rights with respect to the Warrants.

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

The information set forth in Item 1.01 above is incorporated by reference into this Item 2.03.

Item 3.02. Unregistered Sales of Equity Securities.

The information set forth in Item 1.01 above is incorporated by reference into this Item 3.02. This Current Report on Form 8-K does not constitute an offer to sell, or a solicitation of an offer to buy, any security and shall not constitute an offer, solicitation or sale in any jurisdiction in which such offering would be unlawful.

Item 7.01. Regulation FD Disclosure

On September 16, 2019, RH issued a press release announcing the exercise of the entire over-allotment option of $50 million aggregate principal amount of its 0.00% convertible notes due 2024, resulting in a total offering size of $350 million aggregate principal amount of 0.00% convertible notes due 2024. The full text of the press release is furnished hereto as Exhibit 99.1.

As discussed in the attached press release, in connection with the offering of the notes, the Company entered into convertible note hedge and warrant transactions with several financial institutions (the "hedge counterparties").

The Company has been advised that, in connection with establishing their initial hedge positions with respect to the convertible note hedge and warrant transactions, the hedge counterparties and/or their affiliates may purchase shares of the Company's common stock or enter into various derivative transactions with respect to the Company's common stock concurrently with, or shortly after, the pricing of the notes, including with certain investors in the notes. These hedging activities could increase (or reduce the size of any decrease in) the market price of the Company's common stock or the notes.

In addition, the hedge counterparties and/or their affiliates may modify any hedge positions (and are likely to do so during the conversion period related to any conversion of notes or following any repurchase of notes by the Company on any fundamental repurchase date or otherwise) by entering into or unwinding various derivatives with respect to the Company's common stock or purchasing or selling common stock or other securities of the Company in secondary market transactions following the pricing of the notes and prior to the maturity of the notes. These activities could also cause or avoid an increase or a decrease in the market price of the Company's common stock or the notes, which could affect a noteholder's ability to convert the notes and, to the extent the activity occurs during any observation period related to a conversion of the notes, it could affect the amount and value of the consideration that a noteholder will receive upon conversion of the notes.

The information furnished with this report under this Item 7.01, including Exhibit 99.1, shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference into any other filing under the Securities Act of 1933, as amended, or the Exchange Act, except as expressly set forth by specific reference in such a filing.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
4.1	Indenture dated September 17, 2019, between RH and U.S. Bank National Association, as Trustee, including form of 0.00% Convertible Senior Note due 2024.
10.1	Form of Base Convertible Bond Hedge Confirmation, dated September 12, 2019, between RH and each of the Counterparties.
10.2	Form of Base Warrant Confirmation, dated September 12, 2019, between RH and each of the Counterparties.
10.3	Form of Additional Convertible Bond Hedge Confirmation, dated September 13, 2019, between RH and each of the Counterparties.
10.4	Form of Additional Warrant Confirmation, dated September 13, 2019, between RH and each of the Counterparties.
99.1	RH Announces Exercise of Over-Allotment Option for its 0.00% Convertible Notes Due 2024.
104	Cover Page Interactive Data File –the cover page XBRL tags are embedded within the Inline XBRL document.

SIGNATURES

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

RH

Dated: September 18, 2019

By: /s/ Jack Preston
Jack Preston
Chief Financial Officer

Exhibit 4.1

RH
AS ISSUER

AND

U.S. BANK NATIONAL ASSOCIATION
AS TRUSTEE

INDENTURE

DATED AS OF SEPTEMBER 17, 2019

0.00% CONVERTIBLE SENIOR NOTES DUE 2024

TABLE OF CONTENTS

TABLE OF CONTENTS
(continued)

INDENTURE dated as of September 17, 2019 between RH, a Delaware corporation (the "**Company**") and U.S. Bank National Association, as trustee (the "**Trustee**").

Each party agrees as follows for the benefit of (except as otherwise provided below) the other party and for the equal and ratable benefit of the Holders of the Company's 0.00% Convertible Senior Notes due 2024:

ARTICLE 1
DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01 *Definitions*.

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

"**Applicable Procedures**" means, with respect to any transfer or transaction involving a Global Note or any beneficial interest therein, the rules and procedures of the Depositary for such Note, in each case to the extent applicable to such transfer or transaction and as in effect from time to time.

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

"**Bid Solicitation Agent**" means the Trustee or such other Person as may be appointed from time to time by the Company, without prior notice to the Holders, to solicit market bid quotations for the Notes in accordance with Section 10.01(a)(ii).

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

"**Board Resolution**" means a copy of one or more resolutions certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee.

"**Business Day**" means any day other than a Saturday, a Sunday or any other day on which the Federal Reserve Bank of New York is authorized or obligated by law or executive order to close or be closed.

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

"**Cash Settlement Averaging Period**" means, with respect to any Note as to which Cash Settlement or Combination Settlement is applicable, the 45 consecutive Trading Day period beginning on, and including, the second Trading Day immediately following the related Conversion Date; except that "Cash Settlement Averaging Period" means, with respect to any Conversion Date occurring during the Final Conversion Period, the 45 consecutive Trading Day period beginning on, and including, the 46th Scheduled Trading Day immediately preceding the Maturity Date.

"**Certificated Notes**" means Notes that are in registered definitive form.

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

"**Common Stock**" means the shares of the common stock of the Company, par value $0.0001 per share, existing on the Issue Date or any other shares of Capital Stock of the Company into which such shares of common stock shall be reclassified or changed.

"**Company**" means the party named as such in the first paragraph of this Indenture until a successor or assign replaces it pursuant to the applicable provisions hereof and, thereafter, means the successor or assign.

"**Company Order**" means a written request or order signed in the name of the Company by any Officer.

"**Conversion Price**" means as of any date, $1,000 divided by the Conversion Rate as of such date.

"**Corporate Trust Office**" means the corporate trust office of the Trustee at which at any time the trust created by this Indenture shall be administered, which office at the date hereof is located at 225 Asylum Street, 23rd Floor, Hartford, Connecticut 06103, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the corporate trust office of any successor Trustee at which such trust shall be administered (or such other address as a successor Trustee may designate from time to time by notice to the Holders and the Company).

"**Custodian**" means any receiver, trustee, assignee, liquidator, custodian or similar official under any Bankruptcy Law.

"**Daily Conversion Value**" means, with respect to any Note as to which Cash Settlement or Combination Settlement is applicable, for each of the 45 consecutive Trading Days during the Cash Settlement Averaging Period, one-forty-fifth (1/45th) of the product of (i) the Conversion Rate in effect on such Trading Day and (ii) the Daily VWAP on such Trading Day.

"**Daily VWAP**" means, with respect to any Note as to which Cash Settlement or Combination Settlement is applicable, for any Trading Day, theper-share volume-weighted average price as displayed under the heading "Bloomberg VWAP" on Bloomberg page "RH.N <equity> AQR" (or its equivalent successor if such page is not available) 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 share of the Common Stock on such Trading Day determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained for this purpose 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 trading hours.

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

"**DTC**" mean The Depository Trust Company.

"**Ex-Dividend Date**" means, with respect to any issuance, dividend or distribution, the first date on which the shares of the Common Stock trade in the applicable exchange or in the applicable market, regular way, without the right to receive the issuance, dividend or distribution in question.

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

"**Final Conversion Period**" means the period beginning on, and including, the 50th Scheduled Trading Day immediately preceding the Maturity Date, and ending at the Close of Business on the second Scheduled Trading Day immediately prior to the Maturity Date.

"**Free Trade Date**" means the date that is the 18-month anniversary of the last date of original issuance of the Notes offered by the Offering Memorandum.

"**Freely Tradable**" means, with respect to the Notes and the shares of Common Stock issuable upon conversion of the Notes, if any, that such Notes or such shares of Common Stock, if any, (i) are eligible to be sold by a Person who has not been an Affiliate of the Company during the preceding three months without any volume or manner of sale restrictions under the Securities Act, (ii) do not bear a Restricted Security Legend or Restricted Stock Legend and (iii) with respect to Global Notes only, are identified by an unrestricted CUSIP number in the facilities of the applicable depositary.

"**Fundamental Change**" means an event that shall be deemed to have occurred any time after the Issue Date when any of the following events occurs:

(1) any person, including any syndicate or group deemed to be a "**person**" or "**group**" within the meaning of Section 13(d) of the Exchange Act, other than the Company, its Subsidiaries and the employee benefits plans of the Company and of its Subsidiaries, has filed a Schedule TO or any schedule, form or report under the Exchange Act disclosing that such person has become, and such person has become, directly or indirectly, through a purchase, merger, or other acquisition transaction or series of transactions, the "**beneficial owner**," as defined in Rule 13d-3 under the Exchange Act, of shares of the Company's common equity representing more than 50% of the total voting power of all shares of the Company's common equity entitled to vote generally in elections of directors;

(2) consummation of any consolidation or merger of the Company pursuant to which the Common Stock is or will be converted into cash, securities or other property or any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to any person other than one or more of the Company's Subsidiaries, other than any transaction which is effected solely to change the Company's jurisdiction of incorporation and results in a reclassification, conversion or exchange of outstanding shares of the Common Stock solely for shares of common stock of the surviving entity; *provided*, *however*, that if in any such transaction the holders of more than 50% of the shares of the Company's common equity, representing more than 50% of the voting power of the common equity, immediately prior to such transaction, own, directly or indirectly, more than 50% of all classes of common equity, representing more than 50% of the total voting power of the continuing or surviving Person or transferee or the parent thereof immediately after such transaction, such transaction shall not constitute a Fundamental Change under this clause (2);

(3) the holders of the Common Stock approve any plan or proposal for the Company's liquidation or dissolution; or

(4) the Common Stock (or any other common equity into which the Notes are convertible at such time) is neither listed nor admitted or approved for trading (which will not be deemed to have occurred upon a suspension of trading) on a National Securities Exchange.

Notwithstanding the foregoing, a transaction or a series of transactions as set forth in clause (1) or (2) above shall not constitute Fundamental Change if, at least 90% of the consideration received or to be received by holders of the Common Stock (excluding cash payments for fractional shares and cash payments made pursuant to dissenters' appraisal rights) in connection with such transaction or transactions otherwise constituting a Fundamental Change under clause (1) or (2) above consists of shares of common stock or depositary receipts evidencing interests in ordinary shares or common equity traded on a National Securities Exchange, and as a result of such transaction or transactions, the Notes become convertible into or by reference to (in accordance with the provisions of Section 10.03(a)) such shares of common stock or depositary receipts, excluding cash payments for fractional shares or pursuant to dissenter's appraisal rights. For the avoidance of doubt, a Merger Event pursuant to which (x) at least 90% of the consideration received or to be received by the common stockholders of the Company, excluding cash payments for fractional shares and cash payments made pursuant to dissenters' appraisal rights, consists of shares of common stock or other common equity interests, in each case, that are listed or quoted or approved for trading on a National Securities Exchange or will be so listed or quoted or approved for trading when issued or exchanged in connection with such Merger Event and (y) as a result of which the Notes become convertible into such consideration, excluding cash payments for fractional shares and cash payments made pursuant to dissenters' appraisal rights (subject to the provisions of Section 10.03(a)) shall not constitute a Fundamental Change pursuant to clause (2) above.

"**GAAP**" means generally accepted accounting principles in the United States of America as in effect and, to the extent optional, adopted by the Company, on the Issue Date, consistently applied.

"**Global Note**" means a permanent Global Note that is in the form of the Note attached hereto as Exhibit A and that is deposited with and registered in the name of the Depositary or the nominee of the Depositary.

"**Global Securities Legend**" means a legend set forth in Exhibit A.

"**Holder**" or "**Holders**" means a Person or Persons in whose name a Note is registered in the Register.

"**Indenture**" means this Indenture, as amended or supplemented from time to time in accordance with the terms hereof, including the provisions of the TIA that are deemed to be a part hereof.

"**Initial Purchaser**" means the initial purchaser as defined in the Purchase Agreement.

"**Issue Date**" means September 17, 2019.

"**Last Reported Sale Price**" of the Common Stock means, for any day, the closing sale price per share (or if no closing sale price is reported, the average of the last bid price and the last ask price or, if more than one in either case, the average of the average last bid prices and the average last ask prices) on such day as reported in composite transactions for the principal U.S. securities exchange on which the Common Stock is listed for trading, without regard to afterhours or extended market trading. If the Common Stock is not listed for trading on a U.S. national or regional securities exchange on the relevant date,

the "Last Reported Sale Price" of the Common Stock will equal the last quoted bid price for the Common Stock in the over-the-counter market on such date as reported by OTC Markets Group Inc. or a similar organization. If the Common Stock is not so quoted on such date, the "Last Reported Sale Price" will be the average of the mid-point of the last bid prices and the last ask prices for the Common Stock on such date from each of at least three nationally recognized independent investment banking firms selected by the Company for this purpose. On and after the occurrence of a Merger Event, the Last Reported Sale Price for a Unit of Reference Property means, for any day, the value of a Unit of Reference Property on such day as determined by the Board of Directors in a commercially reasonable manner.

"**Make-Whole Fundamental Change**" means, subject to the sentence immediately following clause (4) of the definition of Fundamental Change, any event that either constitutes a Fundamental Change or would constitute a Fundamental Change but for the proviso in clause (2) of the definition of Fundamental Change.

"**Market Disruption Event**" means, if the Common Stock is listed for trading on The New York Stock Exchange or listed on another U.S. national or regional securities exchange, the occurrence or existence during the one-half-hour period ending on the scheduled close of trading on any Trading Day of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the stock exchange or otherwise) in the Common Stock or in any options, contracts or futures contracts relating to the Common Stock. For the purposes of determining amounts due upon conversion only pursuant to Section 10.03, "Market Disruption Event" means (1) a failure by the primary exchange or quotation system on which the Common Stock trades or is quoted to open for trading during its regular trading session or (2) the occurrence or existence, prior to 1:00 p.m., New York City time, on any Trading Day for the Common Stock, of an aggregate one half-hour period of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the stock exchange or otherwise) in the Common Stock or in any options, contracts or future contracts relating to the Common Stock.

"**Maturity Date**" means September 15, 2024.

"**National Securities Exchange**" means a securities exchange registered as a national securities exchange under Section 6(a) of the Exchange Act (or any successor thereto).

"**Notes**" means any of the Company's 0.00% Convertible Senior Notes due 2024 issued under this Indenture.

"**Offering Memorandum**" means the final offering memorandum for the offering and sale of the Notes dated September 12, 2019.

"**Officer**" means the Chairman of the Board, the Vice Chairman, the Chief Executive Officer, the President, the Chief Financial Officer, Chief Legal Officer, any Executive Vice President, any Senior Vice President, any Vice President, the Treasurer or the Secretary or any Assistant Treasurer or Assistant Secretary of the Company.

"**Officer's Certificate**" means a written certificate (i) containing the information specified in Sections 14.04 and 14.05, signed in the name of the Company by any Officer, and delivered to the Trustee; and (ii) if given pursuant to Section 4.03, signed by the principal financial or accounting Officer of the Company, which certificate need not contain the information specified in Sections 14.04 and 14.05.

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

"**Opinion of Counsel**" means a written opinion containing the information specified in Sections 14.04 and 14.05, from legal counsel. The counsel may be an employee of, or counsel to, the Company who is reasonably satisfactory to the Trustee.

"**Person**" means any individual, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof.

"**Purchase Agreement**" means that certain Purchase Agreement, dated September 12, 2019, between the Company and the Initial Purchaser.

"**Restricted Securities Legend**" means a legend in the form set forth in Exhibit A, or any other substantially similar legend indicating the restricted status of the Notes under Rule 144.

"**Restricted Stock Legend**" means a legend in the form set forth in Exhibit C, or any other substantially similar legend indicating the restricted status of the shares of Common Stock under Rule 144.

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

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

"**Rule 144A Information**" shall be such information as is specified pursuant to Rule 144A(d)(4) under the Securities Act.

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

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

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

"**Significant Subsidiary**" means any Subsidiary that is a "significant subsidiary" of the Company within the meaning of Rule 1-02(w) of Regulation S-X promulgated under the Exchange Act.

"**Special Interest**" means all amounts, if any, payable pursuant to Section 4.02(b), 4.02(c) and Section 6.01(c), as applicable.

"**Stock Price**" means, with respect to the Common Stock, in connection with a Fundamental Change, (i) in the case of a Fundamental Change described in clause (2) of the definition of Fundamental Change in which the holders of the Common Stock receive only cash, the amount of cash paid per share of the Common Stock in such Fundamental Change, and (ii) otherwise, the average of the Last Reported Sales Price of the Common Stock over the five Trading Day period ending on, and including, the Trading Day immediately preceding the applicable Make-Whole Fundamental Change Effective Date.

"**Subsidiary**" means a Person more than 50% of the outstanding Voting Stock of which is owned, directly or indirectly, by the Company or by one or more other Subsidiaries of the Company, or by the Company and one or more other Subsidiaries of the Company.

"**TIA**" means the Trust Indenture Act of 1939 as in effect on the Issue Date,*provided*, *however*, that if the TIA is amended after such date, TIA means, to the extent required by any such amendment, the TIA as so amended.

"**Trading Day**" means a Scheduled Trading Day on which (i) trading in the Common Stock generally occurs on The New York Stock Exchange or, if the Common Stock is not then listed on The New York Stock Exchange, on the principal other U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock is then traded, and (ii) there is no Market Disruption Event. If the Common Stock is not so listed or traded, "Trading Day" means a "Business Day." Notwithstanding the foregoing, for the purposes of determining amounts due upon conversion only pursuant to Section 10.03, "Trading Day" means a day during which (i) trading in the Common Stock generally occurs on the primary exchange or quotation system on which the Common Stock then trades or is quoted and (ii) there is no Market Disruption Event.

"**Trading Price**" per $1,000 principal amount of the Notes, for any date of determination, means the average (per $1,000 principal amount of Notes) of the secondary market bid quotations obtained by the Bid Solicitation Agent for $5,000,000 principal amount of Notes at approximately 3:30 p.m., New York City time, on such determination date from three independent nationally recognized securities dealers selected by the Company; *provided* that, if three such bids cannot reasonably be obtained by the Bid Solicitation Agent but two such bids are obtained, then the average of the two bids shall be used, and if only one such bid can reasonably be obtained by the Bid Solicitation Agent, that one bid shall be used. If the Bid Solicitation Agent cannot reasonably obtain at least one bid for $5,000,000 principal amount of the Notes from an independent nationally recognized securities dealer, then the Trading Price per $1,000 principal amount of Notes will be deemed to be less than 98% of the Trading Price Product. If, on any date of determination, the Company does not so instruct the Bid Solicitation Agent to obtain bids when required, the Trading Price per $1,000 principal amount of the Notes will be deemed to be less than 98% of the Trading Price Product on such date of determination.

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

"**Trustee**" means the party named as the "**Trustee**" in the first paragraph of this Indenture until a successor replaces it pursuant to the applicable provisions of this Indenture and, thereafter, means such successor. The foregoing sentence shall likewise apply to any such subsequent successor or successors.

"**Uniform Commercial Code**" means the New York Uniform Commercial Code as in effect from time to time.

"**Voting Stock**" of a Person means Capital Stock of such Person of the class or classes pursuant to which the holders thereof have the general voting power under ordinary circumstances to elect at least a majority of the board of directors, managers or trustees of such Person (irrespective of whether or not at the time Capital Stock of any other class or classes shall have or might have voting power by reason of the happening of any contingency).

"**Wholly Owned Subsidiary**" means, at any time, a Subsidiary all the Voting Stock of which (except directors' qualifying shares which shall be deemed to include investments by foreign nationals mandated by applicable law) is at such time owned, directly or indirectly, by the Company and its other Wholly Owned Subsidiaries.

Section 1.02 *Other Definitions*.

Term Section:	**Defined in:**
"Act"	1.05
"Additional Shares"	10.07(a)
"Agent Members"	2.12(e)
"Cash Settlement"	10.03(a)
"Combination Settlement"	10.03(a)
"Company's Filing Obligations"	6.01(c)
"Conversion Agent"	2.03
"Conversion Date"	10.02(a)(i)
"Conversion Rate"	10.01(a)
"Daily Measurement Value"	10.03(a)
"Daily Settlement Amount	10.03(a)
"Defaulted Interest"	11.02
"Depositary"	2.01(a)
"Event of Default"	6.01(a)
"Expiration Date"	10.05(e)
"Expiration Time"	10.05(e)
"Fundamental Change Notice"	3.03(a)
"Fundamental Change Notice Date"	3.03(a)
"Fundamental Change Purchase Date"	3.02
"Fundamental Change Purchase Notice"	3.04(a)
"Fundamental Change Purchase Price"	3.02
"Measurement Period"	10.01(a)(ii)
"Merger Event"	10.06(a)
"Notice of Conversion"	10.02(a)
"Paying Agent"	2.03
"Physical Settlement"	10.03(a)
"QIB"	2.01(a)
"Record Date"	11.01
"Reference Property"	10.06(a)
"Register"	2.03
"Registrar"	2.03
"Restricted Notes"	2.06(f)(i)
"Settlement Amount"	10.03(a)
"Settlement Method"	10.03(a)
"Settlement Notice"	10.03(a)
"Special Interest Payment Date"	11.01

"Special Record Date"	11.02(a)
"Specified Corporate Transaction"	10.01(a)(iv)
"Specified Corporate Transaction Notice"	10.01(a)(iv)
"Specified Dollar Amount"	10.03(a)
"Spin-off"	10.05(c)(ii)
"Successor Company"	5.01(a)(i)
"Temporary Notes"	2.09
"Trading Price Product"	10.01(a)(ii)
"transfer"	2.06(f)(i)
"Unit of Reference Property"	10.06(a)
"Valuation Period"	10.05(c)(ii)
"Weighted Average Consideration"	10.06(a)(v)(C)

Section 1.03 *Incorporation by Reference of Trust Indenture Act.* Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture. The following TIA terms used in this Indenture have the following meanings:

"**indenture securities**" means the Notes.

"**indenture to be qualified**" means this Indenture.

"**indenture trustee**" or "**institutional trustee**" means the Trustee.

"**obligor**" on the indenture securities means the Company and any other obligor on the indenture securities.

All other TIA terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by SEC rule have the meanings assigned to them by such definitions.

Section 1.04 *Rules of Construction.*

(1) a term has the meaning assigned to it;

(2) an accounting term not otherwise defined has the meaning assigned to it and shall be construed in accordance with GAAP;

(3) "**or**" is not exclusive;

(4) "**including**" means including, without limitation;

(5) words in the singular include the plural, and words in the plural include the singular;

(6) all references to $, dollars, cash payments or money refer to United States currency; and

(7) all references to payments of interest on the Notes shall be deemed to refer solely to Special Interest if, in such context, Special Interest is, was or would be payable pursuant to any of Section 4.02 or Section 6.01 hereof, as applicable, or to any interest payable on Defaulted Interest as set forth in Section 11.02.

Section 1.05 *Acts of Holders.* Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "**Act**" of Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section 1.05.

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

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

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

ARTICLE 2
THE NOTES

Section 2.01 *Form and Dating*. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A which is a part of this Indenture. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. The Company shall provide any such notations, legends or endorsements to the Trustee in writing. Each Note shall be dated the date of its authentication. Except as otherwise expressly permitted in this Indenture, all Notes shall be identical in all respects. Notwithstanding any differences among them, all Notes issued under this Indenture shall vote and consent together on all matters as one class.

(a) *Initial Notes*. The Notes initially shall be offered and sold only to qualified institutional buyers as defined in Rule 144A ("**QIBs**") in reliance on Rule 144A and shall be issued in the form of Global Notes that shall be deposited with the Trustee at its Corporate Trust Office, as custodian for the Depositary and registered in the name of DTC or the nominee thereof (DTC, or any successor thereto, and any such nominee being hereinafter referred to as the "**Depositary**"), duly executed by the Company and authenticated by the Trustee as hereinafter provided.

(b) *Global Notes in General*. Each Global Note shall represent the outstanding Notes as shall be specified therein and each Global Note shall provide that it shall represent the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges, purchases by the Company and conversions.

Any adjustment of the aggregate principal amount of a Global Note to reflect the amount of any increase or decrease in the amount of outstanding Notes represented thereby shall be made by the Trustee in accordance with instructions given by the Holder thereof as required by Section 2.12 hereof and shall be made on the records of the Trustee and the Depositary.

Payment of the principal, accrued and unpaid Special Interest, if any, or payment of the Fundamental Change Purchase Price on the Global Note shall be made to the Holder of such Note on the date of payment, unless a record date or other means of determining Holders eligible to receive payment is provided for herein.

(c) *Book-Entry Provisions*. This Section 2.01(d) shall apply only to Global Notes deposited with or on behalf of the Depositary. The Company shall execute and the Trustee shall, in accordance with Section 2.02, authenticate and deliver Global Notes that (a) shall be registered in the name of the Depository or the nominee of the Depositary and (b) shall be delivered by the Trustee to the Depositary or pursuant to the Depositary's instructions.

(d) Legends.

(i) Each Global Note shall bear the Global Securities Legend unless otherwise directed by the Company.

(ii) Each Restricted Note shall bear the Restricted Securities Legend. Each Note that bears or is required to bear the Restricted Securities Legend shall be subject to the restrictions on transfer set forth therein, and each Holder of such Note, by such Holder's acceptance thereof, agrees to be bound by all such restrictions on transfer.

(iii) Every stock certificate representing the shares of Common Stock issued in the circumstances described in Section 2.06(g) hereof shall bear the Restricted Stock Legend unless removed in accordance with the provisions of Section 2.06(j) or otherwise at the direction of the Company.

Section 2.02 *Execution and Authentication*. The Notes shall be executed on behalf of the Company by any Officer. The signature of the Officer on the Notes may be manual or facsimile.

If an Officer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall be valid nevertheless.

At any time after the Issue Date, the Company may deliver 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 Notes, and the Trustee, in accordance with such written order of the Company, shall authenticate and deliver such Notes.

A Note shall not be valid until an authorized signatory of the Trustee manually signs the certificate of authentication on the Note. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

The Notes shall originally be issued only in registered form without coupons and only in minimum denominations of $1,000 of principal amount and any integral multiple thereof.

The aggregate principal amount of Notes that may be authenticated by the Trustee under this Indenture is initially limited to $350,000,000, subject to Section 2.14 and except for Notes authenticated and delivered upon registration or transfer of, or in exchange for, or in lieu of other Notes pursuant to Sections 2.06, 2.07, 2.09, 2.12, 3.07, 9.07 and 10.02 hereof.

The Trustee may appoint authenticating agents. The Trustee may at any time after the Issue Date appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so, except any Notes issued pursuant to Section 2.07 hereof. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent shall have the same right to deal with the Company as the Trustee with respect to such matters for which it has been appointed.

Section 2.03 *Registrar, Paying Agent and Conversion Agent.* The Company shall maintain an office or agency where Notes may be presented for registration of transfer or for exchange ("**Registrar**"), an office or agency where Notes may be presented for payment ("**Paying Agent**"), an office or agency where Notes may be presented for conversion ("**Conversion Agent**") and an office or agency where notices to or upon the Company in respect of the Notes and this Indenture may be served. The Registrar shall keep a register for the recordation of, and shall record, the names and addresses of Holders of the Notes, the Notes held by each Holder and the transfer, exchange and conversion of Notes (the "**Register**"). The entries in the Register shall be conclusive, and the parties may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Holder hereunder for all purposes of this Indenture. The Company may have one or more co-registrars, one or more additional paying agents and one or more additional conversion agents. The term Paying Agent includes any additional paying agent, including any named pursuant to Section 4.05. The term Conversion Agent includes any additional conversion agent, including any named pursuant to Section 4.05.

The Company shall enter into an appropriate agency agreement with any Registrar, Paying Agent, Conversion Agent orco-registrar not a party to this Indenture, which shall incorporate the terms of the TIA. Any such agreement shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee of the name and address of any such agent. If the Company fails to maintain a Registrar, Paying Agent or Conversion Agent, the Trustee may agree to act as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.07. The Company or any of its domestically incorporated Wholly Owned Subsidiaries may act as Paying Agent, Registrar, Conversion Agent or co-registrar.

The Company initially appoints the Trustee as the Paying Agent, the Conversion Agent, and the Registrar, in connection with the Notes, and the Corporate Trust Office to be such office or agency of the Company for the aforesaid purposes. The Company may at any time rescind the designation of the Paying Agent, Conversion Agent or the Registrar or approve a change in the location through which any of them acts.

Section 2.04 *Paying Agent to Hold Money and Notes in Trust*. Except as otherwise provided herein, on or prior to each due date of payment in respect of any Note, the Company shall deposit with the Paying Agent a sum of money (in immediately available funds if deposited on the due date) and/or shares of Common Stock, as applicable, sufficient to make such payments when so becoming due. The Paying Agent shall (or, if the Paying Agent is not a party hereto, the Company shall require each Paying Agent to agree in writing that such Paying Agent shall) hold in trust for the benefit of Holders or the Trustee (if the Trustee is not the Paying Agent) all money and shares of Common Stock, if any, held by the Paying Agent for the making of payments in respect of the Notes and shall notify the Trustee (if the Trustee is not the Paying Agent) of any default by the Company in making any such payment. At any time during the continuance of any such default, the Paying Agent (if not the Trustee) shall, upon the written request of the Trustee, forthwith pay to the Trustee all money and shares of Common Stock, if any, so held in trust. If the Company or a Wholly Owned Subsidiary acts as Paying Agent, it shall segregate the money and shares of Common Stock, if any, held by it as Paying Agent and hold it as a separate trust fund. The Company at any time may require a Paying Agent to pay all money and shares of Common Stock, if any, held by it to the Trustee and to account for any funds and shares of Common Stock, if any, disbursed by the Paying Agent. Upon complying with this Section 2.04, the Paying Agent shall have no further liability for the money delivered to the Trustee. Upon any Event of Default pursuant to Section 6.01(viii) and (ix), the Trustee shall automatically be the Paying Agent.

Section 2.05 *Holder Lists*. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders. If the Trustee is not the Registrar, the Company shall furnish to the Trustee, promptly after each Record Date, and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders.

Section 2.06 *Transfer and Exchange*.

(a) Subject to Section 2.12 hereof, upon surrender for registration of transfer of any Note, together with a written instrument of transfer satisfactory to the Registrar duly executed by the Holder or such Holder's attorney-in-fact duly authorized in writing, at the office or agency of the Company-designated Registrar or co-Registrar pursuant to Section 2.03, (i) the Company shall execute, and the Trustee (or any authenticating agent) shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Notes of any authorized denomination or denominations, of a like aggregate principal amount and bearing such restrictive legends as may be required by this Indenture and (ii) the Registrar shall record the information required pursuant to Section 2.03 regarding the designated transferee or transferees in the Register. The Company shall not charge a service charge for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to pay all taxes, assessments or other governmental charges that may be imposed in connection with the registration of, transfer or exchange of the Notes from the Holder requesting such transfer or exchange.

At the option of the Holder, Notes may be exchanged for other Notes of any authorized denomination or denominations, of a like aggregate principal amount, upon surrender of the Notes to be exchanged, at such office or agency, together with a written instrument of transfer satisfactory to the Registrar duly executed by the Holder or such Holder's attorney-in-fact duly authorized in writing, and documents of identity and title satisfactory to Registrar. Whenever any Notes are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Notes that the Holder making the exchange is entitled to receive, bearing registration numbers not contemporaneously outstanding.

The Company shall not be required to make, and the Registrar need not register, transfers or exchanges of Notes in respect of which a Fundamental Change Purchase Notice has been given and not validly withdrawn by the Holder thereof in accordance with the terms of this Indenture (except, in the case of Notes to be repurchased in part, the portion of such Notes not to be repurchased).

(b) Notwithstanding any provision to the contrary herein, so long as a Global Note remains outstanding and is held by or on behalf of the Depositary, transfers of a Global Note, in whole or in part, shall be made only in accordance with Section 2.12 and this Section 2.06(b). Transfers of a Global Note shall be limited to transfers of such Global Note to the Depositary, to nominees of the Depositary or to a successor of the Depositary or such successor's nominee.

(c) Successive registrations and registrations of transfers and exchanges as aforesaid may be made from time to time as desired, and each such registration shall be noted on the Register.

(d) Any Registrar appointed pursuant to Section 2.03 shall provide to the Trustee such information as the Trustee may reasonably require in connection with the delivery by such Registrar of Notes upon transfer or exchange of Notes.

(e) No Registrar shall be required to make registrations of transfer or exchange of Notes during any periods designated in Paragraph 7 of the form of Note attached as Exhibit A hereto or in this Indenture as periods during which such registration of transfers and exchanges need not be made.

(f) *Transfer Restrictions*.

(i) Every Note that bears or is required under this Section 2.06(f) to bear the Restricted Securities Legend required by Section 2.01(d) (the "**Restricted Notes**") shall be subject to the restrictions on transfer set forth in this Section 2.06(f) unless such restrictions on transfer shall be eliminated or otherwise waived by written consent of the Company, and the Holder of each such Restricted Note, by such Holder's acceptance thereof, agrees to be bound by all such restrictions on transfer. As used in this Section 2.06(f), and Sections 2.06(g), 2.12(b) and 2.12(c), the term "**transfer**" encompasses any sale, pledge, transfer, loan, hypothecation or other disposition whatsoever of any Restricted Note. Except as otherwise provided in this Indenture with respect to any

Restricted Notes (including, without limitation, Section 2.06(i) below) or as permitted under the terms of such Restricted Securities Legend, if a request is made to remove the legend on any Restricted Note, the legend shall not be removed unless there is delivered to the Company and the Registrar such satisfactory evidence that neither the Restricted Securities Legend nor the restrictions on transfer set forth therein are required to ensure that transfers thereof comply with the provisions of Rule 144A or Rule 144, that such Notes are not "restricted" within the meaning of Rule 144 or that transfers thereof comply with all other applicable securities laws and regulations. In such a case, upon (i) provision of such satisfactory evidence, or (ii) notification by the Company to the Trustee and Registrar of the sale of such Note pursuant to a registration statement that is effective at the time of such sale, the Trustee, pursuant to a Company Order, shall authenticate and deliver a Note that does not bear the Restricted Securities Legend.

(ii) Except as provided elsewhere in this Indenture (including, without limitation, Section 2.06(i) below), until the later of (x) the date that is one year after the last date of original issuance of the Notes and (y) the date that is three months after the Holder ceases to be an Affiliate of the Company, any certificate evidencing such Notes (and all securities issued in exchange therefor or substitution thereof, other than Common Stock, if any, issued upon conversion thereof, which shall bear the Restricted Stock Legend, if applicable) shall bear the Restricted Securities Legend unless such Notes have been transferred (a) to the Company, (b) under a registration statement that has been declared effective under the Securities Act, or (c) under any other available exemption from the registration requirements of the Securities Act pursuant to which the Notes are not required to bear the Restricted Securities Legend.

(iii) No transfer of any Note prior to the Free Trade Date will be registered by the Registrar unless the applicable box on the Form of Assignment and Transfer has been checked.

(iv) Neither the Trustee or any agent of the Trustee shall have an obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among depositary participants or beneficial owners or holders of any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements thereof.

(g) *Legends on the Common Stock*.

(i) Except as provided elsewhere in this Indenture (including, without limitation, Section 2.06(j) below), until the later of (x) the date that is one year after the last date of original issuance of the Notes and (y) the date that is three months after the holder of such shares of Common Stock ceases to be an Affiliate of the Company, any stock certificate representing shares of the Common Stock issued upon conversion of such Notes shall bear the Restricted Stock Legend unless the Notes or such Common Stock, as applicable, has been transferred (a) to the Company; (b) under a registration statement that has been declared effective under the Securities Act; or (c) under any other available exemption from the registration requirements of the Securities Act pursuant to which the shares of Common Stock are not required to bear the Restricted Stock Legend.

(ii) Any such shares of Common Stock as to which such restrictions on transfer shall have expired in accordance with their terms may, subject to applicable securities laws and regulations and upon surrender of the certificates representing such shares of Common Stock for exchange in accordance with the procedures of the transfer agent for the Common Stock, be exchanged for a new certificate or certificates for a like aggregate number of shares of Common Stock which shall not bear the Restricted Stock Legend.

(h) The Company shall not permit any Note that is purchased or owned by the Company or any Affiliate thereof to be resold by the Company or such Affiliate unless registered under the Securities Act or resold pursuant to an exemption from the registration requirements of the Securities Act in a transaction that results in such Notes, as the case may be, no longer being "**restricted securities**" (as defined under Rule 144). If the legend is removed from the face of a Note and the Note is subsequently held by the Company or an Affiliate of the Company, the legend shall be reinstated.

(i) So long as and to the extent that any Notes are represented by one or more Global Notes held by or on behalf of the Depositary only, the Company may cause the removal of the Restricted Securities Legend from such Notes at any time on or after the Free Trade Date by:

(i) providing to the Trustee written notice stating that the Free Trade Date has occurred and instructing the Trustee to remove the Restricted Securities Legend from such Notes;

(ii) providing to the Holders of such Notes written notice that the Restricted Securities Legend has been removed or deemed removed;

(iii) providing to the Trustee and the Depositary written notice to change the CUSIP number for the Notes to the applicable unrestricted CUSIP number; and

(iv) complying with any Applicable Procedures for delegending;

whereupon the Restricted Securities Legend shall be deemed removed from any Global Notes without further action on the part of Holders.

(j) On and after the Free Trade Date, the Company shall also (i) instruct the transfer agent for the Common Stock to remove the Restricted Stock Legend from any shares of Common Stock issued upon conversion of the Notes that bear the Restricted Stock Legend; (ii) notify the holders of any shares of Common Stock issued upon conversion of the Notes (to the extent any shares of Common Stock have been issued upon conversion of the Notes) that such Restricted Stock Legend has been removed; (iii) if relevant, notify the transfer agent for the Common Stock to change the CUSIP number for any shares of Common Stock issued upon conversion of the Notes to the applicable unrestricted CUSIP number; and (iv) comply with any Applicable Procedures that apply to the delegending of any shares of Common Stock issued upon conversion of a Note.

Section 2.07 *Replacement Notes*. If a mutilated Note is surrendered to the Registrar or if the Holder of a Note claims that such Note has been lost, destroyed or stolen and the Holder provides evidence of the loss, theft or destruction satisfactory to the Company and the Trustee, the Company shall issue, and the Trustee shall authenticate, a replacement Note if the requirements of Section 8-405 of the Uniform Commercial Code are met and the Holder satisfies any other reasonable requirements of the Trustee. If required by the Trustee or the Company, such Holder shall furnish an indemnity bond sufficient in the judgment of the Company and the Trustee to protect the Company, the Trustee, the Paying Agent, the Registrar and any co-registrar from any loss that any of them may suffer if a Note is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Note.

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

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

Section 2.08 *Outstanding Notes*. Notes outstanding at any time include and are limited to all Notes authenticated by the Trustee except (i) those cancelled by it, (ii) those delivered to it for cancellation and (iii) those deemed not outstanding under this Section 2.08. If the Company or an Affiliate of the Company holds the Note, a Note does not cease to be outstanding;

provided, *however*, that for purposes of determining whether the Holders of the requisite principal amount of Notes have given or concurred in any request, demand, authorization, direction, notice, consent, waiver or other action hereunder, Notes owned by the Company or any other obligor upon the Notes or any Affiliate of the Company or such other obligor shall be disregarded and deemed not to be outstanding. Subject to the foregoing, only Notes outstanding at the time of such determination shall be considered in any such determination (including, without limitation, determinations pursuant to Articles 6 and 9); *provided that*, for purposes of deciding if the Trustee shall be protected in relying on a direction or other Act of the Holders, only Notes that a Trust Officer knows are owned by the Company or any other obligor shall be so disregarded.

If a Note is replaced pursuant to Section 2.07, it ceases to be outstanding unless the Trustee and the Company receive proof satisfactory to them that the replaced Note is held by a bona fide purchaser.

If the Paying Agent holds, in accordance with this Indenture, on a Fundamental Change Purchase Date or on the Maturity Date, money sufficient to pay Notes payable on that date, then immediately after such Fundamental Change Purchase Date or Maturity Date, as the case may be, such Notes shall cease to be outstanding, Special Interest, if any, on such Notes shall cease to accrue and such Notes shall cease to be convertible.

If a Note is converted in accordance with Article 10, then from and after the time of conversion on the Conversion Date, such Note shall cease to be outstanding and Special Interest, if any, shall cease to accrue on such Note.

Section 2.09 *Temporary Notes*. Until Certificated Notes are ready for delivery, the Company may execute and the Trustee or an authenticating agent appointed by the Trustee shall, upon written request of the Company, authenticate and deliver temporary Notes (printed or lithographed) ("**Temporary Notes**"). Temporary Notes shall be issuable in any authorized denomination, and substantially in the form of Certificated Notes but with such omissions, insertions and variations as may be appropriate for temporary Notes, all as may be determined by the Company. Every such Temporary Note shall be executed by the Company and authenticated by the Trustee or such authenticating agent upon the same conditions and in substantially the same manner, and with the same effect, as the Certificated Notes. Without unreasonable delay the Company will prepare, execute and deliver to the Trustee or such authenticating agent Certificated Notes (other than any Global Note) and thereupon any or all Temporary Notes (other than any Global Note) may be surrendered in exchange therefor, at each office or agency maintained by the Company pursuant to Section 4.05 and the Trustee or such authenticating agent shall authenticate and deliver in exchange for such Temporary Notes an equal aggregate principal amount of Certificated Notes. Such exchange shall be made by the Company at its own expense and without any charge therefor. Until so exchanged, the Temporary Notes shall in all respects be entitled to the same benefits and subject to the same limitations under this Indenture as Certificated Notes authenticated and delivered hereunder.

Section 2.10 *Cancellation*. The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar, Conversion Agent and the Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange, conversion, purchase, or payment. The Trustee and no one else shall cancel all Notes surrendered for registration of transfer, exchange, conversion, purchase, payment or cancellation and shall dispose of such Notes in its customary manner. The Company may not issue new Notes to replace Notes it has purchased, paid or delivered to the Trustee for cancellation or that any Holder has converted pursuant to Article 10.

Section 2.11 *Persons Deemed Owners*. Prior to due presentment of a Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name such Note is registered in the Register as the owner of such Note for the purpose of receiving payment of principal, Special Interest, if any, or payment of the Fundamental Change Purchase Price, for the purpose of conversion and for all other purposes whatsoever, whether or not such Note be overdue, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

Section 2.12 *Transfer of Notes*.

(a) Notwithstanding any other provisions of this Indenture or the Notes, (A) transfers of a Global Note, in whole or in part, shall be made only in accordance with Sections 2.06 and 2.12(a)(i); (B) transfers of a beneficial interest in a Global Note for a Certificated Note shall comply with Sections 2.06 and 2.12(a)(ii), and (C) transfers of a Certificated Note shall comply with Sections 2.06 and 2.12(a)(iii) and (iv) below. All such transfers shall comply with the Applicable Procedures to the extent so required.

(i) *Transfer of Global Note*. A Global Note may not be transferred, in whole or in part, to any Person other than the Depositary or a nominee or any successor thereof, and no transfer of a Global Note to any other Person may be registered; *provided* that this clause (i) shall not prohibit any transfer of a Note that is issued in exchange for a Global Note but is not itself a Global Note. No transfer of a Note to any Person shall be effective under this Indenture or the Notes unless and until such Note has been registered in the name of such Person. Nothing in this Section 2.12(a)(i) shall prohibit or render ineffective any transfer of a beneficial interest in a Global Note effected in accordance with the other provisions of this Section 2.12(a).

(ii) Restrictions on Transfer of a Beneficial Interest in a Global Note for a Certificated Note.

(A) A beneficial interest in a Global Note may not be exchanged for a Certificated Note unless:

(1) DTC notifies the Company that it is unwilling or unable to continue as Depositary for such Global Note and a successor Depositary is not appointed by the Company within 90 days of such notice;

(2) DTC ceases to be registered as a clearing agency under the Exchange Act and a successor Depositary is not appointed by the Company within 90 days of such cessation, in which case Certificated Notes shall be issued to all owners of beneficial interests in a Global Note in exchange for their beneficial interests; or

(3) An Event of Default has occurred and is continuing, in which case, the owner of a beneficial interest in a Global Note will be entitled to receive a Certificated Note in exchange for its beneficial interest in such Global Note.

In connection with the exchange of an entire Global Note for Certificated Notes pursuant to this Section 2.12(a)(ii), such Global Note shall be deemed to be surrendered to the Trustee for cancellation, and the Company shall execute, and upon Company Order the Trustee shall authenticate and deliver, to each beneficial owner identified by DTC in exchange for its beneficial interest in such Global Note, an equal aggregate principal amount of Certificated Notes of authorized denominations.

(B) Upon receipt by the Registrar of instructions from the Holder of a Global Note directing the Registrar to (x) issue one or more Certificated Notes in the amounts specified to the owner of a beneficial interest in such Global Note and (y) debit or cause to be debited an equivalent amount of beneficial interest in such Global Note, subject to the Applicable Procedures:

(1) the Registrar shall notify the Company and the Trustee of such instructions and identify the owner of and the amount of such beneficial interest in such Global Note;

(2) the Company shall promptly execute, and upon Company Order, the Trustee shall authenticate and deliver, to such beneficial owner Certificated Note(s) in an equivalent amount to such beneficial interest in such Global Note; and

(3) the Registrar shall decrease such Global Note by such amount in accordance with the foregoing.

(iii) *Transfer and Exchange of Certificated Notes*. When Certificated Notes are presented to the Registrar with a request: (x) to register the transfer of such Certificated Notes; or (y) to exchange such Certificated Notes for an equal principal amount of Certificated Notes of other authorized denominations, the Registrar shall register the transfer or make the exchange as requested if its reasonable requirements for such transaction are met; *provided*, *however*, that the Certificated Notes surrendered for transfer or exchange:

(1) must be duly endorsed or accompanied by a written instrument of transfer in form reasonably satisfactory to the Company and the Registrar, duly executed in writing by the Holder thereof or its duly authorized attorney-in-fact; and

(2) so long as such Notes are "restricted securities" (as defined under Rule 144), such Notes are being transferred or exchanged pursuant to an effective registration statement under the Securities Act or pursuant to clause (A), (B) or (C) below, and are accompanied by the following additional information and documents, as applicable:

(A) if such Certificated Notes are being delivered to the Registrar by a Holder for registration in the name of such Holder, without transfer, a certification from such Holder to that effect; or

(B) if such Certificated Notes are being transferred to the Company, a certification from such Holder to that effect; or

(C) if such Certificated Notes are being transferred pursuant to an exemption from registration, (i) a certification from such Holder to that effect (in the form set forth in Exhibit B, if applicable) and (ii) if the Company so requests, an opinion of counsel in form and substance reasonably satisfactory to the Company or any other evidence as to the compliance with the restrictions set forth in the legend thereon that is reasonably satisfactory to the Company.

(iv) *Restrictions on Transfer of a Certificated Note for a Beneficial Interest in a Global Note.* A Certificated Note may not be exchanged for a beneficial interest in a Global Note except upon satisfaction of the requirements set forth below.

Upon receipt by the Trustee of a Certificated Note, duly endorsed or accompanied by appropriate instruments of transfer, in form satisfactory to the Trustee, together with:

(A) so long as the Notes are Restricted Notes, certification, in the form set forth in Exhibit B, that such Certificated Note is being transferred to a QIB in accordance with Rule 144A; and

(B) written instructions directing the Trustee to make, or to direct the Registrar to make, an adjustment on its books and records with respect to such Global Note to reflect an increase in the aggregate principal amount of the Notes represented by the Global Note, such instructions to contain information regarding the Depositary account to be credited with such increase, then the Trustee shall cancel such Certificated Note and cause, or direct the Registrar to cause, in accordance with the standing instructions and procedures existing between the Depositary and the Registrar, the aggregate principal amount of Notes represented by the Global Note to be increased by the aggregate principal amount of the Certificated Note to be exchanged, and shall credit or cause to be credited to the account of the Person specified in such instructions a beneficial interest in the Global Note equal to the principal amount of the Certificated Note so cancelled. If no Global Notes are then outstanding, the Company shall issue and the Trustee shall authenticate, upon written order of the Company in the form of an Officer's Certificate, a new Global Note in the appropriate principal amount.

(b) Subject to the succeeding Section 2.12(c), every Note shall be subject to the restrictions on transfer provided in Section 2.06(f), including the delivery of an opinion of counsel, if so required. Whenever any Restricted Note is presented or surrendered for registration of transfer or for exchange for a Note registered in a name other than that of the Holder, such Note must be accompanied by a certificate in substantially the form set forth in Exhibit B, dated the date of such surrender and signed by the Holder of such Note, as to compliance with such restrictions on transfer. The Registrar shall not be required to accept for such registration of transfer or exchange any Note not so accompanied by a properly completed certificate.

(c) The restrictions imposed by Section 2.06(f) upon the transferability of any Note shall cease and terminate when such Note has been sold pursuant to an effective registration statement under the Securities Act or transferred in compliance with Rule 144. Any Note as to which such restrictions on transfer shall have expired in accordance with their terms or shall have terminated may, upon a surrender of such Note for exchange to the Registrar in accordance with the provisions of this Section 2.12 (accompanied, if such restrictions on transfer have terminated by reason of a transfer in compliance with Rule 144 or any successor provision, by an opinion of counsel having substantial experience in practice under the Securities Act and otherwise reasonably acceptable in form and substance to the Company, addressed to the Company, to the effect that the transfer of such Note has been made in compliance with Rule 144), be exchanged for a new Note, of like tenor and aggregate principal amount, which shall not bear the legends required by Section 2.01(d). The Company shall inform the Trustee upon the occurrence of the Free Trade Date and promptly after a registration statement with respect to the Notes or any shares of Common Stock issued upon conversion of the Notes has been declared effective under the Securities Act. The Trustee shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the aforementioned opinion of counsel or registration statement.

(d) The provisions of clauses (i), (ii), (iii) and (iv) below shall apply only to Global Notes:

(i) Notwithstanding any other provisions of this Indenture or the Notes, a Global Note shall not be exchanged in whole or in part for a Note registered in the name of any Person other than the Depositary or one or more nominees thereof, *provided* that a Global Note may be exchanged for Notes registered in the name of any Person designated by the Depositary if (A) the Depositary has notified the Company that it is unwilling or unable to continue as Depositary for such Global Note or such Depositary has ceased to be a "clearing agency" registered under the Exchange Act, and a successor Depositary is not appointed by the Company within 90 days or (B) an Event of Default has occurred and is continuing with respect to the Notes. Any Global Note exchanged pursuant to clause (A) above shall be so exchanged in whole and not in part, and any Global Note exchanged pursuant to clause (B) above may be exchanged in whole or, from time to time, in part as directed by the Depositary. Any Note issued in exchange for a Global Note or any portion thereof shall be a Global Note; *provided* that any such Note so issued that is registered in the name of a Person other than the Depositary or a nominee thereof shall not be a Global Note.

(ii) Notes issued in exchange for a Global Note or any portion thereof shall be issued in definitive, fully registered form, without interest coupons, shall have an aggregate principal amount equal to that of such Global Note or portion thereof to be so exchanged, shall be registered in such names and be in such authorized denominations as the Depositary shall designate and shall bear the applicable legends provided for herein. Any Global Note to be exchanged in whole shall be surrendered by the Depositary to the Trustee, as Registrar. With regard to any Global Note to be exchanged in part, either such Global Note shall be so surrendered for exchange or, if the Trustee is acting as custodian for the Depositary or its nominee with respect to such Global Note, the principal amount thereof shall be reduced, by an amount equal to the portion thereof to be so exchanged, by means of an appropriate adjustment made on the records of the Trustee. Upon any such surrender or adjustment, the Trustee shall authenticate and deliver the Note issuable on such exchange to or upon the order of the Depositary or an authorized representative thereof.

(iii) Subject to the provisions of Section 2.12(e), a Holder may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which such Holder is entitled to take under this Indenture or the Notes.

(iv) In the event of the occurrence of any of the events specified in clause (i) above, the Company will promptly make available to the Trustee a reasonable supply of Certificated Notes in definitive, fully registered form, without interest coupons.

(e) Neither any members of, or participants in, the Depositary (collectively, the "**Agent Members**") nor any other Persons on whose behalf any Agent Member may act shall have any rights under this Indenture with respect to any Global Note registered in the name of the Depositary or any nominee thereof, or under any such Global Note, and the Depositary or such nominee, as the case may be, may be treated by the Company, the Trustee and any agent of the Company or the Trustee as the absolute owner and holder of such Global Note for all purposes whatsoever. Neither the Company, the Trustee nor any agent for the Company or the Trustee shall have any responsibility or obligation to any Agent Members or any other Person on whose behalf Agent Members may act with respect to (i) any ownership interests in the Global Note, (ii) the accuracy of the records of the Depositary or its nominee (iii) any notice required hereunder or (iv) any payments, under or with respect to, the Global Note. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depositary or such nominee, as the case may be, or impair, as between the Depositary, its Agent Members and any other Person on whose behalf an Agent Member may act, the operation of customary practices of such Persons governing the exercise of the rights of a holder of any Note. The registered Holder of a Global Note may grant proxies and otherwise authorize any Person, including Agent Members and persons that may hold interests through Agent Members, to take any action that a Holder is entitled to take under this Indenture or the Notes. None of the Company, the Trustee or any agent of the Company or Trustee shall have any responsibility or liability for any act or omission of the Depositary.

Section 2.13 *CUSIP and ISIN Numbers*.

(a) The Company, in issuing the Notes, shall use restricted CUSIP and ISIN numbers for such Notes (if then generally in use) until such time as the Restricted Securities Legend is removed pursuant to Section 2.06(i). At such time as the legend is removed from such Notes pursuant to Section 2.06(i), the Company will use an unrestricted CUSIP number for such Note, but only with respect to the Notes where so removed. The Trustee may use CUSIP and ISIN numbers in notices as a convenience to Holders; *provided*, *however*, that neither the Company nor the Trustee shall have any responsibility for any defect in the CUSIP or ISIN number that appears on any Note, check, advice of payment or notice, and any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice and that reliance may be placed only on the other identification numbers printed on the Notes, and any action taken in connection with such a notice shall not be affected by any defect in or omission of such numbers. The Company shall promptly notify the Trustee in the event of any change in the CUSIP or ISIN numbers.

(b) Until such time as the Restricted Stock Legend is no longer required to be borne by any shares of Common Stock issued upon the conversion of the Notes pursuant to Section 2.06(g) or otherwise, any shares of Common Stock issued upon conversion of the Notes shall bear a restricted CUSIP number. At such time as the Restrictive Stock Legend is no longer required to be borne by any shares of Common Stock issued upon the conversion of the Notes pursuant to Section 2.06(g) or otherwise, any shares of Common Stock issued upon conversion of the Notes shall bear an unrestricted CUSIP number.

Section 2.14 *Additional Notes; Repurchases.* The Company may, without the consent of the Holders and notwithstanding Section 2.02, reopen this Indenture and increase the principal amount of the Notes by issuing an unlimited amount of additional Notes in the future pursuant to this Indenture with the same terms and with the same CUSIP number as the Notes initially issued hereunder in an unlimited aggregate principal amount, which will form the same series with the Notes initially issued hereunder, provided that no such additional Notes may be issued unless they will be fungible with the original Notes for U.S. federal income tax and securities law purposes. Prior to the issuance of any such additional Notes, the Company shall deliver to the Trustee a Company Order, an Officer's Certificate and an Opinion of Counsel, such Officer's Certificate and Opinion of Counsel to cover such matters, in addition to those required by Section 14.05, as the Trustee shall reasonably request. The Company may also from time to time repurchase the Notes in open market purchases or negotiated transactions without prior notice to Holders.

Section 2.15 *Ranking of the Notes*. The Notes will be unsecured and unsubordinated obligations of the Company and will rank senior in right of payment to any future indebtedness of the Company that is expressly subordinated in right of payment to the Notes and rank equal in right of payment to any existing and future indebtedness of the Company that is not so subordinated, including any senior indebtedness issued or incurred prior to the date hereof (including, for the avoidance of doubt, the Company's outstanding 0.00% convertible senior notes due 2020 and 0.00% convertible senior notes due 2023).

ARTICLE 3
REDEMPTION AND REPURCHASES

Section 3.01 *No Company Right to Redeem.* The Company shall have no right to redeem the Notes before the Maturity Date.

Section 3.02 *Fundamental Change Permits Holders to Require Company to Purchase Notes* If a Fundamental Change occurs, each Holder shall have the right, at its option, to require the Company to purchase in cash, on the Fundamental Change Purchase Date, all of its Notes, or any portion of its Notes in principal amount equal to $1,000 or an integral multiple thereof, on a date (the "**Fundamental Change Purchase Date**") specified by the Company in the Fundamental Change Purchase Notice for such Fundamental Change and that is not less than 20 calendar days or more than 35 calendar days immediately following the Fundamental Change Notice Date, at a price (the "**Fundamental Change Purchase Price**") equal to 100% of the principal amount of the Notes to be purchased, plus accrued and unpaid Special Interest, if any, to, but excluding, the Fundamental Change Purchase Date; *provided*, *however*, that if the Fundamental Change Purchase Date occurs after a Record Date for the payment of interest, but on or prior to the corresponding Special Interest Payment Date, the Company will pay the full amount of accrued and unpaid Special Interest, if any, payable on such interest payment date to the Holder of the Note on such Record Date and reduce the Fundamental Change Purchase Price by such amount.

Section 3.03 *Fundamental Change Conversion Right Notice.*

(a) On or after the effective date of a Fundamental Change but on or before the 20th calendar day immediately following such effective date, the Company shall deliver written notice of such Fundamental Change and the resulting purchase right (the "**Fundamental Change Notice,**" and the date of such mailing, the "**Fundamental Change Notice Date**") to each Holder (and to beneficial owners as required by applicable law), the Trustee and the Paying Agent. A Fundamental Change Notice for a Fundamental Change shall state:

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

(ii) the effective date of such Fundamental Change;

(iii) the last date on which a Holder may exercise its right to require the Company to purchase such Holder's Notes under this Article 3;

(iv) the Fundamental Change Purchase Date;

(v) the Fundamental Change Purchase Price;

(vi) that the Fundamental Change Purchase Price for any Notes as to which a Fundamental Change Purchase Notice has been duly tendered and not withdrawn will be paid promptly following the later of the Fundamental Change Purchase Date and the time of surrender of such Notes;

(vii) that payment may be collected only if the Notes to be repurchased are surrendered to the Paying Agent;

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

(ix) briefly, the procedures the Holder must follow to exercise its rights under this Section 3.03;

(x) briefly, the conversion rights of the Notes, including an explanation that a condition to conversion has been satisfied;

(xi) the Conversion Rate in effect on the Fundamental Change Notice Date;

(xii) any adjustments that will be made to the Conversion Rate as a result of the Fundamental Change, including, without limitation, any Additional Shares by which the Conversion Rate will be increased pursuant to Section 10.07;

(xiii) that any Notes with respect to which a Fundamental Change Purchase Notice has been given may be converted only if such Fundamental Change Purchase Notice is validly withdrawn in accordance with the terms of this Indenture;

(xiv) the procedures for withdrawing a Fundamental Change Purchase Notice;

(xv) that, unless the Company defaults in making payment of such Fundamental Change Purchase Price on the Notes surrendered for repurchase by the Company, Special Interest, if any, on Notes for which a Fundamental Change Purchase Notice has been validly given will cease to accrue on and after the Fundamental Change Purchase Date; and

(xvi) the CUSIP and ISIN number(s) of the Notes.

Section 3.04 *Fundamental Change Purchase Notice.*

(a) To exercise its repurchase rights under Section 3.02, a Holder must deliver to the Paying Agent, by the Close of Business on the Business Day immediately preceding the Fundamental Change Purchase Date, (i)(A) if the Notes that such Holder is tendering for purchase are Global Notes, a duly completed written notice in the form of the "Form of Fundamental Change Purchase Notice" on the reverse side of the Notes, or (B) if the Notes that such Holder is tendering for purchase are Certificated Notes, the duly completed "Form of Fundamental Change Purchase Notice" on the reverse side of the Notes that such Holder is tendering for purchase (in either case (A) or case (B), such notice, a "**Fundamental Change Purchase Notice**") and (ii) the Notes that such Holder is tendering for purchase on such Fundamental Change Purchase Date. The Fundamental Change Purchase Notice must state:

(A) the portion of the principal amount of the Notes that the Holder will deliver to be purchased, which portion must be $1,000 or an integral multiple thereof;

(B) that such Notes shall be purchased pursuant to the terms and conditions specified in this Indenture; and

(C) if Certificated Notes have been issued, the certificate numbers of the Notes that the Holder will deliver to be purchased.

If the Notes to be purchased are Global Notes, the Holder must deliver the Notes to be repurchased in accordance with the Applicable Procedures.

(b) Unless and until the Paying Agent receives a validly endorsed and delivered Fundamental Change Purchase Notice, together with any Notes to which such Fundamental Change Purchase Notice pertains, in a form that conforms with the description contained in such Fundamental Change Purchase Notice in all material aspects, the Holder submitting the Notes shall not be entitled to receive the Fundamental Change Purchase Price for such Notes.

(c) After delivering a Fundamental Change Purchase Notice to the Paying Agent, a Holder may withdraw such Fundamental Change Purchase Notice by delivering to the Trustee a written notice of withdrawal at any time prior to the Close of Business on the Business Day immediately preceding the Fundamental Change Purchase Date. Such notice of withdrawal must specify:

(i) the principal amount of any Notes with respect to which the notice of withdrawal pertains, which must equal $1,000 or an integral multiple thereof;

(ii) if Certificated Notes have been issued, the certificate numbers of the Notes to be withdrawn; and

(iii) the principal amount, if any, that remains subject to the original Fundamental Change Purchase Notice, which amount must equal $1,000 or an integral multiple thereof.

If the Notes to be withdrawn are Global Notes, a Holder must deliver its notice of withdrawal in compliance with the Applicable Procedures.

Section 3.05 *Effect of Fundamental Change Purchase Notice*.

(a) If a Holder validly delivers to the Paying Agent a Fundamental Change Purchase Notice (together with all necessary endorsements) with respect to a Note, such Holder may no longer convert such Note unless and until such Holder validly withdraws such Fundamental Change Purchase Notice in accordance with Section 3.04(c) above.

(b) Upon the Paying Agent's receipt of (i) a valid Fundamental Change Purchase Notice (together with all necessary endorsements) and (ii) the Notes to which such Fundamental Change Purchase Notice pertains, the Holder of the Notes to which such Fundamental Change Purchase Notice pertains shall be entitled, except to the extent such Holder has validly withdrawn such Fundamental Change Purchase Notice in accordance with Section 3.04(c) above, to receive the Fundamental Change Purchase Price with respect to such Notes promptly following the later of (i) the Fundamental Change Purchase Date and (ii) if the Notes are Certificated Notes, the date of delivery of such Notes to the Paying Agent, or, if the Notes are Global Notes, the date of book-entry transfer.

(c) If, on the Fundamental Change Purchase Date, the Company, in accordance with Section 3.06 below, has deposited with the Paying Agent money sufficient to pay the Fundamental Change Purchase Price of all of the Notes that Holders have tendered for purchase and have not validly withdrawn in accordance with Section 3.04(c) above:

(i) such tendered Notes will cease to be outstanding and Special Interest, if any, will cease to accrue (whether or not all of such Notes were delivered to the Paying Agent or book-entry transfer has been made, as applicable); and

(ii) all other rights of the Holders with respect to the tendered Notes will terminate (other than the right to receive payment of the Fundamental Change Purchase Price upon delivery or transfer of the Notes).

Section 3.06 *Deposit of Fundamental Change Purchase Price*. Prior to 10:00 a.m., New York City time, on the Fundamental Change Purchase Date, as the case may be, the Company shall deposit with the Trustee or with the Paying Agent (or, if the Company or a Subsidiary or an Affiliate of either of them is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 2.04) an amount of cash (in immediately available funds if deposited on such Business Day), sufficient to pay the aggregate Fundamental Change Purchase Price of all the Notes or portions thereof which are to be repurchased as of the Fundamental Change Purchase Date.

Section 3.07 *Notes Purchased in Part*. Any Certificated Note that is to be purchased only in part shall be surrendered at the office of the Paying Agent (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney-in-fact duly authorized in writing) and the Company shall execute and the Trustee shall authenticate and deliver to the Holder of such Note, without service charge, a new Note or Notes, of any authorized denomination as requested by such Holder in aggregate principal amount equal to, and in exchange for, the portion of the principal amount of the Note so surrendered which is not repurchased, or in the case of a Global Note, the Company shall instruct the Registrar to decrease such Global Note by the principal amount of the repurchased portion of the Note surrendered.

Section 3.08 *Covenant to Comply with Securities Laws Upon Purchase of Notes*. When repurchasing Notes under this Article 3, the Company will, to the extent applicable, (i) comply with Rule 13e-4 (or any successor provision) and Rule 14e-1 (or any successor provision) under the Exchange Act, (ii) file the related Schedule TO (or any successor schedule, form or report) under the Exchange Act, and (iii) otherwise comply with any applicable U.S. federal and state securities laws so as to permit Holders to exercise their rights and obligations under Section 3.02 in the time and in the manner specified in Section 3.02.

Section 3.09 *Repayment to the Company*. The Trustee and the Paying Agent shall return to the Company any cash held by them for the payment of the Fundamental Change Purchase Price that remains unclaimed as provided in Paragraph 11 of the form of Note attached as Exhibit A hereto; provided, however, that to the extent that the aggregate amount of cash deposited by the Company pursuant to Section 3.04 exceeds the aggregate Fundamental Change Purchase Price of the Notes or portions thereof which the Company is obligated to repurchase as of the Fundamental Change Purchase Date, then, unless otherwise agreed in writing with the Company, promptly after the Business Day following the Fundamental Change Purchase Date, the Trustee shall return any such excess to the Company.

Section 3.10 *Covenant Not to Purchase Notes Upon Certain Events of Default.*

(a) Notwithstanding anything to the contrary in this Article 3, the Company shall not purchase any Notes under this Article 3 if there has occurred and is continuing an Event of Default unless the payment by the Company of the Fundamental Change Purchase Price will cure such Event of Default.

(b) If a Fundamental Change Purchase Notice is tendered and, on the Fundamental Change Purchase Date, such Fundamental Change Purchase Notice has not been validly withdrawn in accordance with Section 3.04(c) above, and, pursuant to this Section 3.10, the Company is not permitted to purchase Notes, the Paying Agent will deem withdrawn such Fundamental Change Purchase Notice.

(c) If a Holder tenders a Note for purchase pursuant to this Article 3 and, on the Fundamental Change Purchase Date, pursuant to this Section 3.10, the Company is not permitted to purchase such Note, the Paying Agent will (i) if such Note is a Certificated Note, return such Note to such Holder, and (ii) if such Note is held in book-entry form, in compliance with the Applicable Procedures, deem to be cancelled any instructions for book-entry transfer of such Note.

ARTICLE 4
COVENANTS

Section 4.01 *Payment of Notes.*

(a) The Company shall promptly make all payments on the Notes on the dates, in the manner and as otherwise required under the Notes or this Indenture. If the Company is required to deliver any amounts of cash and/or shares of Common Stock to the Trustee, the Paying Agent or the Conversion Agent, such amounts of cash and/or shares of Common Stock shall be deposited by the Company with the Trustee, the Paying Agent or the Conversion Agent by 10:00 a.m., New York City time, on the required date. The Company may, at its option, make payments on any Certificated Notes by check mailed to a Holder's registered address; *provided*, *however*, that if a Holder of more than $5,000,000 principal amount of Certificated Notes requests in writing that the Company make payments on its Certificated Notes by wire transfer to an account in the United States, then, beginning with the interest payment corresponding to the next Record Date, all subsequent payments due to such Holder to such account shall be so made until such Holder notifies the Registrar in writing that the Company should no longer make payments by wire transfer to such account. If the Notes are held in book-entry form, all payments shall be made by wire transfer.

(b) The Company shall make any required payments of Special Interest, if any, to the Person in whose name each Note is registered at the Close of Business on the Record Date for such Special Interest payment. The principal, accrued and unpaid Special Interest, if any, or payment of the Fundamental Change Purchase Price shall be considered paid on the applicable date due if by 10:00 a.m. New York City time on such date (or, in the case of a Fundamental Change Purchase Price, on the Business Day following the applicable Fundamental Change Purchase Date) the Trustee or the Paying Agent holds, in accordance with this Indenture, cash sufficient to pay all such amounts then due. The Trustee shall have no duty to verify the Company's determination as to whether Special Interest is due or the Company's calculations as to the amounts of such Special Interest.

Section 4.02 *SEC and Other Reports.*

(a) For so long as the Notes are outstanding, the Company shall file with the Trustee the Company's annual and quarterly reports, information, documents and other reports which the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act (for the avoidance of doubt, excluding any such information, documents or portions thereof, subject to confidential treatment and any correspondence with the Commission) within 15 days of the date on which the Company is required to file the same with the SEC (after giving effect to any grace period provided by Rule 12b-25 under the Exchange Act). Documents filed by the Company with the SEC via the EDGAR filing system will be deemed to be filed with the Trustee as of the time such documents are filed via the EDGAR filing system. Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice 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 conclusively on Officer's Certificates).

(b) If, at any time during the period beginning on, and including, the date which is one year after the last date of original issuance of the Notes offered by the Offering Memorandum and ending on the Free Trade Date, the Company fails to timely file any periodic report that the Company is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act, as applicable (other than current reports on Form 8-K), and the Company does not cure such failure to file within 14 calendar days, the Company shall pay Special Interest on the Notes, accruing from the due date of the first missed filing that gives rise to such obligation and continuing until the earlier of (i) the Free Trade Date and (ii) the date all such filings have been made. During the first 90 days on which such Special Interest is payable, such Special Interest shall accrue at a rate of 0.25% per annum; thereafter, such Special Interest shall accrue at a rate of 0.50% per annum.

(c) In addition, if the Company fails to cause the Notes or any shares of the Common Stock issuable upon conversion of the Notes that are held by Holders that have not been Affiliates of the Company during the immediately preceding three months to become Freely Tradable on and at all times after the Free Trade Date (or the next succeeding Business Day if the Free Trade Date is not a Business Day), the Company will pay Special Interest on the Notes accruing from the Free Trade Date and until the date on which the Notes and any shares of Common Stock issuable upon the conversion of the Notes become Freely Tradable. During the first 90 days on which such Special Interest is payable, such Special Interest will accrue at a rate of 0.25% per annum; thereafter, such Special Interest will accrue at a rate of 0.50% per annum.

(d) Notwithstanding anything else in this Indenture, in no event will (i) the combined rate of any Special Interest payable under this Section 4.02 and of any Special Interest payable under Section 6.01(c) exceed 0.50% per annum; or (ii) Special Interest pursuant to this Section 4.02 accrue on any day on which (A)(1) the Company has filed a shelf registration statement for the resale of the Notes, (2) such shelf registration statement is effective and usable by Holders for the resale of the Notes, and (3) the Holders may register the resale of their Notes under such shelf registration statement on terms customary for the resale of convertible securities offered in reliance on Rule 144A; or (B) conditions (A)(1) through (A)(3) of this sentence have been satisfied for a period of two years.

Section 4.03 *Compliance Certificate*. Within 120 days after the end of each fiscal year (beginning with the fiscal year ending February 1 2020) of the Company, the Company shall deliver to the Trustee an Officer's Certificate (which Officer's Certificate shall not be required to include such statements included in Section 14.05) stating whether, to the knowledge of the signers thereof, the Company is in default in the performance and observance of any of the terms, provisions and conditions of this Indenture (without regard to any period of grace or requirement of notice provided hereunder) and if the Company shall be in default, specifying all such defaults and the nature and status thereof of which they may have knowledge.

Section 4.04 *Further Instruments and Acts*. Upon request of the Trustee, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of this Indenture.

Section 4.05 *Maintenance of Office or Agency*. The Company will maintain, in the continental United States, an office or agency of the Trustee, Registrar, Paying Agent and Conversion Agent where Notes may be presented or surrendered for payment, where Notes may be surrendered for registration of transfer, exchange, repurchase, or conversion and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Corporate Trust Office of the Trustee shall initially be such office or agency for all of the aforesaid purposes. The Company shall give prompt written notice to the Trustee of the location, and of any change in the location, of any such office or agency (other than a change in the location of the Corporate Trust Office of the Trustee). If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the address of the Trustee set forth in Section 14.02.

The Company may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations.

Section 4.06 *Delivery of Certain Information*. At any time when the Company is not subject to Sections 13 or 15(d) of the Exchange Act, upon the request of a Holder, or any beneficial owner of, or prospective purchaser of, the Notes or a holder of, beneficial owner of, or prospective purchaser of, any shares of Common Stock issued upon the conversion of Notes, the Company will promptly furnish or cause to be furnished Rule 144A Information to such Holder, or any beneficial owner of, or prospective purchaser of, the Notes or holder of, beneficial owner of, or prospective purchaser of, shares of Common Stock issued upon the conversion of Notes, as the case may be, to the extent required to permit compliance by such Holder or holder with Rule 144A in connection with the resale of any such Note. Whether a Person is a beneficial owner shall be determined by the Company to the Company's reasonable satisfaction.

Section 4.07 *Par Value Limitation*. The Company will not take any action that, after giving effect to any adjustment pursuant to Section 10.05, would result in the issuance of shares of Common Stock for less than the par value of such shares of Common Stock.

ARTICLE 5
CONSOLIDATION, MERGER AND SALE OF ASSETS

Section 5.01 *Company May Consolidate, Merge or Sell Its Assets on Certain Terms*. The Company will not consolidate with, merge with or into, or convey, transfer or lease all or substantially all of its property and assets to, any Person unless the Company is the resulting, surviving or transferee Person, unless:

(i) the resulting, surviving or transferee Person (the "**Successor Company**") is a corporation organized and validly existing under the laws of the United States of America, any state thereof or the District of Columbia, and the Successor Company expressly assumes, by executing and delivering a supplemental indenture to the Trustee, all of the Company's obligations under the Notes and under this Indenture;

(ii) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred or shall be continuing;

(iii) the Company and the Successor Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that:

(A) such consolidation, merger, conveyance, transfer or lease and such supplemental indenture complies with this Section 5.01; and

(B) that all conditions precedent to such consolidation, merger, conveyance, transfer or lease provided for in this Indenture have been satisfied.

Section 5.02 *Successor Corporation to Be Substituted*. Upon any such consolidation, merger, conveyance, transfer or lease and the assumption by the Successor Company, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the due and punctual payment of the principal of, accrued and unpaid Special Interest, if any, on all of the Notes, the due and punctual delivery or payment, as the case may be, of any consideration due upon conversion of the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Company, such Successor Company shall succeed to and be substituted for the Company, with the same effect as if it had been named herein as the party of the first part. Such Successor Company thereupon may cause to be signed, and may issue in its own name, any or all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee; and, upon the order of such Successor Company instead of the Company and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall authenticate and shall deliver, or cause to be authenticated and delivered, any Notes that such Successor Company thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the Notes so issued shall in all respects have the same legal rank and benefit under this Indenture as the Notes theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Notes had been issued at the date of the execution hereof. Upon any such consolidation, merger, conveyance or transfer (but not upon a lease), the Person named as the "Company" in the first paragraph of this Indenture or any successor that shall thereafter have become such in the manner prescribed in this Article 5 may be dissolved, wound up and liquidated at any time thereafter and, except in the case of a lease, such Person shall be released from its liabilities as obligor and maker of the Notes and from its obligations under this Indenture.

In case of any such consolidation, merger, conveyance, transfer or lease, changes in phraseology and form (but not in substance) may be made in the Notes thereafter to be issued as may be appropriate.

ARTICLE 6
DEFAULTS AND REMEDIES

Section 6.01 *Events of Default*.

(a) Each of the following events shall be an "**Event of Default**":

(i) the Company defaults in the payment of Special Interest, if any, on any Note when the same becomes due and payable and such default continues for a period of 30 days;

(ii) the Company defaults in the payment of the principal of any Note when the same becomes due and payable at the Maturity Date, upon declaration of acceleration, upon any Fundamental Change Purchase Date or otherwise;

(iii) the failure by the Company to deliver the consideration due upon the conversion of any Notes and such failure continues for a period of five Business Days following the due date for the delivery thereof;

(iv) the failure by the Company to give a Fundamental Change Notice as required pursuant to Section 3.03, the notice required by Section 10.01(a)(iii) or a Specified Corporate Transaction Notice as required under Section 10.01(a)(iv) and such failure is not cured within five days after the due date for such notice;

(v) the failure by the Company to comply with its obligations under Article 5 hereof;

(vi) the default by the Company in the performance of or the breach of any other applicable covenant or agreement of the Company in this Indenture with respect to the Notes (other than a covenant or agreement in respect of which a default or breach is specifically addressed in Sections 6.01(a)(i) through 6.01(a)(v) above) and such default or breach continues for a period of 60 consecutive days after written notice of such default is delivered to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the Notes then outstanding;

(vii) the occurrence of an event of default by the Company as defined under any mortgage, indenture or instrument under which there may be issued, or by which there may be secured or evidenced, any indebtedness of the Company or any of its Significant Subsidiaries for money borrowed, whether such indebtedness exists as of the Issue Date or is later created, if that event of default:

(A) constitutes the failure to pay when due (whether at express maturity, upon acceleration as a result of an event of default or otherwise) indebtedness in an aggregate principal amount in excess of $20,000,000, and

(B) such event of default continues for a period of 30 days after written notice thereof is delivered to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% of the aggregate principal amount of the Notes then outstanding without such default having been cured or waived, such acceleration having been rescinded or annulled (if applicable) and such indebtedness not having been paid or discharged;

(viii) the Company or any of its Significant Subsidiaries, pursuant to or within the meaning of any Bankruptcy Law:

(A) commences a voluntary case;

(B) consents in writing to the entry of an order for relief against it in an involuntary case;

(C) consents in writing to the appointment of a Custodian of it or for any substantial part of its property;

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

(E) takes any comparable action under any foreign laws relating to insolvency; or

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

(A) is for relief against the Company or any of its Significant Subsidiaries in an involuntary case;

(B) appoints a Custodian of the Company or any of its Significant Subsidiaries or for any substantial part of its or any of its Significant Subsidiaries' property;

(C) orders the winding up or liquidation of the Company or any of its Significant Subsidiaries; or

(D) grants any similar relief under any foreign laws;

and, in each such case, the order or decree remains unstayed and in effect for 60 days.

Each of the foregoing will constitute an Event of Default whatever the cause and regardless of 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.

Notwithstanding anything to the contrary in the Notes or elsewhere in this Indenture, a Default under clause (vi) or (vii) of this Section 6.01(a) is not an Event of Default until the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding notify the Company (and in the case of such notice by Holders, the Trustee) of the Default and the Company does not cure such Default within the time specified after receipt of such notice. Such notice must specify the Default, demand that it be remedied and state that such notice is a "Notice of Default."

(b) Within the 30 days immediately following the occurrence of an Event of Default or any Default, the Company shall deliver to the Trustee written notice thereof in the form of an Officer's Certificate describing such Event of Default or Default and its status and explaining what action the Company is taking or proposes to take with respect thereto.

(c) Notwithstanding anything to the contrary in the Notes or elsewhere in this Indenture, excepted as provided in Section 4.02(b) or (c), at the election of the Company, the sole remedy for an Event of Default specified in Section 6.01(a)(vi) relating to the failure by the Company to comply with Section 4.02(a) (the "**Company's Filing Obligations**"), including, without limitation, the obligation to comply with Section 314(a) of the TIA, shall consist exclusively of the right to receive Special Interest on the Notes. For the first 180 days after the occurrence of such an Event of Default, the Special Interest will accrue at a rate equal to 0.25% per annum, and (ii) for the 180 days immediately following such 180 day period, the

Special Interest will accrue at a rate equal to 0.50% per annum. The Special Interest will be in addition to any Special Interest that the Company is required to pay under Section 4.02; *provided*, *however*, that in no event will the combined rate of the Special Interest pursuant to this Section 6.01(c) and any Special Interest due under Section 4.02 exceed 0.50% per annum. This Special Interest will accrue on the Notes from and including the date on which an Event of Default relating to a failure to comply with the Company's Filing Obligations first occurs to but not including the 360th day thereafter (or such earlier date on which the Event of Default relating to such obligations shall have been cured or waived pursuant to Section 6.04). On such 360th day (or earlier, if such Event of Default is cured or waived pursuant to Section 6.04 prior to such 360th day), such Special Interest will cease to accrue and, if such Event of Default has not been cured or waived pursuant to Section 6.04 prior to the 361st day following the occurrence of such Event of Default, then the Trustee or the Holders of not less than 25% in principal amount of the Notes may declare the principal of and accrued and unpaid Special Interest on all such Notes to be due and payable immediately. This provision shall not affect the rights of Holders in the event of the occurrence of any other Event of Default. If the Company elects to pay the Special Interest as the sole remedy for an Event of Default specified in Section 6.01(a)(vi) relating to the failure by the Company to comply with the Company's Filing Obligations, the Company shall notify, in the manner provided for in Section 14.02, the Holders, the Paying Agent and the Trustee of such election at any time on or before the Close of Business on the fifth Business Day immediately following the date any such Event of Default first occurs (which notice shall include a statement as to the date from which Special Interest is payable). Unless and until a Trust Officer receives at the Corporate Trust Office such notice, the Trustee may assume without inquiry that no Special Interest is payable. If the Special Interest has been paid by the Company directly to the Persons entitled to it, the Company shall deliver to the Trustee a certificate setting forth the particulars of such payment.

Section 6.02 *Acceleration.* If an Event of Default (other than an Event of Default specified in Sections 6.01(a)(viii) or 6.01(a)(ix) with respect to the Company) occurs and is continuing, the Trustee, by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding, by notice to the Company and the Trustee, may declare the principal amount of Notes outstanding plus accrued and unpaid Special Interest, if any, on all the Notes that are not already due and payable to be immediately due and payable. Upon such a declaration, such accelerated amount shall be due and payable immediately. If an Event of Default specified in Sections 6.01(viii) or 6.01(ix) with respect to the Company (and not solely with respect to one or more of its Significant Subsidiaries) occurs and is continuing, the principal amount of Notes outstanding plus accrued and unpaid Special Interest, if any, on all the Notes shall, automatically and without any action by the Trustee or any Holder, become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holders. The Holders of a majority in aggregate principal amount of the Notes at the time outstanding, by notice to the Trustee and the Company, and without notice to any other Holder, may rescind any declaration of acceleration if the rescission would not conflict with any judgment or decree of a court of competent jurisdiction and if all existing Events of Default have been cured or waived other than nonpayment of the principal amount or accrued but unpaid Special Interest, if any, that has become due solely as a result of acceleration. No such rescission shall affect any subsequent Default or impair any right consequent thereto.

Section 6.03 *Other Remedies*. If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, accrued and unpaid Special Interest, if any, or payment of the Fundamental Change Purchase Price on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of the Notes in the proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative.

Section 6.04 *Waiver of Past Defaults*. The Holders of a majority in aggregate principal amount of the Notes at the time outstanding by written notice to the Trustee and without notice to any other Holder may waive an existing or past default and its consequences except (a) an Event of Default described in Sections 6.01(a)(i), 6.01(a)(ii) or 6.01(a)(iii) or (b) a default in respect of a provision that under Section 9.02 cannot be amended without the consent of each Holder. When a Default is waived, it is deemed cured, but no such waiver shall extend to any subsequent or other default or impair any consequent right.

Section 6.05 *Control by Majority*. The Holders of a majority in aggregate principal amount of the Notes at the time outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or, subject to Section 7.01, that the Trustee determines is prejudicial to the rights of other Holders or would potentially involve the Trustee in personal liability; provided, however, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. Prior to taking any action hereunder, the Trustee shall be entitled to reasonable indemnification against all losses and expenses caused by taking or not taking such action.

Section 6.06 *Limitation on Suits*. A Holder may pursue any remedy with respect to this Indenture or the Notes only if:

(a) such Holder shall have previously given to the Trustee written notice that an Event of Default has occurred and is continuing;

(b) the Holders of at least 25% in aggregate principal amount of the Notes at the time outstanding make a written request to the Trustee to take action because of the Event of Default;

(c) such Holder or Holders shall have offered to the Trustee security or indemnity reasonably satisfactory to the Trustee against the costs and other liabilities of compliance with such written request;

(d) the Trustee has not complied with such written request within 60 days after receiving such notice, written request and offer of security or indemnity; and

(e) during such 60-day period, the Trustee has not received from the Holders of at least a majority in aggregate principal amount of the Notes outstanding at such time a direction inconsistent with such written request.

A Holder may not use this Indenture to prejudice the rights of any other Holder or to obtain a preference or priority over any other Holder.

Section 6.07 *Rights of Holders to Receive Payment*. Notwithstanding any other provision of this Indenture, the right of any Holder to bring suit for the enforcement of payment of principal, accrued and unpaid Special Interest, if any, or payment of the Fundamental Change Purchase Price on or after the respective due dates, or the right to receive consideration due upon conversion of Notes in accordance with Article 10, shall not be impaired or affected without the consent of such Holder and shall not be subject to the requirements of Section 6.06.

Section 6.08 *Collection Suit by Trustee*. If an Event of Default specified in Section 6.01(a)(i) or 6.01(a)(ii) occurs and is continuing the Trustee may recover judgment in its own name and as trustee of an express trust against the Company for the whole amount then due and owing (together with interest on any unpaid Special Interest, if any, to the extent lawful) and the amounts provided for in Section 7.07.

Section 6.09 *Trustee May File Proofs of Claim.* The Trustee may 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, its creditors or its property and, unless prohibited by law or applicable regulations, may vote on behalf of the Holders in any election of a trustee in bankruptcy or other Person performing similar functions, and any Custodian in any such judicial proceeding is hereby authorized by each Holder to make payments to the Trustee and, if the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and its counsel, and any other amounts due the Trustee under Section 7.07.

Section 6.10 *Priorities*. If the Trustee collects any money pursuant to this Article 6, it shall pay out the money in the following order:

FIRST: to the Trustee for amounts due under Section 7.07;

SECOND: to Holders for amounts due and unpaid on the Notes for principal, accrued and unpaid Special Interest, if any, payment of the Fundamental Change Purchase Price and the cash deliverable upon conversion of Notes then submitted for conversion, as the case may be, ratably, without preference or priority of any kind, according to such amounts due and payable on the Notes; and

THIRD: the balance, if any, to the Company.

The Trustee may fix a record date and payment date for any payment to Holders pursuant to this Section 6.10. At least 15 days before such record date, the Company shall mail to each Holder and the Trustee a notice that states the record date, the payment date and the amount to be paid.

Section 6.11 *Undertaking for Costs*. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07 or a suit by Holders of more than 10% in aggregate principal amount of the Notes at the time outstanding.

Section 6.12 *Waiver of Stay, Extension or Usury Laws.* The Company shall not (to the extent lawfully allowable) at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and shall not hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE 7
TRUSTEE

Section 7.01 *Duties of Trustee.*

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise 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 Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; *provided*, *however*, that the Trustee will examine the certificates and opinions to determine whether they conform to the requirements set forth in this Indenture.

(c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Trust Officer unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee shall 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 Sections 6.02, 6.04 or 6.05 hereof.

(d) Whether herein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to Sections 7.01(a), (b) and (c).

(e) The Trustee shall not be liable for interest on any money received by it or risk or expend any of its own funds.

(f) Money and shares of Common Stock held in trust by the Trustee need not be segregated from other funds or property except to the extent required by law.

(g) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers.

(h) Every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article 7 and to the provisions of the TIA.

(i) The Trustee shall not be deemed to have notice of a Default or an Event of Default unless (i) a Trust Officer of the Trustee has received written notice at its Corporate Trust Office thereof from the Company or any Holder or (ii) a Trust Officer shall have actual knowledge thereof.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers. The Trustee shall not be required to give any bond or surety in respect of the performance of its powers or duties hereunder.

Section 7.02 *Rights of Trustee.*

(a) The Trustee may conclusively rely upon any document believed by it to be genuine and to have been signed or presented by the proper person. The Trustee need not investigate any fact or matter stated in the document. The Trustee may, however, in its discretion make such further inquiry or investigation into such facts or matters as it may see fit and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the expense of the Company and shall incur no liability of any kind by reason of such inquiry or investigation.

(b) Before the Trustee acts or refrains from acting (except in connection with an application for authorization of Notes pursuant to Section 2.02), it may require an Officer's Certificate and an Opinion of Counsel. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on the Officer's Certificate or Opinion of Counsel.

(c) The Trustee may act through agents, attorneys or custodians and shall not be responsible for the misconduct or negligence of any agent, attorney or custodian appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture; *provided*, *however*, that the Trustee's conduct does not constitute willful misconduct or negligence.

(e) The Trustee may consult with counsel of its own selection, and the written advice or opinion of counsel with respect to legal matters relating to this Indenture and the Notes shall be full and complete authorization and protection from liability in respect to any action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(f) The permissive rights of the Trustee to do things enumerated in this Indenture shall not be construed as a duty unless so specified herein.

(g) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders pursuant to this Indenture, unless such Holders shall have offered to the Trustee security or indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities that might be incurred by it in compliance with such request or direction.

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder, including, without limitation, the Registrar, Paying Agents, Conversion Agent and Bid Solicitation Agent.

(i) The Trustee may request that the Company deliver an Officer's Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officer's Certificate may be signed by any Person authorized to sign an Officer's Certificate, including any Person specified as so authorized in any such certificate previously delivered and not superseded.

In no event shall the Trustee be liable for any special, indirect, punitive or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), regardless of the form of action other than any such loss or damage.

Section 7.03 *Individual Rights of Trustee*. The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or its affiliates with the same rights it would have if it were not Trustee. However, if the Trustee acquires any conflicting interest it must eliminate the conflict within 90 days or resign or, if this Indenture has been qualified under the TIA, apply to the SEC to continue as trustee. Any Paying Agent, Registrar, Conversion Agent or co-registrar may do the same with like rights. However, the Trustee must comply with Sections 7.10 and 7.11.

Section 7.04 *Trustee's Disclaimer*. The Trustee shall not be responsible for and makes no representation as to the validity, priority or adequacy of this Indenture, of the Notes or any Common Stock underlying the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes, and it shall not be responsible for any statement of the Company in this Indenture or in any document issued in connection with the sale of the Notes or in the Notes other than the Trustee's certificate of authentication.

Section 7.05 *Notice of Defaults*. If a Default or Event of Default occurs and is continuing, the Trustee shall mail to each Holder notice of the Default or Event of Default within 90 days after it is known to a Trust Officer or written notice of it is received by the Trustee; provided, however, that except in the case of a Default described in Section 6.01(a)(i), 6.01(a)(ii) or 6.01(iii), the Trustee may withhold the notice if and so long as a committee of its Trust Officers in good faith determines that withholding the notice is in the interests of Holders. The first sentence of this Section 7.05 shall be in lieu of the proviso to TIA Section 315(b) and such proviso is hereby expressly excluded from this Indenture, as permitted by the TIA.

Section 7.06 *Reports by Trustee to Holders*. Within 120 days of each January 31, commencing on January 31, 2020, and for so long as any Notes remain outstanding, the Trustee shall mail to each Holder a brief report dated as of January 31 of such year that complies with TIA Section 313(a) if and to the extent required by such subsection. The Trustee shall also comply with TIA Section 313(b). The Trustee will also transmit by mail all reports as required by TIA 313(c).

A copy of each report at the time of its mailing to Holders shall be mailed by the Trustee to the Company and filed with the SEC and each stock exchange (if any) on which the Notes are listed. The Company agrees to notify promptly the Trustee whenever the Notes become listed on any stock exchange and of any delisting thereof.

Section 7.07 *Compensation and Indemnity*. The Company shall pay to the Trustee, in each of its capacities, from time to time such compensation as shall be agreed upon from time to time in writing for its services. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee upon request for all reasonable out-of-pocket fees and expenses incurred or made by it, including costs of collection, in addition to the compensation for its services. Such expenses shall include the reasonable compensation, fees and expenses, disbursements and advances of the Trustee's agents, counsel, accountants and experts. The Company shall fully indemnify the Trustee in any capacity against any and all loss, liability, claim, damage or expense (including reasonable attorneys' fees and expenses) incurred by it in connection with the acceptance and administration of this trust and the performance of its

duties hereunder, including the costs and expenses of defending itself against any claim (whether asserted by the Company, any Holder or any other Person). The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company of any claim for which it may seek indemnity of which a Trust Officer has actually received written notice shall not relieve the Company of its obligations hereunder except to the extent such failure shall have materially prejudiced the Company. The Company shall defend the claim and the Trustee shall cooperate in the defense. If the Trustee is advised by counsel in writing that it may have available to it defenses which are in conflict with the defenses available to the Company, then the Trustee may have separate counsel and the Company shall pay the reasonable fees and expenses of such counsel. The Company will not have any obligation to reimburse any expense or indemnify against any loss, liability or expense incurred by the Trustee through the Trustee's own willful misconduct or negligence, as determined by a final non-appealable decision of a court of competent jurisdiction. The Company will not have any obligation to pay for any settlement made by the Trustee without the Company's consent, such consent not to be unreasonably withheld. All indemnifications and releases from liability granted hereunder to the Trustee shall extend to its officers, directors, employees, agents, attorneys, custodians, successors and assigns.

(a) To secure the Company's payment obligations under this Section 7.07, the Trustee, in each of its capacities, shall have a lien prior to the Notes on all money or property held or collected by the Trustee other than money or property held in trust to pay the principal, accrued and unpaid Special Interest, if any, or payment of the Fundamental Change Purchase Price on particular Notes.

(b) The Company's payment obligations pursuant to this Section 7.07 shall survive the resignation or removal of the Trustee and the discharge of this Indenture. If the Trustee incurs expenses after the occurrence of a Default specified in Sections 6.01(viii) or 6.01 (ix) with respect to the Company, the expenses are intended to constitute expenses of administration under the Bankruptcy Law.

Section 7.08 *Replacement of Trustee.* (a) The Trustee may resign at any time by notifying the Company in writing at least 30 days prior to the proposed resignation. The Holders of a majority in aggregate principal amount of the Notes then outstanding may remove the Trustee by notifying the Trustee in writing. The Company may remove the Trustee if:

(i) the Trustee fails to comply with Section 7.10;

(ii) the Trustee is adjudged bankrupt or insolvent;

(iii) a receiver or other public officer takes charge of the Trustee or its property; or

(iv) the Trustee otherwise becomes incapable of acting.

(b) If the Trustee resigns, is removed by the Company or by the Holders of a majority in aggregate principal amount of the Notes then outstanding, or if a vacancy exists in the office of Trustee for any reason (the Trustee in such event being referred to herein as the retiring Trustee), the Company shall promptly appoint a successor Trustee.

(c) A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall upon payment of all of its costs and the costs of its agents and counsel promptly transfer all property held by it as Trustee to the successor Trustee, subject to the lien provided for in Section 7.07.

(d) If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of at least 10% in aggregate principal amount of the Notes then outstanding may petition at the expense of the Company any court of competent jurisdiction for the appointment of a successor Trustee.

(e) If the Trustee, after written request by any Holder, fails to comply with Section 7.10, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(f) Notwithstanding the replacement of the Trustee pursuant to this Section 7.08, the Company's obligations under Section 7.07 shall continue for the benefit of the retiring Trustee.

Section 7.09 *Successor Trustee by Merger*. (a) If the Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business or assets to, another corporation or banking association, the resulting, surviving or transferee corporation or banking association without any further act shall be the successor Trustee.

(b) In case at the time such successor or successors by merger, conversion or consolidation to the Trustee shall succeed to the trusts created by this Indenture, any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any such successor to the Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor to the Trustee.

Section 7.10 *Eligibility; Disqualification.* The Trustee shall at all times satisfy the requirements of TIA Section 310(a). The Trustee shall have (or, in the case of a corporation included in a bank holding company system, the related bank holding company shall have) a combined capital and surplus of at least $100,000,000 as set forth in its (or its related bank holding company's) most recent published annual report of condition. The Trustee shall comply with TIA Section 310(b), subject to the penultimate paragraph thereof; *provided*, *however*, that there shall be excluded from the operation of TIA Section 310(b)(1) any indenture or indentures under which other securities or certificates of interest or participation in other securities of the Company are outstanding if the requirements for such exclusion set forth in TIA Section 310(b)(1) are met.

Section 7.11 *Preferential Collection of Claims Against Company*. The Trustee shall comply with TIA Section 311(a), excluding any creditor relationship listed in TIA Section 311(b). A Trustee who has resigned or been removed shall be subject to TIA Section 311(a) to the extent indicated therein.

Section 7.12 *Trustee's Application for Instructions from the Company*. Any application by the Trustee for written instructions from the Company may, at the option of the Trustee, set forth in writing any action proposed to be taken or omitted by the Trustee under this Indenture and the date on and/or after which such action shall be taken or such omission shall be effective. The Trustee shall not be liable to the Company for any action taken by, or omission of, the Trustee in accordance with a proposal included in such application on or after the date specified in such application (which date shall not be less than three Business Days after the Trustee delivers such application to the Company pursuant to Section 14.02, unless any such officer shall have consented in writing to any earlier date) unless prior to taking any such action (or the effective date in the case of any omission), the Trustee shall have received written instructions in response to such application specifying the action to be taken or omitted.

ARTICLE 8
DISCHARGE OF INDENTURE

Section 8.01 *Discharge of Liability on Notes.* When (a) all outstanding Notes (other than Notes replaced pursuant to Section 2.07) for cancellation have been delivered to the Registrar or (b) all outstanding Notes have become due and payable, and the Company irrevocably deposits with the Trustee or delivers to the Holders, as applicable, cash and/or shares of Common Stock (solely to satisfy outstanding conversions, if applicable) sufficient to pay all amounts due and owing on all outstanding Notes (other than Notes replaced pursuant to Section 2.07), and if in either case the Company pays all other sums payable hereunder by the Company with respect to the outstanding Notes, then this Indenture shall, subject to Section 7.07, cease to be of further effect with respect to the Notes or any Holders. The Trustee shall acknowledge satisfaction and discharge of this Indenture with respect to the Notes on demand of the Company accompanied by an Officer's Certificate and an Opinion of Counsel and at the cost and expense of the Company.

Section 8.02 *Repayment to the Company*. The Trustee and the Paying Agent shall promptly turn over to the Company upon request any excess money or securities held by them at any time.

Subject to any applicable abandoned property law, the Trustee and the Paying Agent shall pay to the Company upon request any money held by them for payments on the Notes that remains unclaimed for two years after the date on which such payments became due, and, thereafter, Holders entitled to the money must look to the Company for payment as general creditors and all liability of the Trustee or Paying Agent with respect to such money will cease.

ARTICLE 9
AMENDMENTS

Section 9.01 *Without Consent of Holders*. The Company and the Trustee may amend or supplement this Indenture or the Notes without the consent of any Holder to:

(a) cure any ambiguity, omission, defect or inconsistency in this Indenture or in the Notes;

(b) conform the terms of this Indenture or the Notes to the "Description of Notes" section of the Offering Memorandum;

(c) make provisions with respect to the conversion rights of the Holders in accordance with Section 10.06 hereof;

(d) provide for the assumption by a successor corporation of the Company's obligations under this Indenture as described in Article 5 hereof;

(e) add guarantees with respect to the Notes;

(f) secure the Notes;

(g) add to the Company's covenants for the benefit of the Holders or surrender any right or power conferred upon the Company;

(h) make any change that does not adversely affect the rights of any Holder;

(i) appoint a successor Trustee with respect to the Notes;

(j) comply with the rules of any applicable securities depositary, including DTC; or

(k) comply with any requirements of the SEC in connection with the qualification of this Indenture under the TIA.

Section 9.02 *With Consent of Holders*. With the written consent of the Holders of at least a majority in aggregate principal amount of the Notes at the time outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, the Notes), by Act of such Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, may amend or supplement this Indenture or the Notes; *provided*, *however*, that, without the consent of each affected Holder, no amendment or supplement to this Indenture or the Notes may:

(a) reduce the percentage in aggregate principal amount of Notes whose Holders must consent to an amendment of this Indenture or to waive any past Event of Default;

(b) reduce the rate of or extend the stated time for payment of Special Interest on any Note;

(c) reduce the principal amount or extend the Maturity Date of any Note;

(d) make any change that impairs or adversely affects the conversion rights of any Notes under Article 10 hereof, subject to the provisions set forth in Section 10.06 hereof;

(e) reduce the Fundamental Change Purchase Price of any Note or amend or modify in any manner adverse to the Holders the Company's obligation to make such payments;

(f) make any Note payable in a currency other than that stated in the Note;

(g) change the ranking of the Notes;

(h) impair the right of any Holder to receive payment of the principal of, and Special Interest, if any, on, such Holder's Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such Holder's Notes; or

(i) make any change to the amendment provisions of this Indenture which require each Holder's consent or in the waiver provisions of this Indenture,

It shall not be necessary for the consent of the Holders under this Section 9.02 to approve the particular form of any proposed amendment, but it shall be sufficient if such consent approves the substance thereof.

Section 9.03 *Execution of Supplemental Indentures*. Upon the request of the Company, the Trustee shall sign any supplemental indenture authorized pursuant to this Article 9 if the amendment contained therein does not affect the rights, duties, liabilities or immunities under this Indenture of the Trustee. If the supplemental indenture adversely affects the Trustee's rights, duties, liabilities or immunities under this Indenture, then the Trustee may, but need not, sign such supplemental indenture. In executing any such supplemental indenture, the Trustee shall be provided with, and (subject to the provisions of Section 7.01) shall be fully protected in relying upon, an Officer's Certificate and an Opinion of Counsel stating that such supplemental indenture is authorized and permitted under this Indenture.

Section 9.04 *Notices of Supplemental Indentures*. After an amendment or supplement to this Indenture or the Notes pursuant to Sections 9.01 or 9.02 becomes effective, the Company shall mail to each Holder a notice briefly describing such amendment or supplement to this Indenture. The failure to deliver such notice, or any defect in such notice, shall not impair or affect the validity of such amendment or supplement to this Indenture.

Section 9.05 *Effect of Supplemental Indentures*. Upon the execution of any supplemental indenture under this Article 9, (i) this Indenture shall be modified in accordance therewith, (ii) such supplemental indenture shall form a part of this Indenture for all purposes, and (iii) every Holder of Notes theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

Section 9.06 *Conformity with Trust Indenture Act*. Every supplemental indenture executed pursuant to this Article shall comply with the TIA.

Section 9.07 *Notation on or Exchange of Notes*. Notes authenticated and delivered after the execution of any supplemental indenture pursuant to this Article 9 may, and shall, if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Notes so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for outstanding Notes.

Section 9.08 *Revocation and Effect of Consents, Waivers and Actions*. A consent to an amendment or a waiver by a Holder of a Note shall bind the Holder and every subsequent Holder of that Note or portion of the Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent or waiver is not made on the Note. However, any such Holder or subsequent Holder may revoke the consent or waiver as to such Holder's Note or portion of the Note if the Trustee receives the notice of revocation before the date the supplemental indenture setting forth the amendment or waiver becomes effective. After an amendment or waiver becomes effective, it shall bind every Holder. An amendment or waiver becomes effective in accordance with the terms of the supplemental indenture, which shall become effective upon the execution thereof by the Trustee.

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to give their consent or take any other action described above or required or permitted to be taken pursuant to this Indenture. If a record date is fixed, then those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to give such consent or to revoke any consent previously given or to take any such action, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 120 days after such record date.

ARTICLE 10
CONVERSIONS

Section 10.01 *Conversion Privilege and Consideration*.

(a) Subject to and upon compliance with the provisions of this Indenture, a Holder shall have the right, at such Holder's option, to convert the principal amount of its Notes, or any portion of such principal amount that is equal to $1,000 or an integral multiple thereof, at a conversion rate initially equal to 4.7304 shares of the Common Stock (subject to adjustment as provided in Sections 10.05 and 10.07, the "**Conversion Rate**") per $1,000 principal amount of Notes, into the Settlement

Amount determined in accordance with Section 10.03 (x) at any time prior to the Close of Business on the Business Day immediately preceding June 15, 2024, only upon the satisfaction of one or more of the conditions described in clauses (i) through (iv) below, and (y) on and after June 15, 2024, at any time until the Close of Business on the second Scheduled Trading Day immediately preceding the Maturity Date, without regard to the conditions described in clauses (i) through (iv) below:

(i) During any calendar quarter (and only during such calendar quarter) commencing after December 31, 2019 if, for at least 20 Trading Days (whether or not consecutive) during the 30 consecutive Trading Day period ending on the last Trading Day of the immediately preceding calendar quarter, the Last Reported Sale Price of the Common Stock is greater than or equal to 130% of the applicable Conversion Price on such Trading Day. If the Notes become convertible in accordance with this Section 10.01(a)(i), as promptly as practicable, the Company shall notify the Holders, the Conversion Agent and the Trustee in writing that the condition to conversion described in this Section 10.01(a)(i) has been satisfied and of the Holders' right to convert their Notes.

(ii) During the five consecutive Business Day period immediately following any ten consecutive Trading Day period (the "**Measurement Period**") in which, for each Trading Day of such Measurement Period, the Trading Price per $1,000 principal amount of Notes, as determined following a request by a Holder in accordance with the procedures set forth in this Section 10.01(a)(ii), is less than 98% of the product of (x) the Last Reported Sale Price of the Common Stock on such Trading Day and (y) the Conversion Rate on such Trading Day (for any Trading Day, the "**Trading Price Product**").

(A) Unless the Company requests in writing that the Bid Solicitation Agent determine the Trading Price of the Notes, the Bid Solicitation Agent shall have no obligation to determine the Trading Price of the Notes, and unless a Holder of at least $1,000,000 principal amount of Notes (x) provides the Company with reasonable evidence that the Trading Price per $1,000 principal amount of Notes for the immediately following Trading Day will be less than 98% of the Trading Price Product for such Trading Day and (y) requests that the Company require the Bid Solicitation Agent to determine the Trading Price of the Notes on the immediately following Trading Day, the Company shall have no obligation to request that the Bid Solicitation Agent determine the Trading Price of the Notes on such Trading Day.

(B) Upon receipt from a Holder of such evidence and such a request, the Company shall promptly instruct the Bid Solicitation Agent to determine (or, if the Company is then acting as Bid Solicitation Agent, the Company shall determine) the Trading Price of the Notes beginning on the next Trading Day and on each successive Trading Day until a Trading Day occurs in which the Trading Price per $1,000 principal amount of Notes for such Trading Day is greater than or equal to 98% of the Trading Price Product for such Trading Day. Upon providing such instruction to the Bid Solicitation Agent, the Company shall provide the Bid Solicitation Agent with the names and contact details of the three independent nationally recognized securities dealers selected by the Company, and the Company will direct such dealers to provide bids to the Bid Solicitation Agent.

(C) As promptly as practicable after the condition to conversion described in this Section 10.01(a)(ii) has been met, the Company shall notify the Holders, the Conversion Agent and the Trustee of the Trading Price and of the Holders' right to convert their Notes in accordance with this Section 10.01(a)(ii). On the first Trading Day thereafter on which the Trading Price per $1,000 principal amount of Notes for such Trading Day is greater than or equal to 98% of the Trading Price Product for such Trading Day, as promptly as practicable, the Company shall notify the Holders, the Conversion Agent and the Trustee of such Trading Price and that the condition to conversion described in this Section 10.01(a)(ii) is no longer satisfied.

(iii) If the Company elects to:

(A) issue to all or substantially all holders of its Common Stock rights, options or warrants that entitle them, for a period of not more than 60 calendar days after the announcement date of such issuance, to subscribe for or purchase shares of the Common Stock at a price per share of Common Stock less than the average of the Last Reported Sale Prices of the Common Stock for the ten consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such issuance; or

(B) distribute to all or substantially all holders of the Common Stock the Company's assets, debt securities or rights to purchase securities of the Company, which distribution has a per share value, as reasonably determined by the Board of Directors, exceeding 10% of the Last Reported Sale Price of the Common Stock on the Trading Day immediately preceding the date of announcement for such distribution,

then, in each case, at least 50 Scheduled Trading Days immediately prior to theEx-Dividend Date for such issuance or distribution, the Company shall mail notice to the Holders describing such issuance or distribution, the Holders' right to convert their Notes in accordance with this Section 10.01(a)(iii), the Conversion Rate in effect on the date the Company mails such notice, any adjustments to the Conversion Rate that must be made pursuant to Section 10.05 as a result of such issuance or distribution, and the effective date for any such adjustments. Once the Company has given such notice, a Holder may surrender its Notes for conversion at any time until the earlier of (x) the Close of Business on the Business Day immediately preceding the Ex-Dividend Date for the issuance or distribution or (y) the Company's announcement that such issuance or distribution will not take place.

(iv) If a transaction or event that constitutes a Fundamental Change or a Make-Whole Fundamental Change occurs, in each case, without giving effect to the penultimate paragraph of the definition of Fundamental Change and regardless of whether the Holders have the right to require the Company to purchase their Notes pursuant to Section 3.02 (a "**Specified Corporate Transaction**"), the Company shall mail notice (a "**Specified Corporate Transaction Notice**") of such Specified Corporate Transaction to the Holders, the Conversion Agent and the Trustee as promptly as practicable following the date that there is a public announcement of such Specified Corporate Transaction and will use commercially reasonable efforts to notify the Holders, the Trustee and the Conversion Agent prior to the effective date of such Specified Corporate Transaction if practicable. For any Specified Corporate Transaction, the Specified Corporate Transaction Notice shall describe:

(A) such Specified Corporate Transaction;

(B) the effective date or anticipated effective date of such Specified Corporate Transaction;

(C) the Holders' right to convert their Notes in accordance with this Section 10.01(a)(iv);

(D) the Conversion Rate in effect on the date the Company mails such notice;

(E) any adjustments to the Conversion Rate that must be made pursuant to Section 10.05 as a result of such transaction;

(F) whether such Specified Corporate Transaction also constitutes a Fundamental Change, and, if so, the Holders' right to require the Company to purchase their Notes pursuant to Article 3; and

(G) whether such Specified Corporate Transaction also constitutes a Make-Whole Fundamental Change, and, if so, the Holders' right under Section 10.07 to receive Additional Shares if they convert their Notes in connection with such Make-Whole Fundamental Change.

Upon the Company's delivery of a Specified Corporate Transaction Notice for a Specified Corporate Transaction, a Holder may surrender its Notes for conversion at any time until the Close of Business on the earliest of (w) the 35th Trading Day immediately following the effective date of such transaction, (x) if such Specified Corporate Transaction constitutes a Fundamental Change, the related Fundamental Change Purchase Date, (y) if the Company announces that such Specified Corporate Transaction will not occur, the date on which the Company makes such announcement, and (z) the second Scheduled Trading Day immediately preceding the Maturity Date.

Section 10.02 *Conversion Procedure*.

(a) To convert a Note, a Holder must (i) in the case of a Global Note, (A) comply with the procedures of the Depositary in effect on the date such Holder surrenders its Note for conversion and (B) if required, pay all funds required under Sections 10.02(e) and 10.02(f) below, and (ii) in the case of a Certificated Note, (A) complete and manually sign the conversion notice in the form on the reverse of such Certificated Note (a "**Notice of Conversion**") or a facsimile of the Notice of Conversion, (B) deliver the Notice of Conversion, which is irrevocable, and the Certificated Note to the Conversion Agent, (C) if required, furnish appropriate endorsements and transfer documents, (D) if required, pay all transfer or similar taxes, and (E) if required, pay all funds required under Sections 10.02(e) and 10.02(f) below.

(i) On the first Business Day on which such Holder satisfies all of the requirements set forth in Section 10.02(a) above with respect to a Note (and the conversion of such Note is not otherwise prohibited by Section 3.05 hereof), such Note will be deemed converted and such Business Day will be the conversion date (the "**Conversion Date**") for such Note.

(ii) If the last day on which a Note may be converted is not a Business Day, the Note may be surrendered on the immediately following day that is a Business Day. Upon the conversion of a Note, the Conversion Agent, as promptly as possible, and in no event later than one Business Day immediately following the Conversion Date for the Note, will provide the Company with notice of the conversion of the Note, and the Company, as promptly as possible, and in no event later than two Business Days after such Conversion Date, will notify the Trustee, if other than the Conversion Agent, of the conversion of the Note.

(b) At the Close of Business on the Conversion Date for a Note, the converting Holder shall no longer be the Holder of such Note.

(c) If a Holder surrenders only a portion of a Certificated Note for conversion, promptly after the Conversion Date for such portion, the Company shall execute and the Trustee shall authenticate and deliver to such Holder, a new Certificated Note in an authorized denomination equal to the aggregate principal amount of the unconverted portion of the surrendered Note. Upon the conversion of an interest in a Global Note, the Trustee shall promptly make a notation on the "**Schedule of Increases and Decreases of Global Note**" of such Global Note as to the reduction in the principal amount represented thereby. The Company shall notify the Trustee in writing upon any conversion of a Note effected through any Conversion Agent other than the Trustee.

(d) Each conversion shall be deemed to have been effected as to any such Notes (or portion thereof) surrendered for conversion at the Close of Business on the applicable Conversion Date; *provided*, *however*, that the person in whose name the certificate for any shares of Common Stock delivered upon conversion is registered shall be treated as a stockholder of record as of the Close of Business on (i) such Conversion Date (in the case of Physical Settlement) or (ii) the last Trading Day of the applicable Cash Settlement Averaging Period (in the case of Combination Settlement) except to the extent required by Section 10.05 hereof.

(e) If a Holder surrenders a Note for conversion after the Close of Business on a Record Date and prior to the Open of Business on the corresponding Special Interest Payment Date, the Holder must accompany the Note with an amount of cash equal to the amount of Special Interest, if any, that will be payable on the Note on such corresponding Special Interest Payment Date; *provided*, *however*, that a Holder need not make such a payment (i) if the Company has specified a Fundamental Change Purchase Date that is after the Record Date and on or prior to the corresponding Special Interest Payment Date, (ii) to the extent of any overdue interest on the Note, if any overdue interest exists at the time of conversion, or (iii) if the Holder surrenders the Note after the Close of Business on the last Record Date immediately preceding the Maturity Date.

For the avoidance of doubt, all record Holders of Notes on the Record Date immediately preceding the Maturity Date and any Fundamental Change Purchase Date described in clauses (i) through (iii) in the preceding paragraph will receive the full interest payment due on the Maturity Date or other applicable Special Interest Payment Date regardless of whether their Notes have been converted following such Record Date.

(f) If a Holder surrenders a Note for conversion, the Company shall pay all stamp taxes and all other duties, if any, which may be imposed by the United States or any political subdivision thereof or taxing authority thereof or therein with respect to the issuance of shares of Common Stock, if any, upon the conversion. However, if any tax is due because the Holder requests that any shares of Common Stock issued upon conversion be issued in a name other than that of the Holder, the Holder shall pay such tax and the Conversion Agent, until having received a sum sufficient to pay such tax, may refuse to deliver any certificates representing shares of Common Stock being issued in a name other than that of the converting Holder. Nothing herein shall preclude any tax withholding required by law or regulations.

Section 10.03 *Settlement Upon Conversion.*

(a) Except as provided in Section 10.07(d), subject to this Section 10.03, if a Holder converts a Note, the Company shall pay or deliver to such Holder, as the case may be, in respect of each $1,000 principal amount of Notes being converted, solely cash, solely shares of Common Stock or a combination of cash and Common Stock (the "**Settlement Amount**"), at the Company's election, as set forth in this Section 10.03.

(1) Subject to the provisions of Section 10.07(d), the Company shall pay or deliver, as the case may be, the Settlement Amount on the second Trading Day immediately following the last Trading Day of the Cash Settlement Averaging Period; *provided*, that; if the Company elects to fulfill its conversion obligation solely in shares of Common Stock, the Company shall deliver such Common Stock on the second Trading Day immediately following the relevant Conversion Date. Notwithstanding the foregoing, if any information required to calculate the conversion obligation is not available as of the applicable settlement date, the Company will deliver the additional shares of Common Stock resulting from such adjustment on the second Trading Day after the earliest Trading Day on which such calculation can be made.

(2) All conversions during the Final Conversion Period will be settled in the same relative proportions of cash and/or shares of Common Stock (the "**Settlement Method**").

(3) Prior to the first day of the Final Conversion Period, the Company will elect (or be deemed to have elected) the same Settlement Method for all conversions occurring on any given Conversion Day. Except for any conversions that occur during the Final Conversion Period, the Company need not elect the same Settlement Method with respect to conversions that occur on different Conversion Dates.

(4) With respect to each Conversion Date occurring prior to the Final Conversion Period, the Company shall deliver a notice (each, a "**Settlement Notice**") of the relevant Settlement Method not later than the Close of Business on the Trading Day following the related Conversion Date. With respect to each Conversion Date occurring during the Final Conversion Period, the Company shall, prior to the Final Conversion Period, deliver a single Settlement Notice that shall apply to all conversions occurring during the Final Conversion Period. Each such Settlement Notice shall specify whether the Company shall satisfy its conversion obligation by (i) delivering solely shares of Common Stock ("**Physical Settlement**"), (ii) paying solely cash ("**Cash Settlement**") or (iii) paying and delivering, as the case may be, a combination of cash and shares of Common Stock ("**Combination Settlement**"). In the case of an election that provides for Combination Settlement, the relevant Settlement Notice shall indicate the Specified Dollar Amount. If the Company does not deliver a Settlement Notice within the time periods specified above, or if the Company provides a Settlement Notice within the time periods specified above and elects Combination Settlement but the Settlement Notice does not specify a Specified Dollar Amount, the Company will be deemed to have elected Combination Settlement with a Specified Dollar Amount of $1,000.

(5) The Settlement Amount in respect of any conversion shall be computed as follows:

(6) (A) if the Company elects to satisfy its conversion obligation in respect of such conversion through Physical Settlement, the Company will deliver to the converting Holder a number of shares of Common Stock equal to (1) (i) the aggregate principal amount of Notes to be converted, *divided* by (ii) $1,000, *multiplied* by (2) the then-applicable Conversion Rate on the date the converting Holder becomes a record owner of Common Stock pursuant to the last paragraph of Section 10.02(d);

(B) if the Company elects to satisfy its conversion obligation in respect of such conversion through Cash Settlement, the Company shall pay to the converting Holder cash in an amount per $1,000 principal amount of Notes being converted equal to the sum of the Daily Conversion Values for each of the 45 consecutive Trading Days during the related Cash Settlement Averaging Period; and

(C) if the Company elects to satisfy its conversion obligation in respect of such conversion through Combination Settlement, the Company shall pay and deliver to the converting Holder, as the case may be, in respect of each $1,000 principal amount of Notes being converted, a Settlement Amount equal to the sum of the Daily Settlement Amounts for each of the 45 consecutive Trading Days during the related Cash Settlement Averaging Period.

(7) The "**Daily Settlement Amount**" for each of the 45 consecutive Trading Days of the applicable Cash Settlement Averaging Period, will consist of:

(A) cash equal to the lesser of (i) a dollar amount per Note to be received upon conversion as specified by the Company in the Settlement Notice (the "**Specified Dollar Amount**"), if any, *divided* by 45 (such quotient being referred to as the "**Daily Measurement Value**") and (ii) the Daily Conversion Value; and

(B) to the extent the Daily Conversion Value for such Trading Day exceeds the Daily Measurement Value for such Trading Day, a number of shares of Common Stock equal to (i) the difference between the Daily Conversion Value and the Daily Measurement Value, *divided* by (ii) the Daily VWAP of the Common Stock for such Trading Day.

(8) In the case of Cash Settlement or Combination Settlement, the Settlement Amount shall be determined by the Company promptly following the last day of the Cash Settlement Averaging Period. Promptly after such determination of the Settlement Amount and the amount of cash deliverable in lieu of fractional shares (if any), the Company shall notify the Trustee and the Conversion Agent of the Daily Settlement Amounts or the Daily Conversion Values, as the case may be, and the amount of cash deliverable in lieu of fractional shares of Common Stock. The Trustee and the Conversion Agent shall be entitled to rely exclusively on the notice given by the Company and shall have no responsibility for any such determination.

(b) Notwithstanding the foregoing, the Company will not issue fractional shares of Common Stock as part of the Settlement Amount due with respect to any converted Note in respect of which shares of Common Stock are deliverable. Instead, if any such Settlement Amount includes a fraction of a share of Common Stock, the Company will, in lieu of delivering such fraction of a share of Common Stock, pay an amount of cash equal to the product of (i) such fraction of a share and (ii) the Daily VWAP of the Common Stock on the relevant Conversion Data (in the case of Physical Settlement) or on the last Trading Day of the applicable Cash Settlement Averaging Period (in the case of Combination Settlement), subject in each case to the following paragraph.

If a Holder surrenders more than one Note for conversion on a single Conversion Date, the Company will calculate the amount of cash and the number of shares of Common Stock due with respect to such Notes as if such Holder had surrendered for conversion one Note having an aggregate principal amount equal to the sum of the principal amounts of each of the Notes surrendered for conversion by such Holder on such Conversion Date.

(c) If a Holder converts a Note, the Company will not adjust the Conversion Rate to account for any accrued and unpaid interest on such Note and the Company's delivery of the amount of cash and the number of shares of Common Stock, if any, into which a Note is convertible will be deemed to satisfy and discharge in full the Company's obligation to pay the principal of, and accrued and unpaid Special Interest, if any, on, such Note to, but excluding, the Conversion Date (subject to the provisions of Section 11.02); *provided*, *however*, that if a Holder converts a Note after a Regular Record Date and prior to the Open of Business on the corresponding Special Interest Payment Date, the Company will still be obligated to pay the Special Interest due, if any, on such Special Interest Payment Date to the Holder of such Note on such Regular Record Date (provided the Holder makes the interest payment upon conversion if so required by Section 10.02(e)).

As a result, except as otherwise provided in the proviso to the immediately preceding sentence, any accrued and unpaid Special Interest with respect to a converted Note will be deemed to be paid in full rather than cancelled, extinguished or forfeited. In addition, if the Settlement Amount for any Note includes both cash and shares of the Common Stock, accrued and unpaid Special Interest will be deemed to be paid first out of the amount of cash delivered upon such conversion. In no event will a Holder be entitled to receive any dividend or other distribution with respect to any Common Stock issued on conversion of such Holder's Notes if the applicable Conversion Date is after the Regular Record Date for such dividend or distribution. Prior to the settlement of any conversion in accordance with this Section 10.03, a Holder shall not be the owner of any Common Stock issuable upon conversion of such Holder's Notes.

(d) Whenever a Conversion Date occurs with respect to a Note, the Conversion Agent will (provided it has received a Conversion Notice from the Depository or the Holder), as promptly as possible, and in no event later than the Business Day immediately following such Conversion Date, deliver to the Company and the Trustee, if it is not then the Conversion Agent, notice that a Conversion Date has occurred, which notice will state such Conversion Date, the principal amount of Notes converted on such Conversion Date and the names of the Holders that converted Notes on such Conversion Date.

Section 10.04 *Company to Provide Stock.* The Company shall, prior to issuance of any shares of Common Stock under this Article 10, and from time to time as may be necessary, reserve out of its authorized but unissued shares of Common Stock a sufficient number of shares of Common Stock to permit the conversion of the Notes.

(a) Any shares of Common Stock delivered upon conversion of the Notes shall be newly issued shares or treasury shares, shall be duly and validly issued and fully paid and nonassessable, and shall be free from preemptive rights and shall be free of any lien or adverse claim (except any lien or adverse claim created by the action or inaction of the Holder to whom such shares are delivered). The Company will endeavor promptly to comply with all federal and state securities laws regulating the offer and delivery of Common Stock, as applicable and if any, upon conversion of Notes; *provided*, that the Company shall not be obligated to register the offer and sale of the Common Stock under the Securities Act or any other applicable securities laws. In addition, the Company will cause any such shares of Common Stock to be listed on any stock exchange on which the Common Stock is then listed and will comply with any stock exchange rules applicable to the Notes and/or the Common Stock (or Reference Property) issuable upon conversion of the Notes.

(b) If any shares of the Common Stock issued upon conversion are required to bear a Restricted Stock Legend, the Company will affix, or will direct its transfer agent to affix the Restricted Stock Legend upon such shares.

Section 10.05 *Adjustments to the Conversion Rate*. The Conversion Rate will be adjusted as described in this Section 10.05, except that the Company will not make any adjustments to the Conversion Rate for any Holder that may participate (as a result of holding the Notes, and at the same time as the holders of the Common Stock participate) in any of the transactions described below as if such Holder held, for each $1,000 principal amount of Notes held, a number of shares of the Common Stock equal to the applicable Conversion Rate, without having to convert its Notes.

(a) *Dividends, Distributions, Splits and Combinations*. If the Company issues solely shares of the Common Stock as a dividend or distribution on all or substantially all of the shares of the Common Stock, or if the Company effects a share split or a share combination of the Common Stock, 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 prior to the Open of Business on the Ex-Dividend Date of such dividend or distribution, or immediately prior to the Open of Business on the effective date of such share split or combination, as the case may be;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on the Ex-Dividend Date of such dividend or distribution or the effective date of such share split or combination, as the case may be;

OS_0 = the number of shares of the Common Stock outstanding immediately prior to the Open of Business on such Ex-Dividend Date or effective date, as the case may be; and

OS_1 = the number of shares of the Common Stock outstanding immediately after giving effect to such dividend, distribution, share split or share combination, as the case may be.

Any adjustment made under this Section 10.05(a) shall become effective immediately after the Open of Business on the Ex-Dividend Date for such dividend or distribution or the effective date for such share split or combination, as the case may be. If any dividend or distribution of the type described in this Section 10.05(a) is declared but not so paid or made, then the Conversion Rate shall immediately be readjusted, effective as of the date the Company's Board of Directors determines not to pay such dividend or distribution to the Conversion Rate that would then be in effect had such dividend or distribution not been declared or announced.

(b) *Adjustment for Rights Issue.* If the Company issues to all or substantially all of the holders of the Common Stock any rights, options or warrants (other than pursuant to any rights plan in effect from time to time) entitling such holders for a period of not more than 60 calendar days after the announcement date of such issuance to subscribe for or purchase shares of the Common Stock, at a price per share less than the average of the Last Reported Sale Prices of the Common Stock for the ten consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such issuance, the Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where:

CR_0 = the Conversion Rate in effect immediately prior to the Open of Business on the Ex-Dividend Date for such issuance;

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

OS_0 = the number of shares of the Common Stock outstanding immediately prior to the Open of Business on the Ex-Dividend Date for such issuance;

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

Y = the number of shares of the Common Stock equal to the aggregate price payable to exercise such rights, options or warrants divided by the average of the Last Reported Sale Prices of the Common Stock over the ten consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of the issuance of such rights, options or warrants.

Any adjustment made under this Section 10.05(b) will be made successively whenever any such rights, options or warrants are issued and shall become effective immediately after the Open of Business on the Ex-Dividend Date for such issuance. To the extent that shares of Common Stock are not delivered after the expiration of such rights, options or warrants, the Conversion Rate shall be readjusted to the Conversion Rate that would then be in effect had the adjustment made upon the issuance of such rights, options or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights, options or warrants are not so issued, the Conversion Rate shall immediately be readjusted to equal the Conversion Rate that would then be in effect had the relevant adjustment pursuant to this Section 10.05(b) not occurred.

For purposes of this Section 10.05(b), in determining whether any issued rights, options or warrants entitle the holders of the Common Stock to subscribe for or purchase shares of the Common Stock at a price less than the average of the Last Reported Sale Prices of the Common Stock for each Trading Day in the ten consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the announcement date of such issuance, and in determining the aggregate offering price of such shares of Common Stock, there shall be taken into account any consideration that the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if other than cash, to be determined by the Board of Directors.

(c) *Other Distributions*.

(i) If the Company distributes shares of its Capital Stock, evidences of its indebtedness, other assets or property or rights or warrants to acquire its Capital Stock or other securities, to all or substantially all holders of the Common Stock, excluding:

- dividends or distributions (including subdivisions) and rights, options or warrants for which an adjustment is made pursuant to Sections 10.05(a) or 10.05(b) above;
- rights issued to all holders of the Common Stock pursuant to a rights plan, where such rights are not presently exercisable, continue to trade with the Common Stock and holders will receive such rights together with any Common Stock upon conversion as described below;
- dividends or distributions paid exclusively in cash for which an adjustment is made pursuant to Section 10.05(d) below; and
- Spin-offs for which an adjustment is made pursuant to Section 10.05(c)(ii) below,

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

$$CR_1 = CR_0 \times \frac{SP_0}{SP_0 - FMV}$$

where:

CR_0 = the Conversion Rate in effect immediately prior to 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 the Ex-Dividend Date for such distribution;

SP_0 = the average of the Last Reported Sale Prices of the Common Stock for the ten consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution; and

FMV = the fair market value, as determined by the Company's Board of Directors, of the shares of Capital Stock evidences of indebtedness, assets, property, or rights or warrants distributed with respect to each outstanding share of the Common Stock outstanding immediately prior to the Open of Business on the Ex-Dividend Date for such distribution.

Notwithstanding the foregoing, if "SP_0" (as defined above) minus "FMV" (as defined above) is less than $1.00, in lieu of the foregoing adjustment, each Holder shall receive, for each $1,000 principal amount of Notes held, at the same time and upon the same terms as holders of the Common Stock, the amount and kind of indebtedness, other assets or property of the Company or rights or warrants to acquire the Company's Capital Stock or other securities that such Holder would have received as if such Holder had owned a number of shares of the Common Stock equal to the Conversion Rate in effect on the record date for such distribution.

Any adjustment made under this Section 10.05(c)(i) will become effective immediately after the Open of Business on the Ex-Dividend Date for such distribution. If such distribution is not so paid or made, or if any rights or warrants are not exercised before their expiration date, the Conversion Rate shall be readjusted to be the Conversion Rate that would then be in effect had such distribution not been declared or to the extent such rights or warrants are not exercised, as applicable.

(ii) With respect to an adjustment pursuant to this Section 10.05(c) in which there has been a payment of a dividend or other distribution on the Common Stock of shares of Capital Stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit of the Company and such dividend or distribution is listed for trading or quoted (or will be listed or quoted upon consummation of the spin-off) on a National Securities Exchange (a "**Spin-off**"), the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV_0 + MP_0}{MP_0}$$

where:

CR_0 = the Conversion Rate in effect immediately prior to the Open of Business on the Ex-Dividend Date for the Spin-off;

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

FMV_0 = the average of the Last Reported Sale Prices of the Capital Stock or similar equity interest distributed to holders of one share of the Common Stock over the ten consecutive Trading Day period immediately following, and including, the effective date for the Spin-off (such period, the "Valuation Period"); and

MP_0 = the average of the Last Reported Sale Prices of the Common Stock over the Valuation Period.

Notwithstanding the foregoing, if the Ex-Dividend Date for the Spin-off is less than 10 Trading Days prior to, and including, the end of the Cash Settlement Averaging Period in respect of any conversion, references within this Section 10.05(c)(ii) to 10 Trading Days shall be deemed replaced, for purposes of calculating the affected Daily Conversion Values in respect of that conversion, with such lesser number of Trading Days as have elapsed from, and including, the Ex-Dividend Date for the Spin-off to, and including, the last Trading Day of such Cash Settlement Averaging Period. For purposes of determining the applicable Conversion Rate, in respect of any conversion during the 10 Trading Days commencing on the Ex-Dividend Date for any Spin-off, references within the portion of this Section 10.05(c)(ii) related to "Spin-offs" to 10 Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Ex-Dividend Date for such Spin-off to, and including, the relevant Conversion Date.

Any adjustment made pursuant to this Section 10.05(c)(ii) shall become effective as of the Open of Business on the Ex-Dividend Date for the Spin-off. If such Spin-off is subsequently cancelled and does not become effective, the Conversion Rate shall be readjusted to be the Conversion Rate that would have been in effect if such Spin-off had not been declared.

(d) *Adjustment for Cash Distributions*. If the Company pays cash dividends or distributions to all or substantially all holders of the outstanding Common Stock, the Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{SP_0}{SP_0 - C}$$

where:

CR_0 = the Conversion Rate in effect immediately prior to 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 the Ex-Dividend Date for such distribution;

SP_0 = the average of the Last Reported Sale Prices of the Common Stock over the ten consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution; and

C = the amount in cash per share the Company distributes to holders of the Common Stock in such distribution.

If "SP_0" (as defined above) minus "C" (as defined above) is less than $1.00, in lieu of the foregoing adjustment, each Holder shall receive, for each $1,000 principal amount of Notes held, at the same time and upon the same terms as holders of the Common Stock, the amount of cash such Holder would have received if such Holder had owned a number of shares of the Common Stock equal to the Conversion Rate in effect on the record date for such distribution.

Any adjustment made under this Section 10.05(d) will become effective immediately after the Open of Business on the Ex-Dividend Date for such distribution. If such distribution is not so paid or made, the Conversion Rate shall be readjusted to be the Conversion Rate that would then be in effect had such distribution not been declared.

(e) *Adjustment for Tender Offers or Exchange Offers.* If the Company or any of its Subsidiaries makes a payment to holders of the Common Stock in respect of a tender offer or exchange offer by the Company or any of its Subsidiaries, to the extent that the cash and value of any other consideration included in the payment per share of Common Stock exceeds the average of the Last Reported Sale Prices of the Common Stock over the ten consecutive Trading Day period commencing on, and including, the Trading Day immediately following the last date on which tenders or exchanges may be made pursuant to such tender offer or exchange offer (the "**Expiration Date**"), the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{AC + (SP_1 \times OS_1)}{OS_0 \times SP_1}$$

where:

CR_0 = the Conversion Rate in effect immediately prior to the Close of Business on the Expiration Date;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on the Expiration Date;

AC = the aggregate value of all cash and any other consideration (as determined by the Company's Board of Directors) paid or payable for the shares purchased in such tender or exchange offer as of the expiration time of the tender offer or exchange offer (the "Expiration Time");

OS_0 = the number of shares of Common Stock outstanding immediately prior to the Expiration Time (prior to giving effect to the purchase of shares of Common Stock pursuant to such tender offer or exchange offer);

OS_1 = the number of shares of Common Stock outstanding immediately after the Expiration Time (after giving effect to the purchase of shares of such series pursuant to such tender offer or exchange offer); and

SP_1 = the average of the Last Reported Sale Prices of the Common Stock over the ten consecutive Trading Day period commencing on, and including, the Trading Day immediately following the Expiration Date.

The adjustment to the Conversion Rate under this Section 10.05(e) will be given effect at the Open of Business on the Trading Day next succeeding the Expiration Date. If the Trading Day next succeeding the Expiration Date is less than 10 Trading Days prior to, and including, the end of the Cash Settlement Averaging Period in respect of any conversion, references within this Section 10.05(e) to 10 Trading Days shall be deemed replaced, for purposes of calculating the affected Daily Conversion Values in respect of that conversion, with such lesser number of Trading Days as have elapsed from, and including, the Trading Day next succeeding the Expiration Date to, and including, the last Trading Day of such Cash Settlement Averaging Period. For purposes of determining the applicable Conversion Rate, in respect of any conversion during the 10 Trading Days commencing on the Trading Day next succeeding the Expiration Date, references within this Section 10.05(e) to 10 Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Trading Day next succeeding the Expiration Date to, and including, the relevant Conversion Date.

(f) *Holder Participation in Adjustment Events.* Notwithstanding the foregoing, if pursuant to this Section 10.05, an adjustment to the Conversion Rate becomes effective on any Ex-Dividend Date or effective date and a Holder that has converted its Notes would (i) receive shares of Common Stock based on an adjusted Conversion Rate and (ii) be a record holder of the shares of Common Stock on the record date for the dividend, distribution or event giving rise to the adjustment pursuant to this Section 10.05, then, in lieu or receiving shares of Common Stock at such an adjusted Conversion Rate, such Holder will participate in the related dividend, distribution or other event giving rise to such adjustment and shall receive a number of shares of Common Stock, if any, upon conversion based on an unadjusted Conversion Rate.

(g) *Adjustments Not Yet Effective*. If a Holder converts a Note to which Cash Settlement or Combination Settlement is applicable and, on any Trading Day during the Cash Settlement Averaging Period corresponding to the Conversion Date for such Note:

(A) shares of Common Stock are deliverable as part of the Daily Settlement Amount for such Trading Day;

(B) any event that requires an adjustment to the Conversion Rate pursuant to Sections 10.05(a), (b), (c), (d) or (e) has occurred, but will not result in an adjustment to the Conversion Rate for such Trading Day for such Holder; and

(C) the shares of Common Stock (or the cash value thereof) that the Holder shall receive as part of the Daily Settlement Amount for such Trading Day will not be entitled to participate in the distribution or transaction requiring the adjustment (because such shares were not held by such Holder on the record date corresponding to such distribution or transaction or otherwise),

then the Company will adjust the number of shares of Common Stock (or the cash value thereof) deliverable to such Holder as part of the Daily Settlement Amount for such Trading Day in a manner that appropriately reflects the relevant distribution or transaction requiring adjustment.

(h) *Other Adjustments*. Whenever any provision of this Indenture requires the calculation of Last Reported Sale Prices, Daily VWAPs or any functions thereof over a span of multiple days, the Board of Directors will make appropriate adjustments to each to account for any adjustment to the Conversion Rate that becomes effective, or any event requiring an adjustment to the Conversion Rate in which the Ex-Dividend Date, effective date or expiration date, as the case may be, of the event occurs, at any time prior to or during the period over which such calculation is to be made.

(i) *Rights Plans*. If the Company adopts a stockholder rights plan and, on the Conversion Date for a Note, (i) such plan is in effect and (ii) the rights provided for in such plan have not yet separated from the Common Stock, each share of Common Stock issued upon the conversion of Notes on such Conversion Date (x) shall be entitled to receive the number of rights, if any, associated with one share of Common Stock under such stockholder rights plan, and (y) shall, if issued in certificated form, bear such legends, if any, as may be required under such stockholder rights plan; *provided*, *however*, that if prior to the Conversion Date for a Note, the rights separate from the Common Stock in accordance with the provisions of the applicable stockholder rights plan, a converting Holder shall not be entitled to receive such rights upon conversion, and on the date of such separation, the Conversion Rate will be adjusted in accordance with Section 10.05(c); *provided*, *further*, that such adjustment shall be subject to readjustment upon the expiration, termination or redemption of such separated rights.

(j) *Deferral of Adjustments*. Notwithstanding anything to the contrary herein, the Company will not be required to adjust the Conversion Rate unless such adjustment would require an increase or decrease of at least one percent; *provided*, *however*, that any such minor adjustments that are not required to be made will be carried forward and taken into account in any subsequent adjustment, and *provided*, *further*, that any such adjustment of less than one percent that has not been made shall be made upon the occurrence of (i) the Effective Date for any Make-Whole Fundamental Change, (ii) each Trading Day of any Cash Settlement Averaging Period and (iii) if the Company elects to satisfy its conversion obligation solely in shares of Common Stock, upon any such conversion of Notes.

(k) *Simultaneous and Successive Adjustments*. If this Article 10 requires adjustments to the Conversion Rate under more than one of Sections 10.05(a), (b), (c) or (d), and the Ex-Dividend Dates (or, in the case of a Spin-off, the effective date of such a Spin-off) for the distributions giving rise to such adjustments shall occur on the same date, then such adjustments shall be made, without duplication, by applying, first, the provisions of Section 10.05(a); second, the provisions of Section 10.05(c); third, the provisions of Section 10.05(d); and, fourth, the provisions of Section 10.05(b).

After an adjustment to the Conversion Rate under this Article 10, any subsequent event requiring an adjustment under this Article 10 shall cause an adjustment to the Conversion Rate as so adjusted, without duplication.

(l) *Voluntary Increases*. From time to time, the Company may (but is not required to) increase the Conversion Rate by any amount for a period of at least 20 Business Days if (i) the Board of Directors determines that such increase is in the best interest of the Company, (ii) such increase is irrevocable during such period, (iii) such increase does not violate applicable law and (iv) if any shares of the Company's Capital Stock are listed on New York Stock Exchange, such increase does not violate any applicable New York Stock Exchange rules. In addition, the Company may (but is not required to) increase the Conversion Rate to avoid or diminish the taxation of any subdivisions of the Common Stock, dividends on the Common Stock, rights distributions to purchase stock or other securities to holders of the Common Stock, or distributions to holders of the Common Stock of securities convertible into or exchangeable for shares of the Common Stock if (i) such increase does not violate applicable law and (iii) if any shares of the Company's Capital Stock are listed on the New York Stock Exchange, such increase does not violate applicable New York Stock Exchange rules.

(m) *No Other Adjustments.* Except as specifically described in this Section 10.05, the Conversion Rate will not be subject to adjustment as a result of any issuance of shares of Common Stock, securities convertible into or exchangeable for shares of Common Stock or rights, options or warrants to purchase shares of Common Stock or securities convertible into or exchangeable for shares of Common Stock. In addition, if the application of the formulas in Sections 10.05(a) through 10.05(e) would result in a decrease in the Conversion Rate, no adjustment to the Conversion Rate will be made (other than as a result of a reverse share split or share combination); *provided* that, for the avoidance of doubt, if the Company adjusts the Conversion Rate pursuant to Section 10.05(a), 10.05(b), 10.05(c), or 10.05(d) and the event that gave rise to the adjustment is not paid or made, delivered or issued or fails to become effective, as applicable, the Company may readjust the Conversion Rate as expressly contemplated in the applicable section. Without limiting the foregoing, the Conversion Rate will not be adjusted upon the following events:

(i) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on securities of the Company and the investment of additional optional amounts in shares of Common Stock under any plan;

(ii) upon the issuance of any shares of Common Stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Company or any of its Subsidiaries;

(iii) upon the issuance of any shares of Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in the preceding clause and outstanding as of the Issue Date;

(iv) for a change in the par value of the Common Stock;

(v) any accrued and unpaid Special Interest, if any; or

(vi) upon the issuance of any shares of Common Stock pursuant to any option, warrant, right, or exercisable, exchangeable or convertible security outstanding as of the Issue Date.

(n) *Notice of Adjustments*. Whenever an event occurs that will require an adjustment to the Conversion Rate pursuant to this Section 10.05, the Company shall, at least 35 Scheduled Trading Days prior to the anticipated effective date of such adjustment, mail to the Holders a notice of such event describing the event requiring adjustment to the Conversion Rate pursuant to this Section 10.05, the effective date of the adjustment and the adjusted Conversion Rate; *provided*, *however*, that if on such date, the Company does not have knowledge of such event or the adjusted Conversion Rate cannot be calculated, the Company shall deliver such notice as promptly as practicable upon obtaining knowledge of such event or information sufficient to make such calculation, as the case may be, and in no event later than the effective date of such adjustment. On or before the day on which the Company is required to deliver notice to the Holders pursuant to this Section 10.05(n), the Company shall file such notice, together with an Officer's Certificate briefly describing the event triggering the adjustment to the Conversion Rate pursuant to this Section 10.05 and the Company's manner of computing the adjustment, with the Conversion Agent and the Trustee. To the Trustee and the Conversion Agent, receipt of such notice and of such Officer's Certificate shall be conclusive evidence that the adjustment is correct and in effect on the effective date stated in such notice. Neither the Trustee nor the Conversion Agent shall be under any duty or responsibility with respect to any such notice of adjustment except to exhibit the same to any Holder desiring inspection thereof. The failure of the Company to give such notice, or any defect therein, shall not affect the validity of such adjustment.

Section 10.06 *Effect of Reclassification, Consolidation, Merger or Sale*.

(a) Upon the occurrence of:

(i) any recapitalization, reclassification or change of the Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a subdivision or combination for which an adjustment is provided pursuant to Section 10.05);

(ii) any consolidation, merger, or combination involving the Company;

(iii) any sale, lease or other transfer to another Person of substantially all of the consolidated assets of the Company and its Subsidiaries; or

(iv) any statutory share exchange,

in each case, as a result of which the Common Stock would be converted into, or exchanged for, stock, other securities, other property or assets (including cash or any combination thereof) (any such event, a "**Merger Event**," any such stock, other securities, other property or assets, "**Reference Property**," and the kind and amount of Reference Property that a holder of one share of Common Stock immediately prior to the effective date of such Merger Event would have been entitled to receive in the applicable Merger Event a "**Unit of Reference Property**"; provided that if as a result of the applicable Merger Event, each share of Common Stock is converted into the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), then each Unit of Reference Property will be deemed to be the per-share of Common Stock weighted average of the types and amounts of Reference Property received by the holders of Common Stock that affirmatively make such an election) then, at the effective time of such Merger Event, (A) the right to convert each $1,000 principal amount of Notes based on a number of shares of the Common Stock equal to the applicable Conversion Rate will, without the consent of the Holders, be changed into a right to convert each $1,000 principal amount of Notes based on a number of Units of Reference Property equal to the applicable Conversion Rate and, (B) prior to or at the effective time of such Merger Event, the Company or the successor or purchasing person, as the case may be, shall execute with the Trustee a supplemental indenture (which shall comply with the TIA as in force at the date of execution of such supplemental indenture) providing for such change in the right to convert each $1,000 principal amount of Notes; *provided*, *however*, that (w) any amount payable in cash upon conversion of the Notes in accordance with Sections 10.03 and 10.07 hereof shall continue to be payable in cash, (x) the number of shares of Common Stock that the Company would have been required to deliver upon conversion of the Notes in accordance with Sections 10.03 and 10.07 hereof shall instead be deliverable in Units of Reference Property and (y) the Daily VWAP and the Last Reported Sale Price will, to the extent reasonably possible, be calculated based on the value of a Unit of Reference Property and the definitions of Trading Day and Market Disruption Event shall be determined by reference to the components of a Unit of Reference Property.

The Company shall not become a party to any Merger Event unless its terms are consistent with this Section 10.06. The supplemental indenture described in clause (B) above shall provide for adjustments which shall be as nearly equivalent to the adjustments provided for in this Article 10 in the judgment of the Board of Directors or the board of directors of the successor person. If, in the case of any such Merger Event, the Reference Property receivable thereupon by a holder of Common Stock includes shares of stock, securities or other property or assets (including cash or any combination thereof) of a person other than the successor or purchasing person, as the case may be, in such Merger Event, then such supplemental indenture shall also be executed by such other person.

(b) *Notices*.

(i) If the Merger Event causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election) as contemplated by the first paragraph of Section 10.06(a) such that a Unit of Reference Property is comprised of the per-share of Common Stock weighted average of the types and amounts of consideration received by the holders of the Common Stock in the Merger Event that affirmatively make such an election, the Company shall notify Holders of the weighted average as soon as practicable after a determination of such weighted average is made.

(ii) As soon as practicable upon learning the anticipated or actual effective of a Merger Event, the Company shall deliver written notice to the Holders stating:

(1) a brief description of such Merger Event;

(2) the Conversion Rate in effect on the date the Company delivers such notice;

(3) the anticipated effective date for the Merger Event;

(4) that the Notes will be convertible based on Reference Property in lieu of shares of Common Stock on and after the effective date for the Merger Event; and

(5) the composition of a Unit of Reference Property for such Merger Event.

(c) If the Company executes a supplemental indenture pursuant to this Section 10.06, as promptly as practicable, the Company shall file with the Trustee an Officer's Certificate briefly describing such Merger Event, the composition of a Unit of Reference Property for such Merger Event, any adjustment to be made with respect thereto and that all conditions precedent to such Merger Event under this Indenture have been complied with. Any failure to deliver such Officer's Certificate shall not affect the legality or validity of such supplemental indenture.

(d) The provisions of this Section 10.06 shall apply successively to successive Merger Events.

Section 10.07 *Adjustment to Conversion Rate Upon Certain Transactions.*

(a) If a Make-Whole Fundamental Change occurs and a Holder converts a Note "in connection" with such Make-Whole Fundamental Change, the Company will, in the circumstances described in this Section 10.07, increase the Conversion Rate for such Note by the number of additional shares Common Stock (the "**Additional Shares**") described in this Section 10.07. For the purposes of this Section 10.07, any conversion during the period beginning on, and including, the effective date of a Make-Whole Fundamental Change (the "**Make-Whole Fundamental Change Effective Date**") and ending on, and including, the Close of Business on the earliest of (i) the 35th Scheduled Trading Day immediately following the Make-Whole Fundamental Change Effective Date, (ii) if the Make-Whole Fundamental Change is also a Fundamental Change, the Fundamental Change Purchase Date corresponding to such Fundamental Change, and (iii) the second Scheduled Trading Day immediately preceding the Maturity Date, will be deemed to be "in connection with" such Make-Whole Fundamental Change, regardless of any other condition to conversion.

(b) The numbers of Additional Shares by which the Conversion Rate will be increased if a Holder converts a Note in connection with a Make-Whole Fundamental Change will be determined by reference to the table below, based on the Make-Whole Fundamental Change Effective Date for such Make-Whole Fundamental Change and the Stock Price for such Make-Whole Fundamental Change.

(c) The following table sets forth the Stock Prices and Effective Dates and the number of Additional Shares by which the Conversion Rate will be increased for a Holder that converts a Note in connection with a Make-Whole Fundamental Change having such Effective Date and Stock Price. The Stock Prices set forth in the first row of the tables (i.e., the column headers) will be adjusted on each date on which the Conversion Rate is adjusted pursuant to Section 10.05. The adjusted Stock Prices will equal the Stock Prices in effect immediately prior to such adjustment, multiplied by a fraction, the numerator of which is the Conversion Rate in effect immediately prior to the adjustment giving rise to the share price adjustment, and the denominator of which is the Conversion Rate in effect immediately after the adjustment. The numbers of Additional Shares set forth in the table below will be adjusted in the same manner and at the same time as the Conversion Rate.

	Stock Price												
Effective Date	$169.12	$180.00	$190.00	$200.00	$211.40	$225.00	$250.00	$275.00	$300.00	$350.00	$400.00	$500.00	$600.00
September 17, 2019	1.1825	1.0132	0.8817	0.7693	0.6602	0.5519	0.3997	0.2912	0.2126	0.1125	0.0574	0.0106	0.0000
September 15, 2020	1.1825	1.0132	0.8817	0.7693	0.6602	0.5476	0.3885	0.2769	0.1975	0.0992	0.0474	0.0067	0.0000
September 15, 2021	1.1825	1.0132	0.8817	0.7612	0.6384	0.5186	0.3553	0.2440	0.1671	0.0764	0.0321	0.0023	0.0000
September 15, 2022	1.1825	1.0132	0.8507	0.7127	0.5826	0.4583	0.2946	0.1887	0.1197	0.0455	0.0144	0.0000	0.0000
September 15, 2023	1.1825	0.9453	0.7579	0.6051	0.4659	0.3391	0.1863	0.1003	0.0524	0.0117	0.0010	0.0000	0.0000
September 15, 2024	1.1825	0.8251	0.5327	0.2696	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

If the exact Stock Price and Make-Whole Fundamental Change Effective Date for a Make-Whole Fundamental Change are not set forth in the table above, then:

(A) if the Stock Price is between two prices listed in the table or the Make-Whole Fundamental Change Effective Date is between two dates listed in the table, then the number of Additional Shares by which the Conversion Rate will be increased for a Holder that converts its Notes in connection with such Make-Whole Fundamental Change will be determined by a straight-line interpolation between the numbers of Additional Shares set forth for the higher and lower listed prices in the table and the two Make-Whole Fundamental Change Effective Dates in the table, based on a 365-day year;

(B) if the Stock Price is greater than $600.00, subject to adjustment in the same manner and at the same time as the Stock Prices listed in the table, the Conversion Rate will not be adjusted; and

(C) if the Stock Price is less than $169.12, subject to adjustment in the same manner and at the same time as the Stock Prices listed in the table, the Conversion Rate will not be adjusted.

Notwithstanding the foregoing, in no event will the Conversion Rate exceed 5.9129 shares of Common Stock per $1,000 principal amount of Notes, subject to adjustment in the same manner and at the same time as the Conversion Rate under Section 10.05.

(d) If a Holder converts a Note in connection with a Make-Whole Fundamental Change, the Company will settle such conversion of such Note in accordance with Section 10.03; *provided*, *however*, that notwithstanding anything to the contrary in Section 10.03, if a Holder converts a Note in connection with a Make-Whole Fundamental Change described in clause (2) of the definition Fundamental Change in which the holders of the Common Stock receive only cash in consideration for their shares of Common Stock, the Company will settle such conversion by delivering to such Holder, on the second Business Day immediately following the Conversion Date for such Note, an amount of cash, for each $1,000 principal amount of such Note converted, equal to the product of (i) the Conversion Rate on the Conversion Date for such Note (including any Additional Shares added to such Conversion Rate pursuant to this Section 10.07) and (ii) the Stock Price.

Section 10.08 *Miscellaneous*.

(a) *Company Determination Final*. Any determination and/or calculation that the Company or the Board of Directors must make pursuant to this Article 10 is conclusive, absent manifest error.

(b) *Trustee's Disclaimer*. The Trustee has no duty to (i) determine or verify whether the conditions for conversion have been met or (ii) determine when an adjustment under this Article 10 should be made, how it should be made or what it should be. The Trustee shall not be accountable for and makes no representation as to the validity or value of any securities or assets issued upon conversion of Notes. The Trustee shall not be responsible for the Company's failure to comply with this Article 10. Each Conversion Agent shall have the same protection under this Section 10.08 as the Trustee.

ARTICLE 11
NO REGULAR INTEREST; PAYMENT OF SPECIAL INTEREST

Section 11.01 *Special Interest Only*. The Notes shall not bear regular cash interest, and the principal amount of the Notes shall not accrete. If and to the extent Special Interest shall accrue with respect to the Notes, such Special Interest shall be payable semi-annually in arrears on March 15 and September 15 of each year (each, a "**Special Interest Payment Date**"), beginning with the next March 15 or September 15, as the case may be, on which any such Special Interest may be payable or, if any such day is not a Business Day, the immediately following Business Day. Special Interest on a Note shall be paid to the Holder of such Note at the Close of Business on March 1 or September 1 (each, a "**Record Date**"), as the case may be, immediately preceding the related Special Interest Payment Date, and shall be computed on the basis of a 360-day year comprised of twelve 30-day months, and, for partial months, on the basis of the number of days actually elapsed in a 30-day month. In the event of the maturity, conversion, or repurchase of a Note by the Company at the option of the Holder, interest shall cease to accrue on such Note. If the Conversion Date for a Note occurs after a Record Date but on or before the corresponding Special Interest Payment Date, the Special Interest, if any, payable on such Special Interest Payment Date will be paid to the Holder of such Note on such Record Date notwithstanding the conversion of such Note.

Section 11.02 *Defaulted Interest*. Any installment of Special Interest that is payable but is not punctually paid or duly provided for on any Special Interest Payment Date ("**Defaulted Interest**"), shall forthwith cease to be payable to the Holders in whose names the Notes were registered on the Record Date applicable to such installment of Special Interest. Defaulted Interest (including any interest on such Defaulted Interest at the applicable rate at which Special Interest shall then be payable) may be paid by the Company, at its election, as provided in Sections 11.02(a) or 11.02(b).

(a) The Company may elect to make payment of any Defaulted Interest (including any interest on such Defaulted Interest at the applicable rate at which Special Interest shall then be payable) to the Holders in whose names the Notes are registered at the Close of Business on a special record date for the payment of such Defaulted Interest (a "**Special Record Date**"), which

shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Holders entitled to such Defaulted Interest as provided in this Section 11.02(a). Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest, which shall be not more than 15 calendar days and not less than ten calendar days prior to the date of the proposed payment and not less than ten calendar days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be sent by first-class mail, postage prepaid, to each Holder at such Holder's address as it appears in the registration books of the Registrar, not less than ten calendar days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Holders in whose names the Notes are registered at the Close of Business on such Special Record Date and shall no longer be payable pursuant to Section 11.02(b).

(b) Alternatively, the Company may make payment of any Defaulted Interest (including any interest on such Defaulted Interest at the applicable rate at which Special Interest shall then be payable) in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed, and upon such notice as may be required by such exchange if, after notice given by the Company to the Trustee of the proposed payment pursuant to this Section 11.02(b), such manner of payment shall be deemed practicable by the Trustee.

Section 11.03 *Interest Rights Preserved*. Subject to the foregoing provisions of this Article 11 and, to the extent applicable, Sections 2.06 and 2.07, each Note delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

Section 11.04 *Other Provisions Applicable to the Payment of Special Interest*. Whenever Special Interest is accruing on a Record Date, the Company will pay all accrued and unpaid Special Interest to the Holders of record on such Record Date on the corresponding Special Interest Payment Date. If Special Interest is not accruing on a Record Date, but has accrued since the immediately preceding Record Date, the Company shall pay any accrued and unpaid Special Interest on the Special Interest Payment Date corresponding to the latter Record Date to Holders of record on the latter Record Date.

If the Company is required to pay Special Interest to Holders, the Company shall provide a direction or order in the form of a written notice to the Trustee (and if the Trustee is not the Paying Agent, to the Paying Agent) of the Company's obligation to pay such Special Interest no later than three Business Days prior to the date on which any such Special Interest is scheduled to be paid. Such notice shall set forth the amount of Special Interest to be paid by the Company on such payment date and direct the Trustee (or, if the Trustee is not the Paying Agent, direct the Paying Agent) to make payment to the extent it receives funds from the Company to do so. The Trustee shall not at any time be under any duty or responsibility to any Holder to determine whether the Special Interest is payable, or with respect to the nature, extent, or calculation of the amount of the Special Interest owed, or with respect to the method employed in such calculation of the Special Interest.

ARTICLE 12
RESERVED

ARTICLE 13
RESERVED

ARTICLE 14
MISCELLANEOUS

Section 14.01 *Trust Indenture Act Controls*. If any provision of this Indenture limits, qualifies, or conflicts with another provision that would be required to be included in this Indenture by the TIA, the required provision shall control.

Section 14.02 *Notices*. Any request, demand, authorization, notice, waiver, consent or communication shall be in writing and delivered in Person or mailed by first-class mail, postage prepaid, addressed as follows or transmitted by facsimile transmission or other similar means of unsecured electronic methods to the following:

if to the Company:

RH
15 Koch Road, Suite K
Corte Madera, California 94925
Attn: Office of Legal Counsel
Attn: Chief Financial Officer
Chief Legal Officer
Facsimile: (415) 927-7264

With a copy to:

Morrison & Foerster LLP
425 Market Street
San Francisco, California 94105
Attn: Gavin B. Grover, Esq.
Facsimile: (415) 268-7522

if to the Trustee, Registrar, Paying Agent or Conversion Agent:

U.S. Bank National Association
225 Asylum Street, 23rd Floor
Hartford, Connecticut 06103
Facsimile: (866) 640-1284
Attn: Alicia Pelletier

if to the Administrative Agent:

Bank of America, N.A.
100 Federal Street, 9th Floor
Boston, Massachusetts 02110
Attention: Stephen J. Garvin, Managing Director
Facsimile: (617) 434-4312
Telephone: (617) 434-9399
E-mail: stephen.garvin@baml.com

with a copy to:

Riemer & Braunstein LLP
Three Center Plaza
Boston, Massachusetts 02108
Attention: Marjorie S. Crider, Esq.
Facsimile: (617) 692-3423
Telephone: (617) 880-3423
E-mail: mcrider@riemerlaw.com

The Company or the Trustee, by notice given to the other in the manner provided above, may designate additional or different addresses for subsequent notices or communications.

Any notice or communication given to a Holder shall be mailed to the Holder, by first-class mail, postage prepaid, at the Holder's address as it appears on the registration books of the Registrar, or by electronic transmission in the case of Notes held in book-entry form, and shall be deemed given on the date of such mailing or transmission.

Failure to send a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is sent in the manner provided above, it is duly given, whether or not received by the addressee.

If the Company sends a notice or communication to the Holders, it shall, at the same time, send a copy to the Trustee and each of the Registrar, Paying Agent and Conversion Agent. If the Company is required under this Indenture to give a notice to the Holders, in lieu of delivering such notice to the Holders, the Company may deliver such notice to the Trustee and cause

the Trustee to have delivered such notice to the Holders on or prior to the date on which the Company would otherwise have been required to deliver such notice to the Holders. In such a case, the Company shall also cause the Trustee to send a copy of the notice to each of the Registrar, Paying Agent and Conversion Agent at the same time it mails the notice to the Holders.

Section 14.03 *Communication by Holders with Other Holders*. Holders may communicate pursuant to TIA Section 312(b) with other Holders with respect to their rights under this Indenture or the Notes. The Company, the Trustee, the Registrar, the Paying Agent, the Conversion Agent and anyone else shall have the protection of TIA Section 312(c).

Section 14.04 *Certificate and Opinion as to Conditions Precedent*. Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee:

(a) an Officer's Certificate stating that, in the judgment of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(b) an Opinion of Counsel stating that, in the judgment of such counsel, all such conditions precedent relating to the proposed action (to the extent of legal conclusions) have been complied with.

Section 14.05 *Statements Required in Certificate or Opinion*. Each Officer's Certificate or Opinion of Counsel with respect to compliance with a covenant or condition (except for such Officer's Certificate required to be delivered pursuant to Section 4.03) provided for in this Indenture shall include:

(a) a statement that each Person making such Officer's Certificate or Opinion of Counsel 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 judgments contained in such Officer's Certificate or Opinion of Counsel are based;

(c) a statement that, in the judgment of each such Person, he has made such examination or investigation as is necessary to enable such Person to express an informed judgment as to whether or not such covenant or condition has been complied with; and

(d) a statement that, in the judgment of such Person, such covenant or condition has been complied with.

Section 14.06 *Separability Clause*. In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 14.07 *Rules by Trustee.* The Trustee may make reasonable rules for action by or a meeting of Holders.

Section 14.08 *Governing Law*. THE INDENTURE AND EACH NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK BUT WITHOUT GIVING EFFECT TO ANY APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

Section 14.09 *No Recourse Against Others.* No director, officer, employee or stockholder, as such, of the Company shall have any liability for any obligation of the Company under the Notes or this Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each Holder shall waive and release all such liability. The waiver and release shall be part of the consideration for the issue of the Notes.

Section 14.10 *Calculations*. The Company will be responsible for making all calculations called for under the Notes. These calculations include, but are not limited to, determinations of the Last Reported Sale Prices of the Common Stock, Daily VWAPs, Daily Conversion Values, Daily Settlement Amounts, Special Interest payable on the Notes, if any, and the Conversion Rate in effect on any Conversion Date.

The Company will make these calculations in good faith and, absent manifest error, the calculations will be final and binding on Holders. The Company will provide to each of the Trustee and the Conversion Agent a schedule of its calculations, and each of the Trustee and Conversion Agent is entitled to rely upon the accuracy of such calculations without independent verification. The Trustee will forward the Company's calculations to any Holder upon the request of such Holder.

All calculations shall be made to the nearest cent or to the nearest 1/10,000th of a share, as the case may be.

Section 14.11 *Successors*. All agreements of the Company, the Trustee, the Registrar, the Paying Agent and the Conversion Agent in this Indenture and the Notes shall bind their respective successors.

Section 14.12 *Multiple Originals*. The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes. One signed copy is enough to prove this Indenture.

Section 14.13 *Table of Contents; Headings*. The table of contents and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

Section 14.14 *Force Majeure.* The Trustee, Registrar, Paying Agent, Bid Solicitation Agent and Conversion Agent shall not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of such person (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God or war, civil unrest, local or national disturbance or disaster, any act of terrorism, or the unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility).

Section 14.15 *Submission to Jurisdiction.* The Company (i) agrees that any suit, action or proceeding against it arising out of or relating to this Indenture or the Notes, as the case may be, may be instituted in any U.S. federal court with applicable subject matter jurisdiction sitting in The City of New York; (ii) waives, to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding, and any claim that any suit, action or proceeding in such a court has been brought in an inconvenient forum; and (iii) submits to the non-exclusive jurisdiction of such courts in any suit, action or proceeding.

Section 14.16 *Legal Holidays*. In any case where any Special Interest Payment Date, Fundamental Change Purchase Date, Conversion Date or Maturity Date is not a Business Day, then any action to be taken on such date need not be taken on such date, but may be taken on the immediately following Business Day with the same force and effect as if taken on such date, and no Special Interest, if any shall then be accruing, shall accrue for the period from and after such date.

Section 14.17 *No Security Interest Created*. Except as provided in Section 7.07, nothing in this Indenture or in the Notes, expressed or implied, shall be construed to constitute a security interest under the Uniform Commercial Code or similar legislation, as now or hereafter enacted and in effect, in any jurisdiction.

Section 14.18 *Benefits of Indenture.* Nothing in this Indenture or in the Notes, expressed or implied, shall give to any Person, other than the parties hereto, any Paying Agent, any Conversion Agent, any authenticating agent, any Registrar and their successors hereunder or the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as a deed the day and year first before written.

ISSUER:

RH

By: /s/ Jack Preston
Name: Jack Preston
Title: Chief Financial Officer

[Signature Page to Indenture]

TRUSTEE:

U.S. BANK NATIONAL ASSOCIATION, as Trustee, Paying Agent, Registrar, Bid Solicitation Agent and Conversion Agent

By: /s/ Laurel A. Melody Casasanta
Name: Laurel A. Melody Casasanta
Title: Officer

[Signature Page to Indenture]

EXHIBIT A

FORM OF NOTE

[FORM OF FACE OF NOTE]

[*Include the following legend for Global Notes only (the "**Global Securities 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 OWNER AND HOLDER OF THIS CONVERTIBLE NOTE FOR ALL PURPOSES.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY TO THE ISSUER 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 THE DEPOSITORY TRUST COMPANY (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY), 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 SHALL BE LIMITED TO TRANSFERS TO NOMINEES OF THE DEPOSITORY TRUST COMPANY, OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN ARTICLE TWO OF THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.]

[*Include the following legend on all Notes that are Restricted Notes (the "**Restricted Securities Legend**"):*]

[THE SALE OF THIS NOTE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**"), AND, ACCORDINGLY, PRIOR TO THE RESALE RESTRICTION TERMINATION DATE (AS DEFINED BELOW), THIS NOTE AND ANY COMMON STOCK ISSUABLE UPON CONVERSION OF THIS NOTE (AND ANY BENEFICIAL INTEREST HEREIN OR THEREIN) MAY NOT BE OFFERED, RESOLD OR OTHERWISE TRANSFERRED, EXCEPT:

(A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF;

(B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT;

(C) TO A PERSON THAT YOU REASONABLY BELIEVE TO BE A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT; OR

(D) UNDER 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).

THE "RESALE RESTRICTION TERMINATION DATE" MEANS THE DATE: (A) THAT IS AT LEAST ONE YEAR AFTER THE LAST DATE OF ORIGINAL ISSUANCE OF THE NOTES; AND (B) ON WHICH THE COMPANY HAS INSTRUCTED THE TRUSTEE THAT THIS LEGEND WILL NO LONGER APPLY IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN THE INDENTURE.

PRIOR TO ANY TRANSFER PURSUANT TO THE FOREGOING CLAUSE (D), THE COMPANY AND THE TRUSTEE RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH CERTIFICATIONS, LEGAL OPINIONS OR OTHER INFORMATION AS THEY MAY REASONABLY REQUIRE AND MAY RELY UPON TO CONFIRM THAT SUCH TRANSFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

NO AFFILIATE OF THE COMPANY MAY PURCHASE OR OTHERWISE ACQUIRE NOTES.]

No.: 1
CUSIP: 74967X AC7
ISIN: US74967XAC74

Principal Amount: $ [ ]
[as revised by the Schedule of Increases
and Decreases of Global Note attached hereto][1]

RH

0.00% Convertible Senior Notes due 2024

RH, a Delaware corporation, promises to pay to [ ] [include "*Cede & Co.*" *for Global Note*] or registered assigns, the principal amount of $ [ ] [include for Global Note: or such lesser amount set forth on the Schedule of Increases and Decreases of Global Note attached hereto (as the same may be revised from time to time)] on September 15, 2024 (the "**Maturity Date**").

Special Interest Payment Dates, if applicable: March 15 and September 15.

Record Dates: March 1 and September 1.

Additional provisions of this Note are set forth on the other side of this Note.

RH

By: _____
Name:
Title:

Dated:

[1] Include for Global Note only

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

U.S. BANK NATIONAL ASSOCIATION, as Trustee, certifies that this is one of the Notes referred to in the within-mentioned Indenture.

By: _____
Name:
Title: Authorized Signatory

Dated:

[FORM OF REVERSE OF NOTE]

RH

0.00% Convertible Senior Notes due 2024

This Note is one of a duly authorized issue of Notes of the Company, designated as its 0.00% Convertible Senior Notes due 2024 (the "**Notes**"), all issued or to be issued under and pursuant to an Indenture dated as of September 17, 2019 (the "**Indenture**"), between the Company and U.S. Bank National Association (the "**Trustee**"), to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the Holders. Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Indenture.

1. Interest.

This Note shall bear no regular cash interest, and the principal amount of this Note shall not accrete. Special Interest is payable semiannually in arrears on March 15 and September 15, if and to the extent Special Interest shall accrue and be payable on such Special Interest Payment Date pursuant to the within-mentioned Indenture, to the Holder of record of this Note as of the Close of Business on the March 1 or September 1 immediately preceding the related Special Interest Payment Date. Special Interest will be payable as set forth in Section 4.02 and Section 6.01 of the within-mentioned Indenture, and any reference to interest on, or in respect of, any Note therein shall be deemed to refer solely to Special Interest if, in such context, Special Interest is, was or would be payable pursuant to any of such sections or any interest on any Defaulted Interest payable as set forth in Section 11.02 in the within-mentioned Indenture.

Any payment required to be made on any day that is not a Business Day shall be made on the next succeeding Business Day and no interest or other amount will be paid as a result of any such postponement. Special Interest, if any, shall be calculated using a 360-day year composed of twelve 30-day months. Any Special Interest shall cease to accrue on this Note upon its Maturity Date, conversion or repurchase by the Company at the option of the Holder upon the occurrence of a Fundamental Change.

Subject to certain exceptions, Special Interest, if any, on Notes converted after a Record Date, but on or prior to the corresponding Special Interest Payment Date, will be paid to the Holder of the Notes on the Record Date, but upon conversion, the Holder must pay the Company the Special Interest which has accrued and will be paid by the Company on such Special Interest Payment Date. No such payment need be made (1) if the Company has specified a Fundamental Change Purchase Date that is after a Record Date and on or prior to the next Special Interest Payment Date; (2) to the extent of overdue Special Interest, if any overdue interest exists on the Conversion Date with respect to such Notes; or (3) if such Notes are surrendered for conversion after the Close of Business on the Record Date immediately preceding the Maturity Date.

2. Method of Payment.

The Company shall promptly make all payments in respect of the Notes on the dates and in the manner provided herein and in the Indenture. Holders must surrender Notes to a Paying Agent to collect principal payments. The Company will pay principal, accrued and unpaid Special Interest, if any, or payment of the Fundamental Change Purchase Price in money of the United States that at the time of payment is legal tender for payment of public and private debts. The Company will make all payments in respect of a Global Note registered in the name of the Depositary or its nominee to the Depositary or its nominee, as the case may be, by wire transfer of immediately available funds to the account specified by such Holder. If a Special Interest Payment Date is a date other than a Business Day, payment may be made at that place on the next succeeding day that is a Business Day and no interest shall accrue for the intervening period.

3. Paying Agent, Conversion Agent and Registrar.

Initially, U.S. Bank National Association, will act as the Trustee, Paying Agent, Conversion Agent and Registrar. The Company may appoint and change any Paying Agent, Conversion Agent or Registrar without notice, other than notice to the Trustee; *provided*, *however*, that the Company will maintain at least one Paying Agent in the United States of America, which shall initially be an office or agency of the Trustee. The Company or any of its Subsidiaries or any of their affiliates may act as Paying Agent, Conversion Agent or Registrar.

4. Indenture.

The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the TIA. Capitalized terms used herein and not defined herein have the meanings ascribed thereto in the Indenture. The Notes are subject to all such terms, and Holders are referred to the Indenture and the TIA for a statement of those terms.

5. Purchase by the Company at the Option of the Holder upon a Fundamental Change.

(a) At the option of the Holder, and subject to the terms and conditions of the Indenture, upon the occurrence of a Fundamental Change, each Holder will have the right, at its option, to require the Company to purchase for cash all of its Notes, or any portion of its Notes in principal amount equal to $1,000 or an integral multiple of thereof, at a Fundamental Change Purchase Price equal to 100% of the principal amount of Notes to be purchased plus accrued and unpaid Special Interest, if any, to but excluding, the Fundamental Change Purchase Date. To exercise its purchase right, a Holder must deliver, on or before the Close of Business on the Business Day immediately preceding the Fundamental Change Purchase Date, written notice to the Trustee of such Holder's exercise of its purchase right, together with the Notes with respect to which the right is being exercised. Subject to such Holder's satisfaction of certain requirements in the Indenture, the Company is required to purchase the Notes on a date specified by the Company that is no fewer than 20 calendar days and no more than 35 calendar days after the date on which the Company delivers notice of the Fundamental Change, which date of notice shall be after the effective date of the Fundamental Change but no more than 20 calendar days after such effective date.

(b) Holders have the right to withdraw a Fundamental Change Purchase Notice delivered pursuant to Paragraph 5(a) above by delivering to the Paying Agent, in accordance with the provisions of the Indenture, a written notice of withdrawal at any time prior to the Close of Business on the Business Day immediately preceding the Fundamental Change Purchase Date. If cash sufficient to pay the Fundamental Change Purchase Price of all Notes or portions thereof to be repurchased as of the Fundamental Change Purchase Date is deposited with the Paying Agent on the Fundamental Change Purchase Date, Special Interest, if any, will cease to accrue on such Notes (or portions thereof) immediately after such Fundamental Change Purchase Date, and the Holder thereof shall have no other rights as such other than the right to receive the Fundamental Change Purchase Price upon surrender of such Note.

6. Conversion.

(a) Subject to and upon compliance with the provisions of the Indenture (including, without limitation, the conditions to conversion of this Note set forth in Section 10.01 of the Indenture), a Holder hereof has the right, at such Holder's option, to convert the principal amount hereof or any portion of such principal amount that is $1,000 or an integral multiple thereof, subject to Sections 10.01 and 10.03 of the Indenture, into cash, shares of Common Stock or any combination of cash and shares of Common Stock, at the Company's election, at the Conversion Rate in effect on the Conversion Date. The Conversion Rate shall initially equal 4.7304 shares of Common Stock per $1,000 and is subject to adjustment in the manner set forth in the Indenture.

(b) To surrender a Note for conversion, a Holder must (1) complete and manually sign the irrevocable conversion notice below or as provided by the Conversion Agent (or complete and manually sign a facsimile of such notice) and deliver such notice to the Conversion Agent; (2) surrender the Note to the Conversion Agent (if the Note is a Certificated Note); (3) if required, furnish appropriate endorsements and transfer documents; (4) if required pay all transfer or similar taxes; and (5) if required, pay funds under Sections 10.02(e) and 10.02(f) of the Indenture. If a Holder holds a beneficial interest in a Global Note, such Holder must also comply with any procedure of DTC applicable to the conversion of a beneficial interest in such Global Note.

7. Denominations; Transfer; Exchange.

The Notes are in fully registered form, without coupons, in denominations of $1,000 of principal amount and integral multiples of $1,000. A Holder may transfer or exchange Notes in accordance with the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and to pay any taxes and fees required by law or permitted by the Indenture. The Registrar need not transfer or exchange any Notes in respect of which a Fundamental Change Purchase Notice has been given and not withdrawn (except, in the case of a Note to be repurchased in part, the portion of the Note not to be repurchased).

8. Amendment, Supplement and Waiver.

Subject to certain exceptions, the Indenture or the Notes may be amended or supplemented with the written consent of the Holders of at least a majority in aggregate principal amount of the Notes at the time outstanding, by the Company and the Trustee. The Company and the Trustee may also amend or supplement the Indenture or the Notes without the consent of any Holder in accordance with the provisions of the Indenture.

9. Defaults and Remedies.

The Indenture provides that if an Event of Default (other than an Event of Default specified in Sections 6.01(a)(viii) or 6.01(a)(ix) of the Indenture with respect to the Company) occurs and is continuing, the Trustee by notice to the Company or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding by notice to the Company and the Trustee, may declare the principal amount plus accrued and unpaid Special Interest, if any, on the Notes to be due and payable immediately. If an Event of Default specified in Sections 6.01(a)(viii) or 6.01(a)(ix) of the Indenture with respect to the Company (and not solely with respect to one or more of its Significant Subsidiaries), occurs and is continuing, the principal amount plus accrued and unpaid Special Interest, if any, on the Notes shall, automatically and without any action by the Trustee or any Holder, become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holders. The Holders of a majority in aggregate principal amount of the Notes at the time outstanding, by notice to the Trustee and the Company, and without notice to any other Holder, may rescind any declaration of acceleration if the rescission would not conflict with any judgment or decree and if all existing Events of Default have been cured or waived other than nonpayment of the principal amount or accrued but unpaid Special Interest, if any, that have become due solely as a result of acceleration. No such rescission shall affect any subsequent Default or impair any right consequent thereto.

10. Persons Deemed Owners.

The registered Holder of this Note may be treated as the owner of this Note for all purposes.

11. Unclaimed Money or Notes.

The Trustee and the Paying Agent shall return to the Company upon written request any money or securities held by them for the payment of any amount with respect to the Notes that remains unclaimed for two years, subject to applicable unclaimed property law. After return to the Company, Holders entitled to the money or securities must look to the Company for payment as general creditors, unless an applicable abandoned property law designates another Person.

12. Trustee Dealings with the Company.

Subject to certain limitations imposed by the TIA, the Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with and collect obligations owed to it by the Company or its affiliates and may otherwise deal with the Company or its affiliates with the same rights it would have if it were not the Trustee.

13. Calculations in Respect of Notes.

The Company will be responsible for making all calculations called for under the Notes. These calculations include, but are not limited to, determinations of the Last Reported Sale Prices of Common Stock, Daily VWAPs, Daily Conversion Values, Daily Settlement Amounts, accrued Special Interest, if any, payable on the Notes and the Conversion Rate in effect on any Conversion Date.

The Company will make these calculations in good faith and, absent manifest error, the calculations will be final and binding on Holders of the Notes. The Company will provide to each of the Trustee and Conversion Agent schedule of its calculations, and each of the Trustee and Conversion Agent is entitled to rely upon the accuracy of such calculations without independent verification. The Trustee will forward the Company's calculations to any Holder of the Notes upon the request of such Holder.

14. No Recourse Against Others.

A director, officer, employee or stockholder, as such, of the Company shall not have any liability for any obligations of the Company under the Notes or the Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each Holder waives and releases all such liability. The waiver and release are part of the consideration for the issue of the Notes.

15. Authentication.

This Note shall not be valid until an authorized signatory of the Trustee manually signs the Trustee's certificate of authentication on the other side of this Note.

16. Abbreviations.

Customary abbreviations may be used in the name of a Holder or an assignee, such as TEN COM (=tenants in common), TEN ENT (=tenants by the 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.

THE INDENTURE AND THE NOTES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK BUT WITHOUT GIVING EFFECT TO ANY APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

18. CUSIP Numbers.

Pursuant to a recommendation promulgated by the Committee on Uniform Note Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and the Trustee may use CUSIP numbers in notices as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice and reliance may be placed only on the other identification numbers placed thereon.

19. Special Interest.

Holders shall be entitled to payments of Special Interest to the extent set forth in the Indenture.

ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note

(Insert assignee's soc. sec. or tax ID no.)

(Print or type assignee's name, address and zip code)

and irrevocably appoint agent to transfer this Note on the books of the Company. The agent may substitute another to act for him.

CONVERSION NOTICE

To convert this Note into shares of the Common Stock of the Company, check the box ☐

To convert only part of this Note, state the principal amount to be converted (which must be $1,000 or an integral multiple of $1,000):

If you want the stock certificate made out in another Person's name fill in the form below:

(Insert the other Person's soc. sec. or tax ID no.)

(Print or type other Person's name, address and zip code)

Date: Your Signature:

(Sign exactly as your name appears on the other side of this Note)

Signature Guaranteed

Participant in a Recognized Signature
Guarantee Medallion Program

By: _____
Authorized Signatory

FUNDAMENTAL CHANGE PURCHASE NOTICE

U.S. Bank National Association
225 Asylum Street, 23rd Floor
Hartford, Connecticut 06103

Facsimile: (866) 640-1284
Attn: Corporate Trust Services

The undersigned registered owner of this Note hereby acknowledges receipt of a notice from RH (the "**Company**") as to the occurrence of a Fundamental Change with respect to the Company and specifying the Fundamental Change Purchase Date and requests and instructs the Company to pay to the registered holder hereof in accordance with the applicable provisions of the Indenture referred to in this Note (1) the entire principal amount of this Note, or the portion thereof (that is equal to $1,000 principal amount or an integral multiple thereof) below designated, and (2) if such Fundamental Change Purchase Date does not fall during the period after a Record Date and on or prior to the corresponding Special Interest Payment Date, if any Special Interest shall then be accruing, accrued and unpaid Special Interest thereon to, but excluding, such Fundamental Change Purchase Date.

Certificate Number:

Dated:

Signature(s)

Social Security or Other Taxpayer Identification Number

Principal amount to be repaid (if less than all):

$,000

NOTICE: The above signature(s) of the Holder(s) hereof must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

[*Include for Global Note*]

SCHEDULE OF INCREASES AND DECREASES OF GLOBAL NOTE

Initial Principal Amount of Global Note:

Date	Amount of Increase in Principal Amount of Global Note	Amount of Decrease in Principal Amount of Global Note	Principal Amount of Global Note After Increase or Decrease	Notation by Registrar or Note Custodian

EXHIBIT B

FORM OF TRANSFER CERTIFICATE

0.00% Convertible Senior Notes due 2024

Transfer Certificate

In connection with any transfer of any of the Notes within the period prior to the expiration of the holding period applicable to sales thereof under Rule 144 under the Securities Act of 1933, as amended (the "**Securities Act**") (or any successor provision), the undersigned registered owner of this Note hereby certifies with respect to $ principal amount of the above-captioned Notes presented or surrendered on the date hereof (the "**Surrendered Notes**") for registration of transfer, or for exchange or conversion where the securities issuable upon such exchange or conversion are to be registered in a name other than that of the undersigned registered owner (each such transaction being a "**transfer**"), that such transfer complies with the restrictive legend set forth on the face of the Surrendered Notes for the reason checked below:

☐ A transfer of the Surrendered Notes is made to the Company or any of its Subsidiaries; or

☐ The transfer of the Surrendered Notes complies with Rule 144A under the Securities Act; or

☐ The transfer of the Surrendered Notes is pursuant to an effective registration statement under the Securities Act; or

☐ The transfer of the Surrendered Notes is pursuant to another available exemption from the registration requirement of the Securities Act.

The undersigned confirms that, to the undersigned's knowledge, such Notes are not being transferred to an "**affiliate**" of the Company as defined in Rule 144 under the Securities Act (an "**Affiliate**").

Date: _____

By: _____

(If the registered owner is a corporation, partnership or fiduciary,

the title of the Person signing on behalf of such registered owner must be stated.)

Signature Guaranteed

_____
Participant in a Recognized Signature
Guarantee Medallion Program

By: _____
Authorized Signatory

EXHIBIT C

RESTRICTED STOCK LEGEND

THE SALE OF THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**"), AND ACCORDINGLY, PRIOR TO THE RESALE RESTRICTION TERMINATION DATE (AS DEFINED BELOW), THIS SECURITY (AND ANY BENEFICIAL INTEREST HEREIN) MAY NOT BE OFFERED, RESOLD, OR OTHERWISE TRANSFERRED, EXCEPT:

(A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF;

(B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT; OR

(C) UNDER 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).

THE "RESALE RESTRICTION TERMINATION DATE" MEANS THE DATE: (A) THAT IS AT LEAST ONE YEAR AFTER THE LAST DATE OF ORIGINAL ISSUANCE OF THE COMPANY'S 0.00% CONVERTIBLE SENIOR NOTES DUE 2024; AND (B) ON WHICH THE COMPANY HAS INSTRUCTED THE TRANSFER AGENT THAT THIS LEGEND WILL NO LONGER APPLY, IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN THE INDENTURE FOR THE NOTES.

PRIOR TO ANY TRANSFER PURSUANT TO THE FOREGOING CLAUSE (C), THE COMPANY AND THE COMPANY'S TRANSFER AGENT RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH CERTIFICATIONS, LEGAL OPINIONS OR OTHER INFORMATION AS THEY MAY REASONABLY REQUIRE AND MAY RELY UPON TO CONFIRM THAT SUCH TRANSFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

Exhibit 10.1

September 12, 2019

To: RH
15 Koch Road, Suite J
Corte Madera, California, CA 94925
Attention: Office of Legal Counsel
Attention: Chief Financial Officer
Facsimile No.: 415-927-7264

From: [Dealer]
[Contact details]

[Agent]
[Contact details]

Re: Base Convertible Bond Hedge Transaction

Ladies and Gentlemen:

The purpose of this communication (this "**Confirmation**") is to set forth the terms and conditions of the above-referenced transaction entered into on the Trade Date specified below (the "**Transaction**") between [dealer] ("**Dealer**") through its agent [agent] (the "**Agent**") and RH ("**Counterparty**"). This communication constitutes a "Confirmation" as referred to in the ISDA Master Agreement specified below.

1. This Confirmation is subject to, and incorporates, the definitions and provisions of the 2006 ISDA Definitions (including the Annex thereto) (the "**2006 Definitions**") and the definitions and provisions of the 2002 ISDA Equity Derivatives Definitions (the "**Equity Definitions**", and together with the 2006 Definitions, the "**Definitions**"), in each case as published by the International Swaps and Derivatives Association, Inc. ("**ISDA**"). In the event of any inconsistency between the 2006 Definitions and the Equity Definitions, the Equity Definitions will govern. Certain defined terms used herein have the meanings assigned to them in the Indenture to be dated as of September [ ], 2019 between Counterparty and U.S. Bank National Association as trustee (the "**Indenture**") relating to the USD [, ,] principal amount of [0.00%] convertible securities due 2024 to be issued on September 17, 2019 (the "**Base Convertible Securities**") together with any [0.00%] convertible securities due 2024 that may be issued pursuant to the Initial Purchasers' option under the Purchase Agreement (as defined below) (the "**Optional Convertible Securities**") and any additional [0.00%] convertible securities due 2024 subsequently issued pursuant to Section 2.14 of the Indenture (the "**Additional Convertible Securities**" and, together with the Base Convertible Securities and the Optional Convertible Securities, the "**Convertible Securities**"). In the event of any inconsistency between the terms defined in the Indenture and this Confirmation, this Confirmation shall govern. For the avoidance of doubt, references herein to sections of the Indenture are based on the draft of the Indenture most recently reviewed by the parties at the time of execution of this Confirmation. If any relevant sections of the Indenture are changed, added or renumbered following execution of this Confirmation but prior to the execution of the Indenture, the parties will amend this Confirmation in good faith to preserve the economic intent of the parties based on the draft of the Indenture so reviewed. The parties further acknowledge that references to the Indenture herein are references to the Indenture as in effect on the date of its execution and if the Indenture is, or the Convertible Securities are, amended, supplemented or modified following their execution, any such amendment, supplement or modification will be disregarded for purposes of this Confirmation (other than as provided in Section 8(a) below) unless the parties agree otherwise in writing.

This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall be subject to an agreement (the "**Agreement**") in the form of the 2002 ISDA Master Agreement as if Dealer and Counterparty had executed an agreement in such form but without any Schedule except for (i) the election of US Dollars ("USD") as the Termination Currency and (ii) the election that the "Cross Default" provisions of Section 5(a)(vi) of the Agreement shall apply to Counterparty and to Dealer (a) with a "Threshold Amount" of USD 20,000,000 applicable to Counterparty and 3% of the Dealer's stockholders' equity applicable to Dealer, (b) the phrase "or becoming capable at such time of being declared" shall be

deleted from clause (1) of such Section 5(a)(vi), (c) the following language shall be added to the end thereof: "Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (x) the default was caused solely by error or omission of an administrative or operational nature; (y) funds were available to enable the party to make the payment when due; and (z) the payment is made within two Local Business Days of such party's receipt of written notice of its failure to pay" and (d) "Specified Indebtedness" shall have the meaning specified in Section 14 of the Agreement, except that such term shall not include obligations in respect of deposits received in the ordinary course of Dealer's banking business. For the avoidance of doubt, the Transaction shall be the only transaction under the Agreement. If there exists any ISDA Master Agreement between Dealer and Counterparty or any confirmation or other agreement between Dealer and Counterparty pursuant to which an ISDA Master Agreement is deemed to exist between Dealer and Counterparty, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer and Counterparty are parties, the Transaction shall not be considered a Transaction under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

All provisions contained in, or incorporated by reference to, the Agreement will govern this Confirmation except as expressly modified herein. In the event of any inconsistency between this Confirmation and either the Definitions or the Agreement, this Confirmation shall govern.

2. The Transaction constitutes a Share Option Transaction for purposes of the Equity Definitions. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms:

Trade Date:	September [ ], 2019
Effective Date:	The closing date of the initial issuance of the Convertible Securities.
Option Type:	Call
Seller:	Dealer
Buyer:	Counterparty
Shares:	The common stock of Counterparty, par value USD 0.0001 per share (Ticker Symbol: "RH").
Number of Options:	[ ] (each, an "Option"). For the avoidance of doubt, the Number of Options outstanding shall be reduced by each exercise of Options hereunder and as contemplated in the Additional Termination Event set out in Section 8(a)(iii) below.
Number of Shares:	As of any date, the product of (i) the Number of Options and (ii) the Conversion Rate.
Conversion Rate:	As of any date, the "Conversion Rate" (as defined in the Indenture) as of such date, but without regard to any adjustments to the "Conversion Rate" pursuant to Section 10.05(l) or 10.07 of the Indenture.
Premium:	As provided in Annex A to this Confirmation.
Premium Payment Date:	The Effective Date
Exchange:	The New York Stock Exchange
Related Exchange:	All Exchanges

Procedures for Exercise:

Exercise Dates:	Each Conversion Date.
Conversion Date:	Each "Conversion Date", as defined in the Indenture, occurring during the period from and excluding the Effective Date to and including the Expiration Date, for Convertible Securities, each in

	denominations of USD1,000 principal amount, that are submitted for conversion on such Conversion Date in accordance with the terms of the Indenture (such Convertible Securities the "**Relevant Convertible Securities**" for such Conversion Date).
Number of Relevant Options:	With respect to any conversion of a Convertible Security, (x) the Number of Options, multiplied by (y) the principal amount of Relevant Convertible Securities, divided by (z) the principal amount of Convertible Securities outstanding prior to giving effect to such conversion.
Applicable Percentage:	With respect to any conversion of a Convertible Security, (x) the product of (i) the Number of Relevant Options and (ii) $1,000, divided by (y) the principal amount of Relevant Convertible Securities.
Required Exercise on Conversion Dates:	On each Conversion Date, a number of Options equal to the Number of Relevant Options shall be automatically exercised.
Expiration Date:	The second "Scheduled Trading Day" immediately preceding the "Maturity Date" (each as defined in the Indenture).
Automatic Exercise:	As provided above under "Required Exercise on Conversion Dates".
Exercise Notice Deadline:	In respect of any exercise of Options hereunder on any Conversion Date, the Exchange Business Day prior to the first "Scheduled Trading Day" of the "Cash Settlement Averaging Period" (each as defined in the Indenture) relating to the Convertible Securities converted on the Conversion Date occurring on the relevant Exercise Date; *provided* that in the case of any exercise of Options hereunder in connection with the conversion of any Relevant Convertible Securities on any Conversion Date occurring during the period starting on and including the 50th "Scheduled Trading Day" and ending on and including the second "Scheduled Trading Day" immediately preceding the "Maturity Date" (each as defined in the Indenture) (the "**Final Conversion Period**"), the Exercise Notice Deadline shall be the Exchange Business Day immediately following such Conversion Date.
Notice of Exercise:	Notwithstanding anything to the contrary in the Equity Definitions, Dealer shall have no obligation to make any payment or delivery in respect of any exercise of Options hereunder unless Counterparty notifies Dealer in writing prior to 4:00 PM, New York City time, on the Exercise Notice Deadline in respect of such exercise of (i) the number of Options being exercised on the relevant Exercise Date (which shall be the Number of Relevant Options), (ii) the scheduled settlement date under the Indenture for the Convertible Securities converted on the Conversion Date corresponding to such Exercise Date, (iii) whether such Relevant Convertible Securities will be settled by Counterparty by delivery of cash, Shares or a combination of cash and Shares and, if such a combination, the "Specified Dollar Amount" (as defined in the Indenture) and (iv) the first "Scheduled Trading Day" of the "Cash Settlement Averaging Period" (as defined in the Indenture); *provided* that in the case of any exercise of Options hereunder in connection with the conversion of any Relevant Convertible Securities on any Conversion Date occurring during the Final Conversion Period, the contents of such notice shall be as set forth in clause (i) above. Counterparty acknowledges its

	responsibilities under applicable securities laws, and in particular Section 9 and Section 10(b) of the Exchange Act (as defined below) and the rules and regulations thereunder, in respect of any election of a settlement method with respect to the Convertible Securities. For the avoidance of doubt, if Counterparty fails to give such notice when due in respect of any exercise of Options hereunder, Dealer's obligation to make any payment or delivery in respect of such exercise shall be permanently extinguished, and late notice shall not cure such failure; *provided* that notwithstanding the foregoing, such notice (and the related exercise of Options) shall be effective if given after the Exercise Notice Deadline, but prior to 4:00 PM New York City time, on the fifth Exchange Business Day following the Exercise Notice Deadline, in which event Dealer's Delivery Obligation shall not be extinguished but may instead be adjusted by the Calculation Agent to reflect the additional costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities (including the unwinding of any hedge position) as a result of Dealer not having received such notice on or prior to the Exercise Notice Deadline.
Notice of Convertible Security Settlement Method:	Counterparty shall notify Dealer in writing before 4:00 P.M. (New York City time) on the last "Scheduled Trading Day" immediately prior to the 50th "Scheduled Trading Day" preceding the "Maturity Date" (each as defined in the Indenture) of the irrevocable election by the Counterparty, in accordance with Section 10.03 of the Indenture, of the settlement method and, if applicable, the "Specified Dollar Amount" (as defined in the Indenture) applicable to Relevant Convertible Securities with a Conversion Date occurring on or after the 50th "Scheduled Trading Day" preceding the "Maturity Date" and ending on and including the second "Scheduled Trading Day" immediately preceding the "Maturity Date" (each as defined in the Indenture) (such notice, the **"Notice of Convertible Security Settlement Method,"** and such period, the "**Free Convertibility Period**"). If Counterparty fails timely to provide such notice, Counterparty shall be deemed to have notified Dealer of combination settlement with a "Specified Dollar Amount" (as defined in the Indenture) of USD1,000 for all conversions occurring during the Free Convertibility Period. Counterparty agrees that it shall settle any Relevant Convertible Securities with a Conversion Date occurring during the Free Convertibility Period in the same manner as provided in the Notice of Convertible Security Settlement Method it provides or is deemed to have provided hereunder.
Dealer's Telephone Number and Telex and/or Facsimile Number and Contact Details for purpose of Giving Notice:	[Dealer] [Notice details]
Settlement Terms:	
Settlement Date:	In respect of an Exercise Date occurring on a Conversion Date, the settlement date for the cash and/or Shares (if any) to be delivered in respect of the Relevant Convertible Securities converted on such Conversion Date pursuant to Section 10.03 and/or 10.07 of the

	Indenture; *provided* that the Settlement Date will not be prior to the latest of (i) the date one Settlement Cycle following the final day of the relevant "Cash Settlement Averaging Period", as defined in the Indenture, (ii) the Exchange Business Day immediately following the date on which Counterparty gives notice to Dealer of such Settlement Date prior to 4:00 PM, New York City time or (iii) the Exchange Business Day immediately following the date Counterparty provides the Notice of Delivery Obligation prior to 4:00 PM, New York City time.
Delivery Obligation:	In lieu of the obligations set forth in Sections 8.1 and 9.1 of the Equity Definitions, and subject to "Notice of Exercise" above, in respect of an Exercise Date occurring on a Conversion Date, Dealer will deliver to Counterparty, on the related Settlement Date, the product of (i) the Applicable Percentage and (ii) a number of Shares and/or amount of cash in USD equal to the aggregate number of Shares, if any, that Counterparty is obligated to deliver to the holder(s) of the Relevant Convertible Securities converted on such Conversion Date pursuant to Section 10.03 of the Indenture and/or the aggregate amount of cash, if any, in excess of USD1,000 per Convertible Security (in denominations of USD1,000) that Counterparty is obligated to deliver to holder(s) pursuant to Section 10.03 of the Indenture, as determined by the Calculation Agent by reference to such Section of the Indenture (except that such aggregate number of Shares shall be determined without taking into consideration any rounding pursuant to Section 10.03(b) of the Indenture and shall be rounded down to the nearest whole number) and cash in lieu of fractional Shares, if any, resulting from such rounding, if Counterparty had elected to satisfy its conversion obligation in respect of such Relevant Convertible Securities by the Convertible Security Settlement Method, notwithstanding any different actual election by Counterparty with respect to the settlement of such Convertible Securities (the "**Convertible Obligation**"); *provided, however*, that, in each case, such Delivery Obligation shall be determined (i) excluding any Shares and/or cash that Counterparty is obligated to deliver to holder(s) of the Relevant Convertible Securities as a result of any adjustments to the Conversion Rate pursuant to Section 10.05(l) or 10.07 of the Indenture and (ii) without regard to the election, if any, by Counterparty to adjust the Conversion Rate (and, for the avoidance of doubt, the Delivery Obligation shall not include any interest payment on the Relevant Convertible Securities that the Counterparty is (or would have been) obligated to deliver to holder(s) of the Relevant Convertible Securities for such Conversion Date); and *provided further* that if such exercise relates to the conversion of Relevant Convertible Securities in connection with which holders thereof are entitled to receive an additional amount of cash and/or Shares pursuant to the adjustments to the Conversion Rate set forth in Section 10.07 of the Indenture, then, notwithstanding the foregoing, the Delivery Obligation shall include such additional Shares and/or cash (as determined by the Calculation Agent by reference to such Section of the Indenture), except that the Delivery Obligation shall be capped so that the value of the Delivery Obligation per Option (with the value of any Shares included in the Delivery Obligation determined by the Calculation Agent using the Applicable Limit Price on the Settlement Date) does

	not exceed the amount as determined by the Calculation Agent (such limit, the "**Section 6 Amount Limit**") that would be payable by Dealer pursuant to Section 6 of the Agreement (such amount to be determined solely based on the then current values of the variables that Dealer has used to determine the Premium payable by Counterparty for the Options) if such Conversion Date were an Early Termination Date resulting from an Additional Termination Event with respect to which the Transaction (except that, for purposes of determining such amount (x) the Number of Options shall be deemed to be equal to the Number of Relevant Options in respect of such Exercise Date and (y) such amount payable will be determined as if Section 10.07 of the Indenture were deleted) was the sole Affected Transaction and Counterparty was the sole Affected Party (determined without regard to Section 8(b) of this Confirmation). Notwithstanding the foregoing, and in addition to the caps described above, in all events the Delivery Obligation shall be capped so that the value of the Delivery Obligation does not exceed the value of the Convertible Obligation (with the Convertible Obligation determined based on the actual settlement method elected by Counterparty with respect to such Relevant Convertible Securities instead of the Convertible Security Settlement Method and with the value of any Shares included in either the Delivery Obligation or such Convertible Obligation determined by the Calculation Agent using the Applicable Limit Price on the Settlement Date). "Applicable Limit Price" means, on any day, the opening price per Share as displayed under the heading "Op" on Bloomberg Screen RH.N<equity> (or any successor thereto).
Convertible Security Settlement Method:	For any Relevant Convertible Securities, if Counterparty has notified Dealer in the related Notice of Exercise (or in the Notice of Convertible Security Settlement Method, as the case may be) that it has elected to satisfy its conversion obligation in respect of such Relevant Convertible Securities in cash or in a combination of cash and Shares in accordance with Section 10.03(a) of the Indenture (a "**Cash Election**") with a "Specified Dollar Amount" (as defined in the Indenture) of at least USD1,000, the Convertible Security Settlement Method shall be the settlement method actually so elected by Counterparty in respect of such Relevant Convertible Securities; otherwise, the Convertible Security Settlement Method shall (i) assume Counterparty made a Cash Election with respect to such Relevant Convertible Securities with a "Specified Dollar Amount" (as defined in the Indenture) of USD1,000 per Relevant Convertible Security and (ii) be calculated as if the relevant "Cash Settlement Averaging Period" (as defined in the Indenture) pursuant to Section 1.01 of the Indenture consisted of 45 Trading Days commencing on (x) the second "Scheduled Trading Day" (as defined in the Indenture) after the Conversion Date for conversions occurring prior to the Free Convertibility Period or (y) the 46th "Scheduled Trading Day" prior to the "Maturity Date" (each as defined in the Indenture) for conversions occurring during the Free Convertibility Period and any reference herein to the "Cash Settlement Averaging Period" in respect of such Relevant Convertible Securities shall be deemed to refer to such extended "Cash Settlement Averaging Period".

Notice of Delivery Obligation:	No later than the Exchange Business Day immediately following the last day of the relevant "Cash Settlement Averaging Period", as defined in the Indenture, Counterparty shall give Dealer notice of the final number of Shares and/or the amount of cash comprising the Convertible Obligation; *provided* that, with respect to any Exercise Date occurring during the Final Conversion Period, Counterparty may provide Dealer with a single notice of an aggregate number of Shares and/or the amount of cash comprising the Convertible Obligations for all Exercise Dates occurring in such period (it being understood, for the avoidance of doubt, that the requirement of Counterparty to deliver such notice shall not limit Counterparty's obligations with respect to Notice of Exercise or Notice of Convertible Security Settlement Method or Dealer's obligations with respect to Delivery Obligation, each as set forth above, in any way).
Other Applicable Provisions:	To the extent Dealer is obligated to deliver Shares hereunder, the provisions of Sections 9.1(c), 9.8, 9.9 and 9.11 (except that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities laws arising as a result of the fact that Counterparty is the Issuer of the Shares) and 9.12 of the Equity Definitions will be applicable as if "Physical Settlement" applied to the Transaction.
Restricted Certificated Shares:	Notwithstanding anything to the contrary in the Equity Definitions, Dealer may, in whole or in part, deliver Shares required to be delivered to Counterparty hereunder in certificated form in lieu of delivery through the Clearance System. With respect to such certificated Shares, the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by deleting the remainder of the provision after the word "encumbrance" in the fourth line thereof.
Share Adjustments:	
Method of Adjustment:	Notwithstanding Section 11.2 of the Equity Definitions, upon the occurrence of any event or condition set forth in Sections 10.05(a), 10.05(b), 10.05(c), 10.05(d), 10.05(e) and 10.05(i) of the Indenture that results in an adjustment under the Indenture (an "**Indenture Adjustment Event**"), the Calculation Agent shall make a corresponding adjustment to the terms relevant to the exercise, settlement or payment of the Transaction. Promptly upon the occurrence of any Indenture Adjustment Event, Counterparty shall notify the Calculation Agent of such Indenture Adjustment Event; and once the adjustments to be made to the terms of the Indenture and the Convertible Securities in respect of such Indenture Adjustment Event have been determined, Counterparty shall promptly notify the Calculation Agent in writing of the details of the new conversion rate under the Indenture resulting from such Indenture Adjustment Event, and if requested in writing by Dealer, the details of such Indenture Adjustment Event calculations made by Counterparty.
Extraordinary Events:	
Merger Events:	Notwithstanding Section 12.1(b) of the Equity Definitions, a "Merger Event" means the occurrence of any event or condition set forth in Section 10.06(a) of the Indenture.

Consequences of Merger Events:	Notwithstanding Sections 12.2 and 12.3 of the Equity Definitions, upon the occurrence of a Merger Event that results in an adjustment under the Indenture, the Calculation Agent shall make a corresponding adjustment to the terms relevant to the exercise, settlement or payment of the Transaction; *provided* that such adjustment shall be made without regard to any adjustment to the Conversion Rate pursuant to Section 10.05(l) or 10.07 of the Indenture and the election, if any, by Counterparty to adjust the Conversion Rate; and *provided further* that if, with respect to a Merger Event, (i) the consideration for the Shares includes (or, at the option of a holder of Shares, may include) shares of an entity or person that is not a corporation organized under the laws of the United States, any State thereof or the District of Columbia or (ii) the Counterparty following such Merger Event will not be a corporation organized under the laws of the United States, any State thereof or the District of Columbia or will not be the Issuer following such Merger Event, Cancellation and Payment (Calculation Agent Determination) shall apply.
Notice of Merger Consideration:	Upon the occurrence of a Merger Event that causes the Shares to be converted into the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), Counterparty shall reasonably promptly (but, in any event prior to the relevant merger date) notify the Calculation Agent of (i) the weighted average of the types and amounts of consideration received by the holders of Shares entitled to receive cash, securities or other property or assets with respect to or in exchange for such Shares in any Merger Event who affirmatively make such an election and (ii) the proposed adjustment to the conversion rate under the Indenture that would result from such Merger Event and the details of the proposed adjustment to be made under the Indenture in respect of such Merger Event.
Nationalization, Insolvency or Delisting:	Cancellation and Payment (Calculation Agent Determination); *provided* that, in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it shall also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any such exchange or quotation system, such exchange or quotation system shall thereafter be deemed to be the Exchange.
Additional Disruption Events:	
(a) Change in Law:	Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase "the interpretation" in the third line thereof with the phrase "or announcement or statement of the formal or informal interpretation", (ii) immediately following the word "Transaction" in clause (X) thereof, adding the phrase "in the manner contemplated by Hedging Party on the Trade Date", (iii) adding the words "(including, for the avoidance of doubt and without

	limitation, adoption or promulgation of new regulations authorized or mandated by existing statute)" after the word "regulation" in the second line thereof, (iv) adding the words "or any Hedge Positions" after the word "Shares" in the clause (X) thereof and (v) adding the words ", or holding, acquiring or disposing of Shares or any Hedge Positions relating to," after the words "obligations under" in clause (Y) thereof.
(b) Failure to Deliver:	Applicable
(c) Insolvency Filing:	Applicable
(d) Hedging Disruption:	Applicable; *provided* that: (i) Section 12.9(a)(v) of the Equity Definitions is hereby amended by (a) inserting the following words at the end of clause (A) thereof: "in the manner contemplated by the Hedging Party on the Trade Date" and (b) inserting the following two phrases at the end of such Section: "For the avoidance of doubt, the term "equity price risk" shall be deemed to include, but shall not be limited to, stock price and volatility risk. And, for the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms."; and (ii) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words "to terminate the Transaction", the words "or a portion of the Transaction affected by such Hedging Disruption".
(e) Increased Cost of Hedging:	Not Applicable
Hedging Party:	For all applicable Potential Adjustment Events and Extraordinary Events, Dealer
Determining Party:	For all applicable Extraordinary Events, Dealer, which shall in each case act in good faith and in a commercially reasonable manner
Non-Reliance:	Applicable
Agreements and Acknowledgments Regarding Hedging Activities:	Applicable
Additional Acknowledgments:	Applicable
Adjustment and Termination Consultation:	Upon the occurrence of any event that would permit Dealer (whether in its capacity as Calculation Agent or otherwise) to adjust the terms of the Transaction or terminate the Transaction, if Dealer determines, in its discretion, that it is commercially and legally practicable, prior to Dealer making such adjustment or effecting such termination, Dealer shall seek to consult with Counterparty in good faith regarding such adjustment or termination. The foregoing shall not (i) limit the rights of the Dealer to make such adjustment or effect such termination at any time or (ii) obligate Dealer to delay, or continue delaying, making such adjustment or effecting such termination at any time (in each case, whether in Dealer's capacity as Calculation Agent or otherwise).

3. Calculation Agent:	Dealer; *provided* that (i) if an Event of Default as a result of Section 5(a)(vii) of the Agreement has occurred and is continuing with respect to Dealer, then the Counterparty shall have the right to designate a Calculation Agent that is a leading recognized dealer in equity derivatives (as determined in good faith by the Counterparty) for so long as such Event of Default is continuing and *provided, further*, that all determinations made by the Calculation Agent shall be made in good faith and in a commercially reasonable manner. Following any calculation, adjustment or determination by the Calculation Agent hereunder, upon a written request by Counterparty, the Calculation Agent will promptly provide to Counterparty a written explanation (including, if applicable, a report in a commonly used file format for the storage and manipulation of financial data) describing in reasonable detail the basis for the relevant calculation, adjustment or determination (including any quotations, market data or information from internal or external sources used in making such calculation, adjustment or determination, as the case may be, but without disclosing Dealer's proprietary models or other information that may be proprietary or subject to contractual, legal or regulatory obligations to not disclose such information) and shall use commercially reasonable efforts to provide such written explanation within ten (10) Exchange Business Days after the receipt of any such request.
4. Account Details:	
Dealer Payment Instructions:	Bank: ABA#: Acct No.: Beneficiary: Ref:
Counterparty Payment Instructions:	To be provided by Counterparty.

5. Offices:

The Office of Dealer for the Transaction is: [ ]

The Office of Counterparty for the Transaction is: Not applicable

6. Notices: For purposes of this Confirmation:

RH
15 Koch Road, Suite J
Corte Madera, California, CA 94925
Attention: Office of Legal Counsel
Attention: Chief Financial Officer
Facsimile No.: 415-927-7264

with a copy to:

Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105
Attn: Gavin B. Grover, Esq.
Fax: (415) 268-7522

Address for notices or communications to Dealer:

[Dealer]
[Notice details]

7. Representations, Warranties and Agreements:

(a) In addition to the representations and warranties in the Agreement and those contained elsewhere herein, Counterparty represents and warrants to and for the benefit of, and agrees with, Dealer as follows:

(i) On the Trade Date, (A) none of Counterparty and its officers and directors is aware of any material nonpublic information regarding Counterparty or the Shares and (B) all reports and other documents filed by Counterparty with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended (the "**Exchange Act**") when considered as a whole (with the more recent such reports and documents deemed to amend inconsistent statements contained in any earlier such reports and documents), do not contain any untrue statement of a material fact or any omission of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading.

(ii) (A) On the Trade Date, the Shares or securities that are convertible into, or exchangeable or exercisable for Shares, are not, and shall not be, subject to a "restricted period," as such term is defined in Regulation M under the Exchange Act ("**Regulation M**") unless (x) such Shares or securities are excepted from section 101(a) of Regulation M by sections 101(c)(1) or 101(c)(3) of Regulation M and section 102(a) of Regulation M by sections 102(d)(1) or 102(d)(3) of Regulation M or (y) such Shares or securities are of the kind that may be excepted from the prohibitions of sections 101(a) and 102(a) of Regulation M by sections 101(b)(10) and 102(b)(7) of Regulation M and (B) Counterparty shall not engage in any "distribution," as such term is defined in Regulation M, other than a distribution meeting the requirements of the exceptions set forth in sections 101(b)(10) and 102(b)(7) of Regulation M, until the second Exchange Business Day immediately following the Trade Date.

(iii) On the Trade Date, neither Counterparty nor any "affiliate" or "affiliated purchaser" (each as defined in Rule10b-18 under the Exchange Act ("**Rule 10b-18**")) shall directly or indirectly (including, without limitation, by means of any cash-settled or other derivative instrument) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any Shares (or an equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable or exercisable for Shares, except through Dealer, Goldman, Sachs & Co., Bank of America, N.A., or any of their affiliates.

(iv) Without limiting the generality of Section 13.1 of the Equity Definitions, Counterparty acknowledges that Dealer is not making any representations or warranties or taking any position or expressing any view with respect to the treatment of the Transaction under any accounting standards including ASC Topic 260, *Earnings Per Share*, ASC Topic 815, *Derivatives and Hedging*, or ASC Topic 480, *Distinguishing Liabilities from Equity* and ASC 815-40, *Derivatives and Hedging – Contracts in Entity's Own Equity* (or any successor issue statements) or under FASB's Liabilities & Equity Project.

(v) Without limiting the generality of Section 3(a)(iii) of the Agreement, the Transaction will not violate Rule13e-1 or Rule 13e-4 under the Exchange Act.

(vi) Prior to the Trade Date, Counterparty shall deliver to Dealer a resolution of Counterparty's board of directors authorizing the Transaction and such other certificate or certificates as Dealer shall reasonably request.

(vii) Counterparty is not entering into this Confirmation to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for Shares) or to otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for Shares) or otherwise in violation of the Exchange Act.

(viii) Counterparty is not, and after giving effect to the transactions contemplated hereby will not be, required to register as an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

(ix) On each of the Trade Date and the Premium Payment Date, Counterparty is not, or will not be, "insolvent" (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the "**Bankruptcy Code**")) and Counterparty would be able to purchase a number of Shares equal to the Number of Shares in compliance with the laws of the jurisdiction of its incorporation.

(x) No state or local law, rule, regulation or regulatory order in the State of Delaware or California applicable to the Shares would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares.

(xi) The representations and warranties of Counterparty set forth in Section 3 of the Agreement and Section 1(a) of the Purchase Agreement dated as of September [ ], 2019, between the Counterparty and [BofA Securities, Inc.] as representative of the Initial Purchasers party thereto (the "**Purchase Agreement**") are true and correct and are hereby deemed to be repeated to Dealer as if set forth herein.

(xii) Counterparty understands no obligations of Dealer to it hereunder will be entitled to the benefit of deposit insurance and that such obligations will not be guaranteed by any affiliate of Dealer or any governmental agency.

(b) Each of Dealer and Counterparty agrees and represents that it is an "eligible contract participant" as defined in Section 1a(18) of the U.S. Commodity Exchange Act, as amended.

(c) Each of Dealer and Counterparty acknowledges that the offer and sale of the Transaction to it is intended to be exempt from registration under the Securities Act of 1933, as amended (the "**Securities Act**"), by virtue of Section 4(a)(2) thereof. Accordingly, Counterparty represents and warrants to Dealer that (i) it has the financial ability to bear the economic risk of its investment in the Transaction and is able to bear a total loss of its investment, (ii) it is an "accredited investor" as that term is defined in Regulation D as promulgated under the Securities Act, (iii) it is entering into the Transaction for its own account and without a view to the distribution or resale thereof and (iv) the assignment, transfer or other disposition of the Transaction has not been and will not be registered under the Securities Act and is restricted under this Confirmation, the Securities Act and state securities laws.

(d) Counterparty agrees and acknowledges that Dealer is a "financial institution" and "financial participant" within the meaning of Sections 101(22) and 101(22A) of the Bankruptcy Code. The parties hereto further agree and acknowledge that it is the intent of the parties that (A) this Confirmation is a "securities contract," as such term is defined in Section 741(7) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a "termination value," "payment amount" or "other transfer obligation" within the meaning of Section 362 of the Bankruptcy Code and a "settlement payment" within the meaning of Section 546 of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a "termination value," "payment amount" or "other transfer obligation" within the meaning of Section 362 of the Bankruptcy Code and a "transfer," as such term is defined in Section 101(54) of the Bankruptcy Code and a "payment or other transfer of property" within the meaning of Sections 362 and 546 of the Bankruptcy Code, and (B) Dealer is entitled to the protections afforded by, among other sections, Sections 362(b)(6), 362(b)(27), 362(o), 546(e), 546(j), 548(d)(2), 555 and 561 of the Bankruptcy Code.

(e) Counterparty shall deliver to Dealer an opinion of counsel, dated as of the Effective Date and reasonably acceptable to Dealer in form and substance, with respect to due incorporation, existence and good standing of Counterparty in Delaware, its qualifications as a foreign corporation and good standing in California, the due authorization, execution and delivery of this Confirmation, and the absence of conflict of the execution, delivery and performance of this Confirmation with any material agreement required to be filed as an exhibit to Counterparty's Annual Report on Form 10-K and Counterparty's charter documents.

8. Other Provisions:

(a) *Additional Termination Events*.

(i) An "Event of Default" with respect to Counterparty under the terms of the Convertible Securities as set forth in Section 6.01 of the Indenture shall constitute an Additional Termination Event with respect to which the Transaction is the sole Affected Transaction and Counterparty is the sole Affected Party and Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement.

(ii) An Amendment Event shall constitute an Additional Termination Event with respect to which the Transaction is the sole Affected Transaction and Counterparty is the sole Affected Party and Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement. "**Amendment Event**" means that Counterparty amends, modifies, supplements, waives or obtains a waiver in respect of any term of the Indenture or the Convertible Securities governing the principal amount, coupon (but only if such event results in a decrease to such coupon), maturity, the amount payable upon a repurchase obligation of Counterparty upon a fundamental change, any term relating to conversion of the Convertible Securities (including changes to the conversion price, conversion settlement dates or conversion conditions), or any term that would require consent of the holders of not less than 100% of the principal amount of the Convertible Securities to amend, in each case without the consent of Dealer.

(iii) Promptly (but in any event within five Scheduled Trading Days) following any Repurchase Event (as defined below), Counterparty may notify Dealer of such Repurchase Event and the aggregate principal amount of all or a portion of the Convertible Securities subject to such Repurchase Event (any such notice, a "**Convertible Securities Repurchase Notice**", and such Convertible Securities as specified in a Convertible Securities Repurchase Notice, the "**Affected Convertible Securities**"); *provided* that any such Convertible Securities Repurchase Notice shall contain an acknowledgment by Counterparty of its responsibilities under applicable securities laws, and in particular Section 9 and Section 10(b) of the Exchange Act and the rules and regulations thereunder, in respect of such Repurchase Event and the delivery of such Convertible Securities Repurchase Notice. The receipt by Dealer from Counterparty of any Convertible Securities Repurchase Notice shall constitute an Additional Termination Event as provided in this Section 8(a)(iii). Upon receipt of any such Convertible Securities Repurchase Notice, Dealer shall designate an Exchange Business Day following receipt of such Convertible Securities Repurchase Notice (which Exchange Business Day shall be on or as promptly as reasonably practicable after the related settlement date for the relevant Repurchase Event) as an Early Termination Date with respect to the portion of the Transaction corresponding to a number of Options (the "**Repurchase Options**") equal to the lesser of (A) (x) the aggregate principal amount of such Affected Convertible Securities, *divided* by (y) USD 1,000, and (B) the Number of Options as of the date Dealer designates such Early Termination Date and, as of such Early Termination Date, the Number of Options shall be reduced by the number of Repurchase Options. Any payment hereunder with respect to such termination (the "**Repurchase Unwind Payment**") shall be calculated pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Repurchase Options, (2) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (3) the terminated portion of the Transaction were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 8(b) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this Section 8(a)(iii) as if Counterparty was not the Affected Party). "**Repurchase Event**" means that (i) any Convertible Securities are repurchased (whether pursuant to Section 3.02 of the Indenture or otherwise) by Counterparty or any of its subsidiaries, (ii) any Convertible Securities are delivered to Counterparty in exchange for delivery of any property or assets of Counterparty or any of its subsidiaries (howsoever described), (iii) any principal of any of the Convertible Securities is repaid prior to the final maturity date of the Convertible Securities (other than as a result of an event described in Section 8(a)(i)), or (iv) any Convertible Securities are exchanged by or for the benefit of the Holders (as defined in the Indenture) thereof for any other securities of Counterparty or any of its Affiliates (or any other property, or any combination thereof) pursuant to any exchange offer or similar transaction; *provided* that any conversion of Convertible Securities that occurs pursuant to the terms of the Indenture shall not constitute a Repurchase Event. For the avoidance of doubt, in determining the amount payable in respect of such Affected Transaction pursuant to Section 6 of the Agreement, the Calculation Agent shall assume (1) the relevant Repurchase Event and any conversions, adjustments, agreements, payments, deliveries or acquisitions by or on behalf of Counterparty leading thereto had not occurred, (2) no adjustments to the Conversion Rate have occurred pursuant to Section 10.05(l) or 10.07 of the Indenture and (3) the corresponding Convertible Securities remain outstanding as if the circumstances related to the Repurchase Event had not occurred. Notwithstanding any provisions in this Confirmation to the contrary, pursuant to this Section 8(a)(iii), Counterparty may, in its sole discretion, elect to terminate the Transaction and other bond hedge transactions with other dealers relating to the Convertible Securities on a non-pro rata basis.

(iv) [Reserved.]

(b) *Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events*. If Dealer shall owe Counterparty any amount pursuant to "Consequences of Merger Events" above or Sections 12.6, 12.7 or 12.9 of the Equity Definitions or pursuant to Section 6(d)(ii) of the Agreement (a "**Payment Obligation**"), Counterparty shall have the right, in its sole discretion, to require Dealer to satisfy any such Payment Obligation by the Share Termination Alternative (as defined below) by giving irrevocable telephonic notice to Dealer, confirmed in writing within one

Scheduled Trading Day, no later than 9:30 A.M. New York City time on the relevant merger date, Announcement Date, Early Termination Date or date of cancellation or termination in respect of an Extraordinary Event, as applicable ("**Notice of Share Termination**"); *provided* that if Counterparty does not elect to require Dealer to satisfy its Payment Obligation by the Share Termination Alternative, Dealer shall have the right, in its sole discretion, to elect to satisfy its Payment Obligation by the Share Termination Alternative, notwithstanding Counterparty's failure to elect or election to the contrary; and *provided further* that Counterparty shall not have the right to so elect (but, for the avoidance of doubt, Dealer shall have the right to so elect) in the event (i) of an Insolvency, a Nationalization or a Merger Event, in each case, in which the consideration or proceeds to be paid to holders of Shares consists solely of cash, (ii) of an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party, which Event of Default or Termination Event resulted from an event or events within Counterparty's control or (iii) that Counterparty fails to remake the representation set forth in Section 7(a)(i) as of the date of such election. Upon such Notice of Share Termination, the following provisions shall apply on the Scheduled Trading Day immediately following the relevant merger date, Announcement Date, Early Termination Date or date of cancellation or termination in respect of an Extraordinary Event, as applicable:

Share Termination Alternative:	If applicable, means that Dealer shall deliver to Counterparty the Share Termination Delivery Property on the date on which the Payment Obligation would otherwise be due pursuant to "Consequences of Merger Events" above, Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) of the Agreement, as applicable, or such later date or dates as the Calculation Agent may reasonably determine (such delivery to occur as soon as reasonably practicable under the circumstances) (the "**Share Termination Payment Date**"), in satisfaction of the Payment Obligation. For the avoidance of doubt, a delay in delivery of the Share Termination Delivery Property shall not result in a change in the composition of such Share Termination Delivery Property.
Share Termination Delivery Property:	A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of the aggregate amount of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.
Share Termination Unit Price:	The value of property contained in one Share Termination Delivery Unit on the date such Share Termination Delivery Units are to be delivered as Share Termination Delivery Property, as determined by the Calculation Agent in its discretion by commercially reasonable means and notified by the Calculation Agent to Dealer at the time of notification of the Payment Obligation.
Share Termination Delivery Unit:	In the case of a Termination Event, Event of Default, Delisting or Additional Disruption Event, one Share or, in the case of an Insolvency, Nationalization or Merger Event, one Share or a unit consisting of the number or amount of each type of property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Insolvency, Nationalization or Merger Event, as applicable. If such Insolvency, Nationalization or Merger Event involves a choice of consideration to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.
Failure to Deliver:	Applicable
Other applicable provisions:	If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9 and 9.11 (except that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities laws arising as a result of the fact that Counterparty is the issuer of the Shares or any portion of the Share Termination Delivery Units) and 9.12 of the Equity Definitions will be applicable as if "Physical Settlement" applied to the Transaction, except that all references to "Shares" shall be read as references to "Share Termination Delivery Units."

(c) *Disposition of Hedge Shares.* Counterparty hereby agrees that if, in the good faith reasonable judgment of Dealer, based on the advice of counsel, any Shares (the "**Hedge Shares**") acquired by Dealer or one of its affiliates for the purpose of hedging Dealer's obligations pursuant to the Transaction cannot be sold in the public market by Dealer without registration under the Securities Act, Counterparty shall, at its election: (i) in order to allow Dealer to sell the Hedge Shares in a registered offering, make available to Dealer an effective registration statement under the Securities Act to cover the resale of such Hedge Shares and (A) enter into an agreement, in form and substance satisfactory to Dealer, substantially in the form of an underwriting agreement for underwritten follow-on offerings of equity securities of companies of comparable size, maturity and lines of business, (B) provide accountant's "comfort" letters in customary form for underwritten follow-on offerings of equity securities, (C) provide disclosure opinions of nationally recognized outside counsel to Counterparty as are customarily requested in connection with underwritten follow-on offers of equity securities of companies of comparable size, maturity and lines of business, (D) provide other customary opinions, certificates and closing documents customary in form for underwritten follow-on offerings of equity securities of companies of comparable size, maturity and lines of business and (E) afford Dealer a reasonable opportunity to conduct a "due diligence" investigation with respect to Counterparty customary in scope for underwritten follow-on offerings of equity securities of companies of comparable size, maturity and lines of business; *provided, however*, that if Dealer, in its sole reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this Section 8(c) shall apply at the election of Counterparty; *provided* that Dealer has given Counterparty reasonable notice of its determination and provided Counterparty with reasonable opportunity to satisfy Dealer's concerns; (ii) in order to allow Dealer to sell the Hedge Shares in a private placement, enter into a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities of companies of comparable size, maturity and lines of business, in form and substance reasonably satisfactory to Dealer, including customary representations, covenants, blue sky and other governmental filings and/or registrations, indemnities to Dealer, due diligence rights (for Dealer or any designated buyer of the Hedge Shares from Dealer), opinions and certificates and such other documentation as is customary for private placements agreements, all reasonably acceptable to Dealer (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary, in its reasonable judgment, to compensate Dealer for any discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement); or (iii) purchase the Hedge Shares from Dealer at the VWAP Price on such Exchange Business Days, and in the amounts, requested by Dealer. "VWAP Price" means, on any Exchange Business Day, the per Share volume-weighted average price as displayed under the heading "Bloomberg VWAP" on Bloomberg Screen RH.N <Equity> VAP (or any successor thereto) in respect of the period from 9:30 A.M. to 4:00 P.M. (New York City time) on such Exchange Business Day (or if such volume-weighted average price is unavailable or is manifestly incorrect, the market value of one Share on such Exchange Business Day, as determined by the Calculation Agent using a volume-weighted method).

(d) *Repurchase and Conversion Rate Adjustment Notices.* Counterparty shall, on any day on which Counterparty effects any repurchase of Shares or consummates or otherwise executes or engages in any transaction or event (a "**Conversion Rate Adjustment Event**") that would lead to an increase in the Conversion Rate (as such term is defined in the Indenture), give Dealer a written notice of such repurchase or Conversion Rate Adjustment Event (a "**Repurchase Notice**") if, following such repurchase or Conversion Rate Adjustment Event, the Notice Percentage as determined on the date of such Repurchase Notice is (i) greater than 4.5% and (ii) greater by 0.5% than the Notice Percentage included in the immediately preceding Repurchase Notice (or, in the case of the first such Repurchase Notice, greater than the Notice Percentage as of the date hereof), and, if such repurchase or Conversion Rate Adjustment Event, or the intention to effect the same, would constitute material non-public information with respect to Counterparty or the Shares, Counterparty shall make public disclosure thereof at or prior to delivery of such Repurchase Notice. The "**Notice Percentage**" as of any day is the fraction, expressed as a percentage, the numerator of which is the sum of the Number of Shares and the aggregate number of Shares underlying any other call option transaction sold by Dealer to Counterparty and the denominator of which is the number of Shares outstanding on such day. In the event that Counterparty fails to provide Dealer with a Repurchase Notice on the day and in the manner specified in this Section 8(d) then Counterparty agrees to indemnify and hold harmless Dealer, its affiliates and their respective directors, officers, employees, agents and controlling persons (Dealer and each such person being an "**Indemnified Party**") from and against any and all losses, claims, damages and liabilities (or actions in respect thereof), joint or several, to which such Indemnified Party may become subject under applicable securities laws, including without limitation, Section 16 of the Exchange Act, relating to or arising out of such failure. If for any reason the foregoing indemnification is unavailable to any Indemnified Party or insufficient

to hold harmless any Indemnified Party, then Counterparty shall contribute, to the maximum extent permitted by law, to the amount paid or payable by the Indemnified Party as a result of such loss, claim, damage or liability. In addition, Counterparty will reimburse any Indemnified Party for any reasonable expenses (including reasonable counsel fees and expenses) as they are incurred (after notice to Counterparty) in connection with the investigation of, preparation for or defense or settlement of any pending or threatened claim or any action, suit or proceeding arising therefrom, whether or not such Indemnified Party is a party thereto and whether or not such claim, action, suit or proceeding is initiated or brought by or on behalf of Counterparty. Counterparty shall be relieved from liability under this Section 8(d) to the extent that the Indemnified Party fails promptly to notify Counterparty of any action commenced against it in respect of which indemnity may be sought hereunder; *provided* that failure to notify Counterparty (x) shall not relieve Counterparty from any liability hereunder to the extent it is not materially prejudiced as a result thereof and (y) shall not, in any event, relieve Counterparty from any liability that it may have otherwise than on account of the Transaction (including damages resulting from a breach of the Counterparty's obligations under this Section 8(d)). For purposes of the preceding sentence, the obligation to notify promptly shall in no event obligate the Dealer to provide such notice earlier than 10 Exchange Business Days from the relevant event. This indemnity shall survive the completion of the Transaction contemplated by this Confirmation and any assignment and delegation of the Transaction made pursuant to this Confirmation or the Agreement shall inure to the benefit of any permitted assignee of Dealer.

(e) *Transfer and Assignment*.

(i) Counterparty may transfer any of its rights or obligations under the Transaction with the prior written consent of Dealer, such consent not to be unreasonably withheld or delayed. For the avoidance of doubt, Dealer may condition its consent on any of the following, without limitation: (i) the receipt by Dealer of opinions and documents reasonably satisfactory to it in connection with such assignment, (ii) such assignment being effected on terms reasonably satisfactory to Dealer with respect to any legal and regulatory requirements relevant to Dealer, (iii) payment by Counterparty of all reasonable costs and expenses, including reasonable counsel fees, incurred by Dealer in connection with such assignment, (iv) Dealer not being obliged, as a result of such assignment, to pay the assignee on any payment date, an amount greater than Dealer would have been required to pay in the absence of such assignment, (v) the Dealer will not, as a result of such transfer and assignment, be required to pay the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Dealer would have been required to pay to Counterparty in the absence of such transfer and assignment, (vi) no Event of Default, Potential Event of Default or Termination Event occurring as a result of such assignment and (vii) Counterparty continuing to be obligated to provide notices hereunder relating to the Convertible Securities and continuing to be obligated with respect to "Disposition of Hedge Shares" and "Repurchase Notices" above. For the avoidance of doubt, the right of the Counterparty to transfer or assign its rights otherwise shall be as set forth in Section 7 of the Agreement; *provided, however,* that such right of the Counterparty to transfer and assign shall not alter or limit any provision set forth under Extraordinary Events hereunder.

(ii) Dealer may not transfer any of its rights or obligations under the Transaction without the prior written consent of Counterparty, except that Dealer may, without Counterparty's consent, transfer or assign all or any part of its rights or obligations under the Transaction to any affiliate of Dealer if (i) such transfer or assignment shall be subject to the restrictions set forth in the legend appearing at the top of this Confirmation, (ii) the transferee shall be a "United States person" as determined for U.S. federal income tax purposes, (iii) Dealer shall have caused the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Counterparty to permit Counterparty to determine that such transfer or assignment complies with clause (ii) of this sentence, (iv) no material adverse legal or regulatory consequence shall result to Dealer, Counterparty or the transferee as a result of such transfer and (v) either (a) the transferee has a rating for its long term, unsecured and unsubordinated indebtedness that is equal to or better than Dealer's credit rating at the time of such transfer or assignment, or (b) the transferee's obligations hereunder will be guaranteed, pursuant to the terms of a customary guarantee in a form used by Dealer generally for similar transactions, by Dealer or Dealer's ultimate parent. Dealer shall as soon as reasonably practicable notify Counterparty of such transfer or assignment.

If at any time at which any Excess Ownership Position exists, if Dealer is unable after using its commercially reasonable efforts to effect a transfer or assignment to a third party financial institution that is a recognized dealer in the market for U.S. corporate equity derivatives reasonably acceptable to Counterparty on pricing terms and within a time period reasonably acceptable to Dealer such that an Excess Ownership Position no longer exists, Dealer may designate any Scheduled Trading Day as an Early Termination Date with respect to a portion (the

"**Terminated Portion**") of the Transaction, such that such Excess Ownership Position no longer exists. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment or delivery shall be made pursuant to Section 6 of the Agreement as if (i) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Terminated Portion of the Transaction, (ii) Counterparty shall be the sole Affected Party with respect to such partial termination and (iii) such portion of the Transaction shall be the only Terminated Transaction (and, for the avoidance of doubt, the provisions of Section 8(b) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this sentence as if Counterparty was not the Affected Party).

(f) "**Excess Ownership Position**" means any of the following: (i) the Option Equity Percentage exceeds 14.5%, (ii) the Equity Percentage exceeds 9.0%, (iii) Dealer or any "affiliate" or "associate" of Dealer would own in excess of 13% of the outstanding Shares for purposes of Section 203 of the Delaware General Corporation Law or (iv) Dealer, Dealer Group (as defined below) or any person whose ownership position would be aggregated with that of Dealer or Dealer Group (Dealer, Dealer Group or any such person, a "**Dealer Person**") under any federal, state or local laws, regulations, regulatory orders or organizational documents or contracts of Counterparty that are, in each case, applicable to ownership of Shares ("**Applicable Laws**"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership in excess of a number of Shares equal to (x) the number of Shares that would give rise to reporting or registration obligations or other requirements (including obtaining prior approval by a state or federal regulator) of a Dealer Person, or could result in an adverse effect on a Dealer Person, under Applicable Laws, as determined by Dealer in its reasonable discretion, and with respect to which such requirements have not been met or the relevant approval has not been received or that would give rise to any consequences under the constitutive documents of Counterparty or any contract or agreement to which Counterparty is a party, in each case *minus* (y) 1% of the number of Shares outstanding on the date of determination. The "**Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates or any other person subject to aggregation with Dealer, for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act, or any "group" (within the meaning of Section 13) of which Dealer is or may be deemed to be a part (Dealer and any such affiliates, persons and groups, collectively, "**Dealer Group**") beneficially owns (within the meaning of Section 13 of the Exchange Act), without duplication, on such day (or, to the extent that, as a result of a change in law, regulation or interpretation after the date hereof, the equivalent calculation under Section 16 of the Exchange Act and the rules and regulations thereunder results in a higher number, such number) and (B) the denominator of which is the number of Shares outstanding on such day. The "**Option Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the sum of (1) the product of the Number of Options and the Option Entitlement and (2) the aggregate number of Shares underlying any other call option transaction sold by Dealer to Counterparty, and (B) the denominator of which is the number of Shares outstanding.

(g) *Staggered Settlement*. Dealer may, by notice to Counterparty on or prior to any Settlement Date (a "**Nominal Settlement Date**"), elect to deliver the Shares on two or more dates (each, a "**Staggered Settlement Date**") or at two or more times on the Nominal Settlement Date as follows:

(i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which will be on or prior to such Nominal Settlement Date, but not prior to the beginning of the related "**Cash Settlement Averaging Period**", as defined in the Indenture) or delivery times and how it will allocate the Shares it is required to deliver under "Delivery Obligation" (above) among the Staggered Settlement Dates or delivery times; and

(ii) the aggregate number of Shares that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates and delivery times will equal the number of Shares that Dealer would otherwise be required to deliver on such Nominal Settlement Date.

(h) *Right to Extend.* Dealer may postpone any Exercise Date or Settlement Date or any other date of valuation or delivery by Dealer, with respect to some or all of the relevant Options (in which event the Calculation Agent shall make appropriate adjustments to the Delivery Obligation), if Dealer determines, in its reasonable discretion, that such extension is reasonably necessary or appropriate to (i) preserve Dealer's hedging or hedge unwind activity hereunder in light of existing liquidity conditions in the cash market, the stock loan market or any other market in which Dealer, in the exercise of its commercially reasonable discretion, deems it advisable to hedge its exposure to the Transaction or (ii) to enable Dealer to effect purchases of Shares in connection with its hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures applicable to Dealer

similarly applicable to bond hedge transactions and consistently applied (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer); *provided* that any such extension pursuant to clause (i) shall not exceed 45 Exchange Business Days.

(i) *Adjustments*. For the avoidance of doubt, whenever the Calculation Agent is called upon to make an adjustment pursuant to the terms of this Confirmation or the Definitions to take into account the effect of an event, the Calculation Agent shall make such adjustment by reference to the effect of such event on the Hedging Party, assuming that the Hedging Party maintains a commercially reasonable hedge position.

(j) *Disclosure*. Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.

(k) *Designation by Dealer*. Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities to or from Counterparty, Dealer may designate any of its affiliates to purchase, sell, receive or deliver such shares or other securities and otherwise to perform Dealer obligations in respect of the Transaction and any such designee may assume such obligations. Dealer shall be discharged of its obligations to Counterparty to the extent, and only to the extent, of any performance by Dealer's designee.

(l) *No Netting and Set-off*. Each party waives any and all rights it may have to set off delivery or payment obligations it owes to the other party under the Transaction against any delivery or payment obligations owed to it by the other party, whether arising under the Agreement, under any other agreement between the parties hereto, by operation of law or otherwise. The provisions of Section 2(c) of the Agreement shall not apply to the Transaction.

(m) *Equity Rights*. Dealer acknowledges and agrees that this Confirmation is not intended to convey to it rights with respect to the Transaction that are senior to the claims of common stockholders in the event of Counterparty's bankruptcy. For the avoidance of doubt, the parties agree that the preceding sentence shall not apply at any time other than during Counterparty's bankruptcy to any claim arising as a result of a breach by Counterparty of any of its obligations under this Confirmation or the Agreement. For the avoidance of doubt, the parties acknowledge that none of the obligations of Counterparty or Dealer under this Confirmation are secured by any collateral that would otherwise secure the obligations of Counterparty herein under or pursuant to any other agreement.

(n) *Early Unwind*. In the event the sale by Counterparty of the Base Convertible Securities is not consummated with the initial purchasers pursuant to the Purchase Agreement for any reason by the close of business in New York on September [ ], 2019 (or such later date as agreed upon by the parties, which in no event shall be later than October [ ], 2019) (September [ ], 2019 or such later date being the "**Early Unwind Date**"), the Transaction shall automatically terminate (the "**Early Unwind**"), on the Early Unwind Date and the Transaction and all of the respective rights and obligations of Dealer and Counterparty thereunder shall be cancelled and terminated; provided that, for the avoidance of doubt, Dealer shall repay to Counterparty any Premium paid by Counterparty to Dealer in connection with the Transaction. Following such termination, cancellation and payment, each party shall be released and discharged by the other party (to the extent permitted by applicable law) from and agrees not to make any claim against the other party with respect to any obligations or liabilities of either party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date. Dealer and Counterparty represent and acknowledge to the other that upon an Early Unwind and following the payment referred to above, all obligations with respect to the Transaction shall be deemed fully and finally discharged.

(o) *Payments by Counterparty upon Early Termination.* The parties hereby agree that, notwithstanding anything to the contrary herein, in the Definitions or in the Agreement, following the payment of the Premium, in the event that an Early Termination Date (whether as a result of an Event of Default or a Termination Event) occurs or is designated with respect to the Transaction or the Transaction is terminated or cancelled pursuant to Article 12 of the Equity Definitions and, as a result, Counterparty would owe to Dealer an amount calculated under Section 6(e) of the Agreement or Article 12 of the Equity Definitions, such amount shall be deemed to be zero.

(p) *Wall Street Transparency and Accountability Act of 2010.* The parties hereby agree that none of (v) Section 739 of the Wall Street Transparency and Accountability Act of 2010 ("**WSTAA**"), (w) any similar legal certainty provision in any legislation enacted, or rule or regulation promulgated, on or after the Trade Date, (x) the enactment of WSTAA or any regulation under the WSTAA, (y) any requirement under WSTAA nor (z) an amendment made by WSTAA, shall limit or

otherwise impair either party's rights to terminate, renegotiate, modify, amend or supplement this Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Confirmation, the Equity Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from Change in Law, an Excess Ownership Position or Illegality (as defined in the Agreement)).

(q) *Tax Matters*

(i) *Withholding Tax imposed on payments tonon-US counterparties under the United States Foreign Account Tax Compliance Act* "Tax" and "Indemnifiable Tax", each as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**"), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code (a "**FATCA Withholding Tax**"). For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.

(ii) *HIRE Act*. "Tax" and "Indemnifiable Tax", each as defined in Section 14 of the Agreement, shall not include any tax imposed on payments treated as dividends from sources within the United States under Section 871(m) of the Code or any regulations issued thereunder.

(iii) *Tax documentation.* Each party shall provide to the other party a valid U.S. Internal Revenue Service FormW-9 (or, in the case of Dealer, Form W-8IMY for Dealer together with Form W-9 for [Agent]), or any successor thereto, (i) on or before the date of execution of this Confirmation and (ii) promptly upon learning that any such tax form previously provided by it has become obsolete or incorrect. Additionally, each party shall, promptly upon request by the other party, provide such other tax forms and documents reasonably requested by the other party.

(iv) *Tax Representations*. Counterparty is a corporation for U.S. federal income tax purposes and is organized under the laws of the State of Delaware. Counterparty is a "U.S. person" (as that term is used in section 1.1441-4(a)(3)(ii) of United States Treasury Regulations) for U.S. federal income tax purposes and an exempt recipient under Treasury Regulation Section 1.6049-4(c)(1)(ii). For US federal income tax purposes, Dealer is acting as nominee on behalf of [ ], a person that is a "US United States person" as that term is defined under Section 7701(a)(30) of the US Internal Revenue Code and an [ ] as that term is defined in section 1.6049-4(c)(1)(ii) of the U.S. Treasury Regulations.

(r) *Waiver of Trial by Jury.* **EACH OF COUNTERPARTY AND DEALER HEREBY IRREVOCABLY WAIVES (ON ITS OWN BEHALF AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ON BEHALF OF ITS STOCKHOLDERS) ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THE TRANSACTION OR THE ACTIONS OF DEALER OR ITS AFFILIATES IN THE NEGOTIATION, PERFORMANCE OR ENFORCEMENT HEREOF**.

(s) *Governing Law; Jurisdiction*. **THIS CONFIRMATION AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS CONFIRMATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK. THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND THE UNITED STATES COURT FOR THE SOUTHERN DISTRICT OF NEW YORK IN CONNECTION WITH ALL MATTERS RELATING HERETO AND WAIVE ANY OBJECTION TO THE LAYING OF VENUE IN, AND ANY CLAIM OF INCONVENIENT FORUM WITH RESPECT TO, THESE COURTS.**

(t) *Amendment.* This Confirmation and the Agreement may not be modified, amended or supplemented, except in a written instrument signed by Counterparty and Dealer.

(u) *Counterparts.* This Confirmation may be executed in several counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

(v) *Counterparty Representation Regarding Certain Regulatory Matters.* Counterparty (A) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities; (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing; and (C) has total assets of at least $50 million.

[*Signature Page Follows*]

Counterparty hereby agrees (a) to check this Confirmation carefully and immediately upon receipt so that errors or discrepancies can be promptly identified and rectified and (b) to confirm that the foregoing (in the exact form provided by Dealer) correctly sets forth the terms of the agreement between Dealer and Counterparty with respect to the Transaction, by manually signing this Confirmation or this page hereof as evidence of agreement to such terms and providing the other information requested herein and immediately returning an executed copy to us.

Yours faithfully,

[DEALER]

By: _____
Name:
Title:

By: _____
Name:
Title:

[AGENT], as Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

Agreed and Accepted By:

RH

By: _____
Name:
Title:

Premium: USD [ ] (Premium per Option USD [ ]).

THE SECURITIES REPRESENTED HEREBY (THE "WARRANTS") WERE ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THE WARRANTS MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO A REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR AN APPLICABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS THEREOF.

September 12, 2019

To: RH
15 Koch Road, Suite J
Corte Madera, California, CA 94925
Attention: Office of Legal Counsel
Attention: Chief Financial Officer
Facsimile No.: 415-927-7264

From: [Dealer]
[Contact details]

[Agent]
[Contact details]

Re: Base Issuer Warrant Transaction

Ladies and Gentlemen:

The purpose of this communication (this "**Confirmation**") is to set forth the terms and conditions of the above-referenced transaction entered into on the Trade Date specified below (the "**Transaction**") between [dealer] ("**Dealer**") through its agent [agent] (the "**Agent**") and RH ("**Issuer**"). This communication constitutes a "Confirmation" as referred to in the ISDA Master Agreement specified below.

1. This Confirmation is subject to, and incorporates, the definitions and provisions of the 2006 ISDA Definitions (including the Annex thereto) (the "**2006 Definitions**") and the definitions and provisions of the 2002 ISDA Equity Derivatives Definitions (the "**Equity Definitions**", and together with the 2006 Definitions, the "**Definitions**"), in each case as published by the International Swaps and Derivatives Association, Inc. ("**ISDA**"). In the event of any inconsistency between the 2006 Definitions and the Equity Definitions, the Equity Definitions will govern. For purposes of the Equity Definitions, each reference herein to a Warrant shall be deemed to be a reference to a Call Option or an Option, as context requires.

This Confirmation evidences a complete and binding agreement between Dealer and Issuer as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall be subject to an agreement (the "**Agreement**") in the form of the 2002 ISDA Master Agreement as if Dealer and Issuer had executed an agreement in such form but without any Schedule except for (i) the election of US Dollars ("**USD**") as the Termination Currency and (ii) the election that the "Cross Default" provisions of Section 5(a)(vi) of the Agreement shall apply to Issuer and to Dealer (a) with a "Threshold Amount" of USD 20,000,000 applicable to Issuer and 3% of the Dealer's stockholders equity applicable to Dealer, (b) the phrase "or becoming capable at such time of being declared" shall be deleted from clause (1) of such Section 5(a)(vi), (c) the following language shall be added to the end thereof: "Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (x) the default was caused solely by error or omission of an administrative or operational nature; (y) funds were available to enable the party to make the payment when due; and (z) the payment is made within two Local Business Days of such party's receipt of written notice of its failure to pay" and (d) "Specified Indebtedness" shall have the meaning specified in Section 14 of the Agreement, except that such term shall not include obligations in respect of deposits received in the ordinary course of Dealer's banking business. For the avoidance of doubt, the Transaction shall be the only transaction under the Agreement. If there exists any ISDA Master Agreement between

Dealer and Issuer or any confirmation or other agreement between Dealer and Issuer pursuant to which an ISDA Master Agreement is deemed to exist between Dealer and Issuer, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer and Issuer are parties, the Transaction shall not be considered a Transaction under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

All provisions contained in, or incorporated by reference to, the Agreement will govern this Confirmation except as expressly modified herein. In the event of any inconsistency between this Confirmation and either the Definitions or the Agreement, this Confirmation shall govern.

2. The Transaction is a Warrant Transaction, which shall be considered a Share Option Transaction for purposes of the Equity Definitions. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms:	
Trade Date:	September [ ], 2019
Effective Date:	September [ ], 2019, or such other date as agreed between the parties, subject to Section 8(n) below
Components:	The Transaction will be divided into individual Components, each with the terms set forth in this Confirmation, and, in particular, with the Number of Warrants and Expiration Date set forth in this Confirmation. The payments and deliveries to be made upon settlement of the Transaction will be determined separately for each Component as if each Component were a separate Transaction under the Agreement.
Warrant Style:	European
Warrant Type:	Call
Seller:	Issuer
Buyer:	Dealer
Shares:	The common stock of Issuer, par value USD 0.0001 per share (Ticker Symbol: "RH").
Number of Warrants:	For each Component, as provided in Annex A to this Confirmation.
Warrant Entitlement:	One Share per Warrant
Strike Price:	As provided in Annex A to this Confirmation.
Premium:	As provided in Annex A to this Confirmation.
Premium Payment Date:	The Effective Date
Exchange:	The New York Stock Exchange
Related Exchange:	All Exchanges
Procedures for Exercise:	
In respect of any Component:	
Expiration Time:	Valuation Time
Expiration Date:	As provided in Annex A to this Confirmation (or, if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day that is not already an Expiration Date for another Component); *provided* that if that date is a Disrupted Day, the Expiration Date for

	such Component shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day and is not or is not deemed to be an Expiration Date in respect of any other Component of the Transaction hereunder; and *provided further* that if the Expiration Date has not occurred pursuant to the preceding proviso as of the Final Disruption Date, Dealer may elect in its reasonable discretion that the Final Disruption Date shall be the Expiration Date (irrespective of whether such date is an Expiration Date in respect of any other Component for the Transaction) and, notwithstanding anything to the contrary in this Confirmation or the Definitions, the Relevant Price for such Expiration Date shall be the prevailing market value per Share determined by the Calculation Agent in a commercially reasonable manner. "**Final Disruption Date**" means [ ]. Notwithstanding the foregoing and anything to the contrary in the Equity Definitions, if a Market Disruption Event occurs on any Expiration Date, the Calculation Agent may (except as set out in "Regulatory Disruption" below) reasonably determine that such Expiration Date is a Disrupted Day only in part, in which case (i) the Calculation Agent shall make reasonable adjustments to the Number of Warrants for the relevant Component for which such day shall be the Expiration Date and shall designate the Scheduled Trading Day determined in the manner described in the second preceding sentence as the Expiration Date for the remaining Warrants for such Component, and (ii) the VWAP Price for such Disrupted Day shall be reasonably determined by the Calculation Agent based on transactions in the Shares on such Disrupted Day taking into account the nature and duration of such Market Disruption Event on such day. Any Scheduled Trading Day on which, as of the date hereof, the Exchange is scheduled to close prior to its normal close of trading shall be deemed not to be a Scheduled Trading Day; if a closure of the Exchange prior to its normal close of trading on any Scheduled Trading Day is scheduled following the date hereof, then such Scheduled Trading Day shall be deemed to be a Disrupted Day in full. Section 6.6 of the Equity Definitions shall not apply to any Valuation Date occurring on an Expiration Date.
Market Disruption Event:	Section 6.3(a) of the Equity Definitions is hereby amended (A) by deleting the words "during the one hour period that ends at the relevant Valuation Time, Latest Exercise Time, Knock-in Valuation Time or Knock-out Valuation Time, as the case may be," in clause (ii) thereof and (B) by replacing the words "or (iii) an Early Closure." therein with "(iii) an Early Closure, or (iv) a Regulatory Disruption." Section 6.3(d) of the Equity Definitions is hereby amended by deleting the remainder of the provision following the term "Scheduled Closing Time" in the fourth line thereof.
Regulatory Disruption:	Any event that Dealer, in its reasonable discretion, determines makes it appropriate with regard to any U.S. federal or state legal, regulatory or self-regulatory requirements or related policies and procedures similarly applicable to warrant transactions and consistently applied (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer), including, without limitation, Rule 10b-18 under the Securities Exchange Act of 1934, as amended (the "**Exchange**

Act"), for Dealer to refrain from or decrease any market activity in connection with the Transaction. Dealer shall notify Issuer as soon as reasonably practicable (but in no event later than two Scheduled Trading Days after such Regulatory Disruption) that a Regulatory Disruption has occurred and the Expiration Dates affected by it; *provided* that if such deemed Market Disruption Event is deemed to have occurred solely in response to internal policies and procedures, such Scheduled Trading Day or Scheduled Trading Days will each be a Disrupted Day in full.

Automatic Exercise: Applicable; and means that the Number of Warrants for each Component will be deemed to be automatically exercised at the Expiration Time on the Expiration Date for such Component unless Dealer notifies Seller (by telephone or in writing) prior to the Expiration Time on the Expiration Date that it does not wish Automatic Exercise to occur, in which case Automatic Exercise will not apply.

Issuer's Telephone Number and Telex and/or Facsimile Number and Contact Details for purpose of Giving Notice:

RH
15 Koch Road, Suite J
Corte Madera, California, CA 94925
Attention: Office of Legal Counsel
Attention: Chief Financial Officer
Facsimile No.: 415-927-7264

with a copy to:

Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105
Attn: Gavin B. Grover, Esq.
Fax: (415) 268-7522

Settlement Terms:

In respect of any Component:

Settlement Currency: USD

Settlement Method Election: Applicable; *provided* that (i) Issuer may elect Cash Settlement only if, on or prior to the Settlement Method Election Date, Issuer delivers written notice to Dealer stating that Issuer has elected that Cash Settlement apply to every Component of the Transaction; (ii) on such notice delivery date, Issuer represents and warrants to Dealer in writing that, as of such notice delivery date, (A) none of Issuer and its officers or directors, or any person that "controls" (within the meaning of the definition of an "affiliate" under Rule 144 under the Securities Act) any of the foregoing, is aware of any material nonpublic information regarding Issuer or the Shares, (B) Issuer is electing Cash Settlement in good faith and not as part of a plan or scheme to evade compliance with the federal securities laws, (C) the Issuer is not "insolvent" (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the "**Bankruptcy Code**")), (D) it would be able to purchase the Number of Shares in compliance with the

	laws of Issuer's jurisdiction or organization, (E) Issuer has the requisite corporate power to make such election and to execute and deliver any documentation relating to such election that it is required by this Confirmation to deliver and to perform its obligations under this Confirmation and has taken all necessary corporate action to authorize such election, execution, delivery and performance, (F) such election and performance of its obligations under this Confirmation do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets, and (G) any transaction that Dealer makes with respect to the Shares during the period beginning at the time that Issuer delivers notice of its Cash Settlement election and ending at the close of business on the final day of the Settlement Period shall be made by Dealer at Dealer's sole discretion for Dealer's own account and Issuer shall not have, and shall not attempt to exercise, any influence over how, when, whether or at what price Dealer effects such transactions, including, without limitation, the prices paid or received by Dealer per Share pursuant to such transactions, or whether such transactions are made on any securities exchange or privately; and (iii) such Settlement Method Election shall apply to every Component. At any time prior to making a Settlement Method Election Issuer may, without the consent of Dealer, amend this Confirmation by notice to Dealer to eliminate Issuer's right to elect Cash Settlement. For the avoidance of doubt, Net Share Settlement and Cash Settlement shall be the only settlement methods, and Physical Settlement shall not apply.
Electing Party:	Issuer
Settlement Method Election Date:	The third Scheduled Trading Day immediately preceding the scheduled Expiration Date for the Component with the earliest scheduled Expiration Date.
Default Settlement Method:	Net Share Settlement
VWAP Price:	For any Valuation Date, the Rule 10b-18 dollar volume weighted average price per Share for such Valuation Date based on transactions executed during such Valuation Date, as displayed under the heading "Bloomberg VWAP" on Bloomberg Screen RH.N <Equity> VAP (or any successor thereto) or if such volume-weighted average price is not so reported on such Valuation Date for any reason or is manifestly incorrect, the market value of one Share on such Exchange Business Day, as reasonably determined by the Calculation Agent using a volume-weighted method.
Net Share Settlement:	
Net Share Settlement:	On each Settlement Date, Issuer shall deliver to Dealer a number of Shares equal to the Number of Shares to be Delivered for such Settlement Date to the account specified by Dealer and cash in lieu of any fractional shares valued at the Relevant Price on the Valuation Date corresponding to such Settlement Date.

Number of Shares to be Delivered:	In respect of any Exercise Date, subject to the last sentence of Section 9.5 of the Equity Definitions, the product of (i) the number of Warrants exercised or deemed exercised on such Exercise Date, (ii) the Warrant Entitlement and (iii) (A) the excess, if any, of the VWAP Price on the Valuation Date occurring on such Exercise Date over the Strike Price (or if there is no such excess, zero) *divided by* (B) such VWAP Price. The Number of Shares to be Delivered shall be delivered by Issuer to Dealer no later than 12:00 noon (local time in New York City) on the relevant Settlement Date.
Settlement Date:	The Settlement Date, determined as if Physical Settlement applied.
Other Applicable Provisions:	If Net Share Settlement is applicable, the provisions of Sections 9.1(c), 9.8, 9.9, 9.11 (except that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities laws arising as a result of the fact that Seller is the Issuer of the Shares) and 9.12 of the Equity Definitions will be applicable as if "Physical Settlement" applied to the Transaction.
Cash Settlement:	
Option Cash Settlement Amount:	For any Exercise Date, the product of (i) the number of Warrants exercised or deemed exercised on such Exercise Date, (ii) the Warrant Entitlement and (iii) the excess of the VWAP Price on the Valuation Date occurring on such Exercise Date over the Strike Price (or, if there is no such excess, zero).
Adjustments:	
In respect of any Component:	
Method of Adjustment:	Calculation Agent Adjustment; *provided* that customary share repurchases based on market prices whether executed on an exchange or off market or in block transactions shall not be considered Potential Adjustment Events (for the avoidance of doubt, accelerated share repurchases or other similar structured buyback transactions are outside this exception).
Extraordinary Dividend:	Any Dividend that has anex-dividend date occurring on or after the Trade Date and on or prior to the date on which Issuer satisfies all of its delivery obligations hereunder
Dividend:	Any dividend or distribution on the Shares (other than any dividend or distribution of the type described in Sections 11.2(e)(i), 11.2(e)(ii)(A) or 11.2(e)(ii)(B) of the Equity Definitions).
Extraordinary Events:	
Consequences of Merger Events:	
(a) Share-for-Share:	Modified Calculation Agent Adjustment
(b) Share-for-Other:	Cancellation and Payment (Calculation Agent Determination)
(c) Share-for-Combined:	Cancellation and Payment (Calculation Agent Determination)

Tender Offer:	Applicable; *provided* that for purposes of Section 12.3(d) of the Equity Definitions, only in the case of a self-tender by the Issuer, references in the definition of Tender Offer under the Equity Definitions to 10% shall be replaced with 20%.
Consequences of Tender Offers:	
(a) Share-for-Share:	Modified Calculation Agent Adjustment
(b) Share-for-Other:	Cancellation and Payment (Calculation Agent Determination) on that portion of the Other Consideration that consists of cash; Modified Calculation Agent Adjustment on the remainder of the Other Consideration.
(c) Share-for-Combined:	Modified Calculation Agent Adjustment
Modified Calculation Agent Adjustment:	If, in respect of any Merger Event to which Modified Calculation Agent Adjustment applies, the adjustments to be made in accordance with Section 12.2(e)(i) of the Equity Definitions would result in Issuer being different from the issuer of the Shares, then with respect to such Merger Event, as a condition precedent to the adjustments contemplated in Section 12.2(e)(i) of the Equity Definitions, Dealer, the Issuer of the Affected Shares and the entity that will be the Issuer of the New Shares shall, prior to the Merger Date, have entered into such documentation containing representations, warranties and agreements relating to securities law and other issues as requested by Dealer that Dealer has determined, in its reasonable discretion, to be reasonably necessary or appropriate to allow Dealer to continue as a party to the Transaction, as adjusted under Section 12.2(e)(i) of the Equity Definitions, and to preserve its hedging or hedge unwind activities in connection with the Transaction in a manner compliant with applicable U.S. federal or state legal, regulatory or self-regulatory requirements, and with related policies and procedures applicable to Dealer similarly applicable to warrant transactions and consistently applied (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer), and if such conditions are not met or if the Calculation Agent reasonably determines that no adjustment that it could make under Section 12.2(e)(i) of the Equity Definitions will produce a commercially reasonable result, then the consequences set forth in Section 12.2(e)(ii) of the Equity Definitions shall apply.
Consequences of Announcement Events:	Modified Calculation Agent Adjustment as set forth in Section 12.3(d) of the Equity Definitions; *provided* that references to "Tender Offer" shall be replaced by references to "Announcement Event" and references to "Tender Offer Date" shall be replaced by references to "date of such Announcement Event". An Announcement Event shall be an "Extraordinary Event" for purposes of the Equity Definitions, to which Article 12 of the Equity Definitions is applicable.
Announcement Event:	(i) The public announcement by any entity of (x) any transaction or event that, if completed, would constitute a Merger Event or Tender Offer, (y) any acquisition by Issuer or any of its subsidiaries where the aggregate consideration exceeds 25% of the market

	capitalization of Issuer as of the date of such announcement (an "**Acquisition Transaction**") or (z) the intention to enter into a Merger Event or Tender Offer or an Acquisition Transaction, (ii) the public announcement by Issuer of an intention to solicit or enter into, or to explore strategic alternatives or other similar undertaking that may include, a Merger Event or Tender Offer or an Acquisition Transaction or (iii) any subsequent public announcement by any entity of a withdrawal, discontinuation, termination or other change to a transaction or intention that is the subject of an announcement of the type described in clause (i) or (ii) of this sentence, as determined, in each case, by the Calculation Agent. For purposes of this definition of "Announcement Event," the remainder of the definition of "Merger Event" in Section 12.1(b) of the Equity Definitions following the definition of "Reverse Merger" therein shall be disregarded.
New Shares:	In the definition of New Shares in Section 12.1(i) of the Equity Definitions, (a) the text in clause (i) thereof shall be deleted in its entirety (including the word "and" following such clause (i)) and replaced with "publicly quoted, traded or listed on any of the New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or their respective successors)," and (b) the phrase "and (iii) issued by a corporation organized under the laws of the United States, any State thereof or the District of Columbia" shall be inserted immediately prior to the period.
Nationalization, Insolvency or Delisting:	Cancellation and Payment (Calculation Agent Determination); *provided* that in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it shall also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any such exchange or quotation system, such exchange or quotation system shall thereafter be deemed to be the Exchange.
Additional Disruption Events:	
(a) Change in Law:	Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase "the interpretation" in the third line thereof with the phrase "or announcement or statement of the formal or informal interpretation", (ii) immediately following the word "Transaction" in clause (X) thereof, adding the phrase "in the manner contemplated by Hedging Party on the Trade Date", (iii) adding the words "(including, for the avoidance of doubt and without limitation, adoption or promulgation of new regulations authorized or mandated by existing statute)" after the word "regulation" in the second line thereof, (iv) adding the words "or any Hedge Positions" after the word "Shares" in the clause (X) thereof and (v) adding the words ", or holding, acquiring or disposing of Shares or any Hedge Positions relating to," after the words "obligations under" in clause (Y) thereof.

(b) Failure to Deliver:	Applicable
(c) Insolvency Filing:	Applicable
(d) Hedging Disruption:	Applicable; *provided* that: (i) Section 12.9(a)(v) of the Equity Definitions is hereby amended by (a) inserting the following words at the end of clause (A) thereof: "in the manner contemplated by the Hedging Party on the Trade Date" and (b) inserting the following two phrases at the end of such Section: "For the avoidance of doubt, the term "equity price risk" shall be deemed to include, but shall not be limited to, stock price and volatility risk. And, for the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms."; and (ii) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words "to terminate the Transaction", the words "or a portion of the Transaction affected by such Hedging Disruption".
(e) Increased Cost of Hedging:	Not Applicable
(f) Loss of Stock Borrow:	Applicable
Maximum Stock Loan Rate:	As provided in Annex A to this Confirmation.
(g) Increased Cost of Stock Borrow:	Applicable
Initial Stock Loan Rate:	As provided in Annex A to this Confirmation.
Hedging Party:	Dealer for all applicable Potential Adjustment Events and Extraordinary Events
Determining Party:	For all applicable Extraordinary Events, Dealer, which shall in each case act in good faith and in a commercially reasonable manner
Non-Reliance:	Applicable
Agreements and Acknowledgments Regarding Hedging Activities:	Applicable
Additional Acknowledgments:	Applicable
Adjustment and Termination Consultation:	Upon the occurrence of any event that would permit Dealer (whether in its capacity as Calculation Agent or otherwise) to adjust the terms of the Transaction or terminate the Transaction, if Dealer determines, in its discretion, that it is commercially and legally practicable, prior to Dealer making such adjustment or effecting such termination, Dealer shall seek to consult with Issuer in good faith regarding such adjustment or termination. The foregoing shall not (i) limit the rights of the Dealer to make such adjustment or effect such termination at any time or (ii) obligate Dealer to delay, or continue delaying, making such adjustment or effecting such termination at any time (in each case, whether in Dealer's capacity as Calculation Agent or otherwise).

3. Calculation Agent: Dealer; *provided* that (i) if an Event of Default as a result of Section 5(a)(vii) of the Agreement has occurred and is continuing with respect to Dealer, then the Issuer shall have the right to designate a Calculation Agent that is a leading recognized dealer in equity derivatives (as determined in good faith by the Issuer) for so long as such Event of Default is continuing and *provided, further*, that all determinations made by the Calculation Agent shall be made in good faith and in a commercially reasonable manner. Following any calculation, adjustment or determination by the Calculation Agent hereunder, upon a written request by Issuer, the Calculation Agent will promptly provide to Issuer a written explanation (including, if applicable, a report in a commonly used file format for the storage and manipulation of financial data) describing in reasonable detail the basis for the relevant calculation, adjustment or determination (including any quotations, market data or information from internal or external sources used in making such calculation, adjustment or determination, as the case may be, but without disclosing Dealer's proprietary models or other information that may be proprietary or subject to contractual, legal or regulatory obligations to not disclose such information) and shall use commercially reasonable efforts to provide such written explanation within ten (10) Exchange Business Days after the receipt of any such request.

4. Account Details:

Dealer Payment Instructions: Bank:
ABA#:
Acct No.:
Beneficiary:
Ref:

5. Offices:

The Office of Dealer for the Transaction is: [ ]

The Office of Issuer for the Transaction is: Not applicable

6. Notices: For purposes of this Confirmation:

(a) Address for notices or communications to Issuer:

RH
15 Koch Road, Suite J
Corte Madera, California, CA 94925
Attention: Office of Legal Counsel
Attention: Chief Financial Officer
Facsimile No.: 415-927-7264

with a copy to:

Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105
Attn: Gavin B. Grover, Esq.
Fax: (415) 268-7522

(b) Address for notices or communications to Dealer:

[Dealer]

[Notice details]

7. Representations, Warranties and Agreements:

(a) In addition to the representations and warranties in the Agreement and those contained elsewhere herein, Issuer represents and warrants to and for the benefit of, and agrees with, Dealer as follows:

(i) On the Trade Date, (A) none of Issuer and its officers and directors is aware of any material nonpublic information regarding Issuer or the Shares and (B) all reports and other documents filed by Issuer with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), when considered as a whole (with the more recent such reports and documents deemed to amend inconsistent statements contained in any earlier such reports and documents), do not contain any untrue statement of a material fact or any omission of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading.

(ii) Without limiting the generality of Section 13.1 of the Equity Definitions, Issuer acknowledges that Dealer is not making any representations or warranties or taking any position or expressing any view with respect to the treatment of the Transaction under any accounting standards including ASC Topic 260, *Earnings Per Share*, ASC Topic 815, *Derivatives and Hedging*, or ASC Topic 480, *Distinguishing Liabilities from Equity* and ASC 815-40, *Derivatives and Hedging – Contracts in Entity's Own Equity* (or any successor issue statements) or under FASB's Liabilities & Equity Project.

(iii) Prior to the Trade Date, Issuer shall deliver to Dealer a resolution of Issuer's board of directors authorizing the Transaction and such other certificate or certificates as Dealer shall reasonably request.

(iv) Issuer is not entering into this Confirmation to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for Shares) or to otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for Shares) or otherwise in violation of the Exchange Act.

(v) Issuer is not, and after giving effect to the transactions contemplated hereby will not be, required to register as an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

(vi) On the Trade Date, (A) the assets of Issuer at their fair valuation exceed the liabilities of Issuer, including contingent liabilities, (B) the capital of Issuer is adequate to conduct the business of Issuer and (C) Issuer has the ability to pay its debts and obligations as such debts mature and does not intend to, or does not believe that it will, incur debt beyond its ability to pay as such debts mature.

(vii) Issuer shall not take any action to decrease the number of Available Shares below the Capped Number (each as defined below).

(viii) The representations and warranties of Issuer set forth in Section 3 of the Agreement and Section 1(a) of the Purchase Agreement (the "**Purchase Agreement**") dated as of the Trade Date between Issuer and [BofA Securities, Inc.] as representative of the Initial Purchasers party thereto are true and correct and are hereby deemed to be repeated to Dealer as if set forth herein.

(ix) Issuer understands no obligations of Dealer to it hereunder will be entitled to the benefit of deposit insurance and that such obligations will not be guaranteed by any Affiliate of Dealer or any governmental agency.

(x) On the Trade Date and during the period starting on the first Expiration Date and ending on the last Expiration Date (the "**Settlement Period**"), the Shares or securities that are convertible into, or exchangeable or exercisable for Shares, are not, and shall not be, subject to a "restricted period," as such term is defined in Regulation M under the Exchange Act ("**Regulation M**") unless (x) such Shares or securities are excepted from section 101(a) of Regulation M by sections 101(c)(1) or 101(c)(3) of Regulation M and section 102(a) of Regulation M by sections 102(d)(1) or 102(d)(3) of Regulation M or (y) such Shares or securities are

of the kind that may be excepted from the prohibitions of sections 101(a) and 102(a) of Regulation M by sections 101(b)(10) and 102(b)(7) of Regulation M and (B) Issuer shall not engage in any "distribution" (as such term is defined in Regulation M) other than a distribution meeting the requirements of the exceptions set forth in sections 101(b)(10) and 102(b)(7) of Regulation M, until the second Exchange Business Day immediately following the Trade Date or until the second Exchange Business Day immediately following the Settlement Period, as applicable.

(xi) During the Settlement Period, neither Issuer nor any "affiliate" or "affiliated purchaser" (each as defined in Rule 10b-18 under the Exchange Act ("**Rule 10b-18**")) shall directly or indirectly (including, without limitation, by means of any cash-settled or other derivative instrument) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any Shares (or an equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable or exercisable for Shares, except with the consent of Dealer, not to be unreasonably withheld, and except for purchases from its employees that are not "Rule 10b-18 purchases" as defined in Rule 10b-18(a)(13) under the Exchange Act.

(xii) On the Trade Date (A) a number of Shares equal to the Capped Number have been reserved for issuance by all required corporate action of Issuer, (B) the Shares issuable upon exercise of the Warrants (the "**Warrant Shares**") have been duly authorized and, when delivered against payment therefor (which may include Net Share Settlement in lieu of cash) and otherwise as contemplated by the terms of the Warrant following the exercise of the Warrant in accordance with the terms and conditions of the Warrant, will be validly issued, fully-paid and non-assessable, and the issuance of the Warrant Shares will not be subject to any preemptive or similar rights.

(xiii) No state or local law, rule, regulation or regulatory order in the State of Delaware or Californiaapplicable to the Shares would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares.

(b) Each of Dealer and Issuer agrees and represents that it is an "eligible contract participant" as defined in Section 1a(18) of the U.S. Commodity Exchange Act, as amended.

(c) Each of Dealer and Issuer acknowledges that the offer and sale of the Transaction to it is intended to be exempt from registration under the Securities Act of 1933, as amended (the "**Securities Act**"), by virtue of Section 4(a)(2) thereof. Accordingly, Dealer represents and warrants to Issuer that (i) it has the financial ability to bear the economic risk of its investment in the Transaction and is able to bear a total loss of its investment, (ii) it is an "accredited investor" as that term is defined in Regulation D as promulgated under the Securities Act, (iii) it is entering into the Transaction for its own account without a view to the distribution or resale thereof and (iv) the assignment, transfer or other disposition of the Transaction has not been and will not be registered under the Securities Act and is restricted under this Confirmation, the Securities Act and state securities laws.

(d) Each of Dealer and Issuer agrees and acknowledges that Dealer is a "financial institution," "swap participant" and "financial participant" within the meaning of Sections 101(22), 101(53C) and 101(22A) of the Bankruptcy Code. The parties hereto further agree and acknowledge that it is the intent of the parties (A) that this Confirmation is (i) a "securities contract," as such term is defined in Section 741(7) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a "termination value," "payment amount" or "other transfer obligation" within the meaning of Section 362 of the Bankruptcy Code and a "settlement payment," as such term is defined in Section 741(8) of the Bankruptcy Code, and (ii) a "swap agreement," as such term is defined in Section 101(53B) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a "termination value," "payment amount" or "other transfer obligation" within the meaning of Section 362 of the Bankruptcy Code and a "transfer," as such term is defined in Section 101(54) of the Bankruptcy Code, and (B) that Dealer is entitled to the protections afforded by, among other sections, Sections 362(b)(6), 362(b)(17), 362(o), 546(e), 546(g), 548(d)(2), 555 and 560 of the Bankruptcy Code.

(e) Issuer shall deliver to Dealer an opinion of counsel, dated as of the Effective Date and reasonably acceptable to Dealer in form and substance, with respect to due incorporation, existence and good standing of Issuer in Delaware, its qualifications as a foreign corporation and good standing in California, the due authorization, execution and delivery of this Confirmation, the enforceability of this Confirmation, the absence of conflict of the execution, delivery and performance of this Confirmation with any material agreement required to be filed as an exhibit to Issuer's

Annual Report on Form 10-K and Issuer's charter documents, and that the Warrant Shares have been duly authorized by all necessary corporate action on the part of Issuer and reserved for issuance and when issued and delivered in accordance with the terms of this Confirmation would, if issued on the date of such opinion, be validly issued, fully paid and nonassessable and free of preemptive rights under Issuer's certificate of incorporation and bylaws and Delaware law.

(f) Dealer represents and warrants to and for the benefit of Issuer that it will not require the Issuer to post any collateral pursuant the requirements set out in Regulation (EU) No 648/2012 with respect to this Transaction.

8. Other Provisions:

(a) *Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events*. If Issuer shall owe Dealer any amount pursuant to Sections 12.2, 12.3, 12.6, 12.7 or 12.9 of the Equity Definitions or pursuant to Section 6(d)(ii) of the Agreement (a "**Payment Obligation**"), Issuer shall have the right, in its sole discretion, to satisfy any such Payment Obligation by the Share Termination Alternative (as defined below) by giving irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, no later than 9:30 A.M. New York City time on the Merger Date, Tender Offer Date, Announcement Date, Early Termination Date or date of cancellation or termination in respect of an Extraordinary Event, as applicable ("**Notice of Share Termination**"); *provided* that if Issuer does not elect to satisfy its Payment Obligation by the Share Termination Alternative, Dealer shall have the right, in its sole discretion, to elect to require Issuer to satisfy its Payment Obligation by the Share Termination Alternative, notwithstanding Issuer's failure to elect or election to the contrary; and *provided further* that Issuer shall not have the right to so elect (but, for the avoidance of doubt, Dealer shall have the right to so elect) in the event (i) of an Insolvency, a Nationalization, a Tender Offer or a Merger Event, in each case, in which the consideration or proceeds to be paid to holders of Shares consists solely of cash, (ii) of an Event of Default in which Issuer is the Defaulting Party or a Termination Event in which Issuer is the Affected Party, which Event of Default or Termination Event resulted from an event or events within Issuer's control or (iii) that Issuer fails to remake the representation set forth in Section 7(a)(i) as of the date of such election. Upon such Notice of Share Termination, the following provisions shall apply on the Scheduled Trading Day immediately following the Merger Date, the Tender Offer Date, Announcement Date, Early Termination Date or date of cancellation or termination in respect of an Extraordinary Event, as applicable:

Share Termination Alternative:	If applicable, means that Issuer shall deliver to Dealer the Share Termination Delivery Property on the date on which the Payment Obligation would otherwise be due pursuant to Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) of the Agreement, as applicable or such later date or dates as the Calculation Agent may reasonably determine (such delivery to occur as soon as reasonably practicable under the circumstances) (the "**Share Termination Payment Date**"), in satisfaction of the Payment Obligation. For the avoidance of doubt, a delay in delivery of the Share Termination Delivery Property shall not result in a change in the composition of such Share Termination Delivery Property.
Share Termination Delivery Property:	A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of the aggregate amount of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.
Share Termination Unit Price:	The value of property contained in one Share Termination Delivery Unit on the date such Share Termination Delivery Units are to be delivered as Share Termination Delivery Property, as determined by the Calculation Agent in its reasonable discretion by commercially reasonable means and notified by the Calculation Agent to Issuer at the time of notification of the Payment Obligation.
Share Termination Delivery Unit:	In the case of a Termination Event, Event of Default, Delisting or Additional Disruption Event, one Share or, in the case of an Insolvency, Nationalization, Merger Event or Tender Offer, one Share or a unit consisting of the number or amount of each type of property received by a holder of one Share (without consideration of

	any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Insolvency, Nationalization, Merger Event or Tender Offer, as applicable. If such Insolvency, Nationalization, Merger Event or Tender Offer involves a choice of consideration to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.
Failure to Deliver:	Applicable
Other applicable provisions:	If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9 and 9.11 (except that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities laws arising as a result of the fact that Seller is the issuer of the Shares or any portion of the Share Termination Delivery Units) and 9.12 of the Equity Definitions will be applicable as if "Physical Settlement" applied to the Transaction, except that all references to "Shares" shall be read as references to "Share Termination Delivery Units".

(b) *Registration/Private Placement Procedures*. (i) If, in the reasonable judgment of Dealer, based on the advice of counsel, for any reason, any Shares or any securities of Issuer or its affiliates comprising any Share Termination Delivery Units deliverable to Dealer hereunder (any such Shares or securities, "**Delivered Securities**") would not be immediately freely transferable by Dealer under Rule 144 under the Securities Act, then the provisions set forth in this Section 8(b) shall apply. At the election of Issuer by notice to Dealer within one Exchange Business Day after the relevant delivery obligation arises, but in any event at least one Exchange Business Day prior to the date on which such delivery obligation is due, either (A) all Delivered Securities delivered by Issuer to Dealer shall be, at the time of such delivery, covered by an effective registration statement of Issuer for immediate resale by Dealer (such registration statement and the corresponding prospectus (the "**Prospectus**") (including, without limitation, any sections describing the plan of distribution) in form and content commercially reasonably satisfactory to Dealer) or (B) Issuer shall deliver additional Delivered Securities so that the value of such Delivered Securities, as reasonably determined by the Calculation Agent to reflect an appropriate liquidity discount, equals the value of the number of Delivered Securities that would otherwise be deliverable if such Delivered Securities were freely tradeable (without prospectus delivery) upon receipt by Dealer (such value, the "**Freely Tradeable Value**"); *provided* that Issuer may not make the election described in this clause (B) if, on the date of its election, it has taken, or caused to be taken, any action that would make unavailable either the exemption pursuant to Section 4(a)(2) of the Securities Act for the delivery by Issuer to Dealer (or any affiliate designated by Dealer) of the Delivered Securities or the exemption pursuant to Section 4(a)(1) or Section 4(a)(3) of the Securities Act for resales of the Delivered Securities by Dealer (or any such affiliate of Dealer). (For the avoidance of doubt, as used in this paragraph (b) only, the term "Issuer" shall mean the issuer of the relevant securities, as the context shall require.)

(ii) If Issuer makes the election described in clause (b)(i)(A) above (and clause (b)(iii) below does not apply):

(A) Dealer (or an Affiliate of Dealer designated by Dealer) shall be afforded a reasonable opportunity to conduct a due diligence investigation with respect to Issuer that is customary in scope for underwritten follow-on offerings of equity securities of companies of comparable size, maturity and lines of business and that yields results that are satisfactory to Dealer or such Affiliate, as the case may be, in its reasonable discretion subject to execution by such recipients of customary confidentiality agreements reasonably acceptable to Issuer; and

(B) Dealer (or an Affiliate of Dealer designated by Dealer) and Issuer shall enter into an agreement (a '**Registration Agreement**") on commercially reasonable terms in connection with the public resale of such Delivered Securities by Dealer or such Affiliate substantially similar to underwriting agreements customary for underwritten follow-on offerings of equity securities of companies of comparable size, maturity and lines of business, in form and substance commercially reasonably satisfactory to Dealer or such Affiliate and Issuer, which Registration Agreement shall include, without limitation, provisions substantially similar to those contained in such underwriting agreements of companies of comparable size, maturity and lines of business relating to the indemnification of, and contribution in connection with the liability of, Dealer and its Affiliates

and Issuer, shall provide for the payment by Issuer of all reasonable expenses in connection with such resale, including all registration costs and all reasonable fees and expenses of counsel for Dealer, and in connection with an underwritten offering of Delivered Securities shall use its commercially reasonable efforts to provide for the delivery of accountants' "comfort letters" to Dealer or such Affiliate in customary form and substance of companies of comparable size, maturity and lines of business with respect to the financial statements and certain financial information contained in or incorporated by reference into the Prospectus.

(iii) If Issuer makes the election described in clause (b)(i)(B) above or if Issuer makes the election described in clause (b)(i)(A) but fails to comply with (ii) above or if applicable legal, regulatory or self-regulatory requirements, or related policies and procedures applicable to Dealer similarly applicable to warrant transactions and consistently applied (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer) would preclude or impose liability for the public resale of the Delivered Securities pursuant to the Prospectus:

Dealer (or an Affiliate of Dealer designated by Dealer) and any potential institutional purchaser of any such Delivered Securities from Dealer or such Affiliate identified by Dealer shall be afforded a commercially reasonable opportunity to conduct a due diligence investigation in compliance with applicable law with respect to Issuer customary in scope for private placements of equity securities of companies of comparable size, maturity and lines of business (including, without limitation, the right to have made available to them for inspection all financial and other records, pertinent corporate documents and other information reasonably requested by them subject to execution by such recipients of customary confidentiality agreements reasonably acceptable to Issuer);

Dealer (or an Affiliate of Dealer designated by Dealer) and Issuer shall enter into an agreement (a '**Private Placement Agreement**") on commercially reasonable terms in connection with the private placement of such Delivered Securities by Issuer to Dealer or such Affiliate and the private resale of such Delivered Securities by Dealer or such Affiliate, substantially similar to private placement purchase agreements customary for private placements of equity securities of similar size, in form and substance commercially reasonably satisfactory to Dealer and Issuer, which Private Placement Agreement shall include, without limitation, provisions substantially similar to those contained in such private placement purchase agreements relating to the indemnification of, and contribution in connection with the liability of, Dealer and its Affiliates and Issuer, shall provide for the payment by Issuer of all reasonable expenses in connection with such resale, including all reasonable fees and expenses of counsel for Dealer (which such expenses, at the election of the Issuer, may be paid in Shares by including the amount of such expenses as an additional component of Required Proceeds), shall contain representations, warranties and agreements of Issuer reasonably necessary or advisable to establish and maintain the availability of an exemption from the registration requirements of the Securities Act for such resales, and shall use commercially reasonable efforts to provide for the delivery of accountants' "comfort letters" to Dealer or such Affiliate with respect to the financial statements and certain financial information contained in or incorporated by reference into the offering memorandum prepared for the resale of such Delivered Securities as are customarily requested in comfort letters covering private placements of equity securities of companies of comparable size, maturity and lines of business;

Issuer agrees that under applicable law as it currently exists any Delivered Securities so delivered to Dealer, (i) may be transferred by and among Dealer and its Affiliates, and Issuer shall effect such transfer without any further action by Dealer and (ii) after the minimum "holding period" within the meaning of Rule 144(d) under the Securities Act has elapsed with respect to such Delivered Securities, Issuer shall promptly remove, or cause the transfer agent for such Shares or securities to remove, any legends referring to any such restrictions or requirements from such Delivered Securities upon delivery by Dealer (or such Affiliate of Dealer) to Issuer or such transfer agent of seller's and broker's representation letters customarily delivered by Dealer in connection with resales of restricted securities pursuant to Rule 144 under the Securities Act, without any further requirement for the delivery of any certificate, consent, agreement, opinion of counsel, notice or any other document, any transfer tax stamps or payment of any other amount or any other action by Dealer (or such affiliate of Dealer); and

Issuer shall not take, or cause to be taken, any action that would make unavailable either the exemption pursuant to Section 4(a)(2) of the Securities Act for the sale by Issuer to Dealer (or any affiliate designated by Dealer) of the Shares or Share Termination Delivery Units, as the case may be, or the exemption pursuant to Section 4(a)(1) or Section 4(a)(3) of the Securities Act for resales of the Shares or Share Termination Delivery Units, as the case may be, by Dealer (or any such affiliate of Dealer).

(iii) Dealer or its affiliate may sell such Shares or Share Termination Delivery Units, as the case may be, during a period (the "**Resale Period**") commencing on the Exchange Business Day following delivery of such Shares or Share Termination Delivery Units, as the case may be, and ending on the Exchange Business Day on which Dealer completes the sale of all such Shares or Share Termination Delivery Units, as the case may be, or a sufficient number of Shares or Share Termination Delivery Units, as the case may be, so that the realized net proceeds of such sales exceed the Freely Tradeable Value (such amount of the Freely Tradeable Value, the "**Required Proceeds**"). If any of such delivered Shares or Share Termination Delivery Units remain after such realized net proceeds exceed the Required Proceeds, Dealer shall return such remaining Shares or Share Termination Delivery Units to Issuer. If the Required Proceeds exceed the realized net proceeds from such resale, Issuer shall transfer to Dealer by the open of the regular trading session on the Exchange on the Exchange Trading Day immediately following the last day of the Resale Period the amount of such excess (the "**Additional Amount**") in cash or in a number of additional Shares or Share Termination Delivery Units, as the case may be, ("**Make-whole Shares**") in an amount that, based on the Relevant Price on the last day of the Resale Period (as if such day was the "Valuation Date" for purposes of computing such Relevant Price), has a dollar value equal to the Additional Amount. The Resale Period shall continue to enable the sale of the Make-whole Shares in the manner contemplated by this Section 8(b)(iii). This provision shall be applied successively until the Additional Amount is equal to zero, subject to Section 8(d).

(c) *Beneficial Ownership*. Notwithstanding anything to the contrary in the Agreement or this Confirmation, in no event shall Dealer be entitled to receive, or shall be deemed to receive, any Shares in connection with this Transaction if, immediately upon giving effect to such receipt of such Shares, (i) the Warrant Equity Percentage exceeds 14.5%, (ii) Dealer's Beneficial Ownership would be equal to or greater than 9.0% of the outstanding Shares, (iii) Dealer or any "affiliate" or "associate" of Dealer would own in excess of 13% of the outstanding Shares for purposes of Section 203 of the Delaware General Corporation Law or (iv) Dealer, Dealer Group (as defined below) or any person whose ownership position would be aggregated with that of Dealer or Dealer Group (Dealer, Dealer Group or any such person, a "**Dealer Person**") under any federal, state or local laws, regulations, regulatory orders or organizational documents or contracts of Issuer that are, in each case, applicable to ownership of Shares ("**Applicable Laws**"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership in excess of a number of Shares equal to (x) the number of Shares that would give rise to reporting or registration obligations or other requirements (including obtaining prior approval by a state or federal regulator) of a Dealer Person, or could result in an adverse effect on a Dealer Person, under Applicable Laws, as determined by Dealer in its reasonable discretion, and with respect to which such requirements have not been met or the relevant approval has not been received or that would give rise to any consequences under the constitutive documents of Issuer or any contract or agreement to which Issuer is a party, in each case *minus* (y) 1% of the number of Shares outstanding on the date of determination (each of clause (i), (ii) and (iii) above, an "**Ownership Limitation**"). If any delivery owed to Dealer hereunder is not made, in whole or in part, as a result of an Ownership Limitation, Dealer's right to receive such delivery shall not be extinguished and Issuer shall make such delivery as promptly as practicable after, but in no event later than one Exchange Business Day after, Dealer gives notice to Issuer that such delivery would not result in any of such Ownership Limitations being breached. "**Dealer's Beneficial Ownership**" means the "beneficial ownership" (within the meaning of Section 13 of the Exchange Act and the rules promulgated thereunder (collectively, "**Section 13**")) of Shares, without duplication, by Dealer, together with any of its affiliates or other person subject to aggregation with Dealer under Section 13 for purposes of "beneficial ownership", or by any "group" (within the meaning of Section 13) of which Dealer is or may be deemed to be a part (Dealer and any such affiliates, persons and groups, collectively, "**Dealer Group**") (or, to the extent that, as a result of a change in law, regulation or interpretation after the date hereof, the equivalent calculation under Section 16 of the Exchange Act and the rules and regulations thereunder results in a higher number, such number). Notwithstanding anything in the Agreement or this Confirmation to the contrary, Dealer (or the affiliate designated by Dealer pursuant to Section 8(k) below) shall not become the record or beneficial owner, or otherwise have any rights as a holder, of any Shares that Dealer (or such affiliate) is not entitled to receive at any time pursuant to this Section 8(c), until such time as such Shares are delivered pursuant to this Section 8(c). The "**Warrant Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the sum of (1) the product of the Number of Warrants and the Warrant Entitlement and (2) the aggregate number of Shares underlying any other warrants purchased by Dealer from Issuer, and (B) the denominator of which is the number of Shares outstanding.

(d) *Limitations on Settlement by Issuer.* Notwithstanding anything herein or in the Agreement to the contrary, in no event shall Issuer be required to deliver Shares in connection with the Transaction in excess of the Capped Number of Shares (as provided in Annex A to this Confirmation), subject to adjustment from time to time in accordance with the provisions of this Confirmation or the Definitions; *provided* that no such adjustment shall cause the Capped Number to exceed the Available Shares, other than an adjustment resulting from actions of Issuer or events within Issuer's control (the "**Capped Number**"). Issuer represents and warrants to Dealer (which representation and warranty shall be deemed to be repeated on each day that the Transaction is outstanding) that the Capped Number is equal to or

less than the number of authorized but unissued Shares of the Issuer that are not reserved for future issuance in connection with transactions in the Shares (other than the Transaction) on the date of the determination of the Capped Number (such Shares, the "**Available Shares**"). In the event Issuer shall not have delivered the full number of Shares otherwise deliverable as a result of this Section 8(d) (the resulting deficit, the "**Deficit Shares**"), Issuer shall be continually obligated to deliver, from time to time until the full number of Deficit Shares have been delivered pursuant to this paragraph, Shares when, and to the extent, that (i) Shares are repurchased, acquired or otherwise received by Issuer or any of its subsidiaries after the Trade Date (whether or not in exchange for cash, fair value or any other consideration), (ii) authorized and unissued Shares previously reserved for issuance in respect of other transactions which prior to the relevant date become no longer so reserved or (iii) Issuer additionally authorizes any unissued Shares that are not reserved for other transactions. Issuer shall immediately notify Dealer of the occurrence of any of the foregoing events (including the number of Shares subject to clause (i), (ii) or (iii) and the corresponding number of Shares to be delivered) and promptly deliver such Shares thereafter.

(e) *Right to Extend.* Dealer may postpone any Exercise Date or Settlement Date or any other date of valuation or delivery by Dealer, with respect to some or all of the relevant Warrants (in which event the Calculation Agent shall make appropriate adjustments to the Delivery Obligation), if Dealer determines, in its reasonable discretion, that such extension is reasonably necessary or appropriate to (i) preserve Dealer's hedging or hedge unwind activity hereunder in light of existing liquidity conditions in the cash market, the stock loan market or any other market in which Dealer, in the exercise of its commercially reasonable discretion, deems it advisable to hedge its exposure to the Transaction or (ii) to enable Dealer to effect purchases of Shares in connection with its hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Issuer or an affiliated purchaser of Issuer, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures applicable to Dealer similarly applicable to warrant transactions and consistently applied (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer); *provided* that any such extension pursuant to clause (i) shall not exceed 45 Exchange Business Days.

(f) *Equity Rights*. Dealer acknowledges and agrees that this Confirmation is not intended to convey to it rights with respect to the Transaction that are senior to the claims of common stockholders in the event of Issuer's bankruptcy. For the avoidance of doubt, the parties agree that the preceding sentence shall not apply at any time other than during Issuer's bankruptcy to any claim arising as a result of a breach by Issuer of any of its obligations under this Confirmation or the Agreement. For the avoidance of doubt, the parties acknowledge that none of the obligations of Issuer or Dealer under this Confirmation are secured by any collateral that would otherwise secure the obligations of Issuer herein under or pursuant to any other agreement.

(g) *Amendments to Equity Definitions.* The following amendments shall be made to the Equity Definitions:

(i) With respect to any Potential Adjustment Event, Section 11.2(a) of the Equity Definitions is hereby amended by deleting the words "a diluting or concentrative" and replacing them with the words "an"; and adding the phrase "or Warrants" at the end of the sentence.

(ii) The first sentence of Section 11.2(c) of the Equity Definitions, prior to clause (A) thereof, is hereby amended to read as follows: '(c) If "Calculation Agent Adjustment" is specified as the Method of Adjustment in the related Confirmation of a Share Option Transaction, then following the announcement or occurrence of any Potential Adjustment Event, the Calculation Agent will determine whether such Potential Adjustment Event has an effect on the theoretical value of the relevant Shares or options on the Shares and, if so, will (i) make appropriate adjustment(s), if any, to any one or more of:' and, the portion of such sentence immediately preceding clause (ii) thereof is hereby amended by deleting the words "diluting or concentrative" and the words "(provided that no adjustments will be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares)" and replacing such latter phrase with the words "(and, for the avoidance of doubt, adjustments may be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares)";

(iii) Section 12.9(b)(iv) of the Equity Definitions is hereby amended by (A) deleting (1) subsection (A) in its entirety, (2) the phrase "or (B)" following subsection (A) and (3) the phrase "in each case" in subsection (B); and (B) deleting the phrase "neither the Non-Hedging Party nor the Lending Party lends Shares in the amount of the Hedging Shares or" in the penultimate sentence; and

(iv) Section 12.9(b)(v) of the Equity Definitions is hereby amended by (A) adding the word "or" immediately before subsection "(B)" and deleting the comma at the end of subsection (A); and (B)(1) deleting subsection (C) in its entirety, (2) deleting the word "or" immediately preceding subsection (C) and (3) replacing in the penultimate sentence the words "either party" with "the Hedging Party" and (4) deleting clause (X) in the final sentence.

(h) *Transfer and Assignment*. Dealer may transfer or assign its rights and obligations hereunder and under the Agreement, in whole or in part, at any time to any person or entity which is a recognized dealer in the market for corporate equity derivatives without the consent of Issuer, *provided* that (i) the transferee shall be a "United States person" as determined for U.S. federal income tax purposes**,** (ii) no material adverse legal or regulatory consequence shall result to Dealer, Issuer or the transferee as a result of such transfer, (iii) Dealer shall have caused the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Issuer to permit Issuer to determine that such transfer or assignment complies with clause (i) of this sentence and (iv) either (x) the transferee is not a 'financial counterparty' (as defined in Regulation (EU) No 648/2012 as amended from time to time) subject to the requirements set out in Regulation (EU) No 648/2012 or any equivalent regulation requiring the transferee and Issuer to exchange collateral with respect to this Transaction or (y) the transferee represents and warrants to and for the benefit of Issuer that it will not require the Issuer to post any collateral pursuant the requirements set out in Regulation (EU) No 648/2012 with respect to this Transaction. At any time at which any Ownership Limitation or a Hedging Disruption exists, if Dealer, in its discretion, is unable to effect a transfer or assignment to a third party which is a recognized dealer in the market for corporate equity derivatives after using its commercially reasonable efforts on pricing terms and within a time period reasonably acceptable to Dealer such that an Ownership Limitation or a Hedging Disruption, as the case may be, no longer exists, Dealer may designate any Scheduled Trading Day as an Early Termination Date with respect to a portion (the "**Terminated Portion**") of the Transaction, such that such Ownership Limitation or Hedging Disruption, as the case may be, no longer exists. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment or delivery shall be made pursuant to Section 6 of the Agreement and Section 8(a) of this Confirmation as if (i) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Terminated Portion of the Transaction, (ii) Issuer shall be the sole Affected Party with respect to such partial termination and (iii) such portion of the Transaction shall be the only Terminated Transaction. For the avoidance of doubt, the right of the Issuer to transfer or assign its rights shall be as set forth in the Agreement and does not alter or limit any provision set forth under Extraordinary Events hereunder.

(i) *Adjustments*. For the avoidance of doubt, whenever the Calculation Agent is called upon to make an adjustment pursuant to the terms of this Confirmation or the Definitions to take into account the effect of an event, the Calculation Agent shall make such adjustment by reference to the effect of such event on the Hedging Party, assuming that the Hedging Party maintains a commercially reasonable hedge position.

(j) *Disclosure*. Effective from the date of commencement of discussions concerning the Transaction, Issuer and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Issuer relating to such tax treatment and tax structure.

(k) *Designation by Dealer*. Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities to or from Issuer, Dealer may designate any of its affiliates to purchase, sell, receive or deliver such shares or other securities and otherwise to perform Dealer obligations in respect of the Transaction and any such designee may assume such obligations. Dealer shall be discharged of its obligations to Issuer to the extent, and only to the extent, of any performance by Dealer's designee.

(l) Additional Termination Events. Upon the occurrence of any of the following events with respect to the Transaction, Dealer shall have the right to designate such event an Additional Termination Event with respect to which the Transaction shall be the sole Affected Transaction and Issuer shall be the sole Affected Party; *provided* that with respect to any Additional Termination Event, Dealer may choose to treat part of the Transaction as the sole Affected Transaction, and, upon the termination of the Affected Transaction, a Transaction with terms identical to those set forth herein except with a Number of Warrants equal to the unaffected number of Warrants shall be treated for all purposes as the Transaction, which shall remain in full force and effect:

(i) Dealer reasonably determines that it is advisable to terminate a portion of the Transaction so that Dealer's related hedging activities will comply with applicable securities laws, rules or regulations or related policies and procedures of Dealer similarly applicable to warrant transactions and consistently applied (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer);

(ii) any person, including any syndicate or group deemed to be a "person" or "group" within the meaning of Section 13(d) of the Exchange Act, other than the Issuer, any of the Issuer's subsidiaries and any of the Issuer's employee benefits plans of the Issuer and of its Subsidiaries, has filed a Schedule TO or any schedule, form or report under the Exchange Act disclosing that such person has become, and such person has become, directly or indirectly, through a purchase, merger, or other acquisition transaction or series of transactions, the "beneficial owner," as defined in Rule 13d-3 under the Exchange Act, of shares of the Company's common equity representing more than 50% of the total voting power of all shares of the Company's common equity entitled to vote generally in elections of directors; and

(iii) consummation of any consolidation or merger of the Issuer pursuant to which the Shares of the Issuer is or will be converted into cash, securities or other property or any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Issuer and the Issuer's subsidiaries, taken as a whole, to any person other than one or more of the Issuer's subsidiaries ; provided, however, that if in any such transaction the holders of more than 50% of the shares of the Issuer's common equity, representing more than 50% of the voting power of the common equity, immediately prior to such transaction, own, directly or indirectly, more than 50% of all classes of common equity, representing more than 50% of the total voting power of the continuing or surviving person or transferee or the parent thereof immediately after such transaction, such transaction shall not constitute an Additional Termination Event under this clause (iii).

Notwithstanding the foregoing, a transaction or a series of transactions as set forth in clause (ii) or (iii) above shall not constitute an Additional Termination Event if, at least 90% of the consideration received or to be received by holders of the Shares (excluding cash payments for fractional shares and cash payments made pursuant to dissenters' appraisal rights) in connection with such transaction or transactions that could otherwise constituting an Additional Termination Event under clause (ii) or (iii) above consists of shares of common stock or depositary receipts evidencing interests in ordinary shares or common equity traded on a National Securities Exchange and as a result of such transaction or transactions, the Shares will be consist of (or have been converted in the transaction to) such shares of common stock or depositary receipts, excluding cash payments for fractional shares or pursuant to dissenter's appraisal rights. "**National Securities Exchange**" means a securities exchange registered as a national securities exchange under Section 6(a) of the Exchange Act (or any successor thereto).

(m) *No Netting and Set-off*. Each party waives any and all rights it may have to set-off delivery or payment obligations it owes to the other party under the Transaction against any delivery or payment obligations owed to it by the other party, whether arising under the Agreement, under any other agreement between parties hereto, by operation of law or otherwise**.** The provisions of Section 2(c) of the Agreement shall not apply to the Transaction**.**

(n) *Early Unwind*. In the event the sale by Issuer of the Base Convertible Securities is not consummated with the initial purchasers pursuant to the Purchase Agreement for any reason by the close of business in New York on September [ ], 2019 (or such later date as agreed upon by the parties, which in no event shall be later than October [ ], 2019 (September [ ], 2019 or such later date being the "**Early Unwind Date**"), the Transaction shall automatically terminate (the "**Early Unwind**"), on the Early Unwind Date and the Transaction and all of the respective rights and obligations of Dealer and Issuer thereunder shall be cancelled and terminated; provided that, for the avoidance of doubt, Issuer shall repay to Dealer any Premium paid by Dealer to Issuer in connection with the Transaction. Following such termination cancellation and payment, each party shall be released and discharged by the other party (to the extent permitted by applicable law) from and agrees not to make any claim against the other party with respect to any obligations or liabilities of either party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date. Dealer and Issuer represent and acknowledge to the other that upon an Early Unwind and following the payment referred to above, all obligations with respect to the Transaction shall be deemed fully and finally discharged.

(o) *Effectiveness*. If, prior to the Effective Date, Dealer reasonably determines that it is advisable to cancel the Transaction because of concerns that Dealer's related hedging activities could be viewed as not complying with applicable securities laws, rules or regulations, the Transaction shall be cancelled and shall not become effective, and neither party shall have any obligation to the other party in respect of the Transaction.

(p) *Delivery of Cash*. For the avoidance of doubt, nothing in this Confirmation shall be interpreted as requiring Issuer to deliver cash in respect of the settlement of the Transaction, except in circumstances where the required cash settlement thereof is permitted for classification of the contract as equity by the US GAAP as in effect on the relevant Trade Date (including, without limitation, where Issuer so elects to deliver cash or fails timely to elect to deliver Shares or Share Termination Delivery Property in respect of such settlement).

(q) *Payments by Dealer upon Early Termination.* The parties hereby agree that, notwithstanding anything to the contrary herein, in the Definitions or in the Agreement, following the payment of the Premium, in the event that an Early Termination Date (whether as a result of an Event of Default or a Termination Event) occurs or is designated with respect to the Transaction or the Transaction is terminated or cancelled pursuant to Article 12 of the Equity Definitions and, as a result, Dealer would owe to Issuer an amount calculated under Section 6(e) of the Agreement or Article 12 of the Equity Definitions, such amount shall be deemed to be zero.

(r) *Wall Street Transparency and Accountability Act of 2010.* The parties hereby agree that none of (v) Section 739 of the Wall Street Transparency and Accountability Act of 2010 ("**WSTAA**"), (w) any similar legal certainty provision in any legislation enacted, or rule or regulation promulgated, on or after the Trade Date, (x) the enactment of WSTAA or any regulation under the WSTAA, (y) any requirement under WSTAA nor (z) an amendment made by WSTAA, shall limit or otherwise impair either party's rights to terminate, renegotiate, modify, amend or supplement this Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Confirmation, the Equity Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from Change in Law, Increased Cost of Hedging, Loss of Stock Borrow, Increased Cost of Stock Borrow, an Excess Ownership Position or Illegality (as defined in the Agreement)).

(s) *Tax Matters*

(i) *Withholding Tax imposed on payments tonon-US counterparties under the United States Foreign Account Tax Compliance Act* "Tax" and "Indemnifiable Tax", each as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**"), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code (a "**FATCA Withholding Tax**"). For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.

(ii) *HIRE Act*. "Tax" and "Indemnifiable Tax", each as defined in Section 14 of the Agreement, shall not include any tax imposed on payments treated as dividends from sources within the United States under Section 871(m) of the Code or any regulations issued thereunder.

(iii) *Tax documentation.* Each party shall provide to the other party a valid U.S. Internal Revenue Service FormW-9 (or, in the case of Dealer, Form W-8IMY for Dealer together with Form W-9 for [agent]), or any successor thereto, (i) on or before the date of execution of this Confirmation and (ii) promptly upon learning that any such tax form previously provided by Issuer has become obsolete or incorrect. Additionally, each party shall, promptly upon request by the other party, provide such other tax forms and documents reasonably requested by the other party.

(iv) *Tax Representations.* Issuer is a corporation for U.S. federal income tax purposes and is organized under the laws of the State of Delaware. Issuer is a "U.S. person" (as that term is used in section 1.1441-4(a)(3)(ii) of United States Treasury Regulations) for U.S. federal income tax purposes and an exempt recipient under Treasury Regulation Section 1.6049-4(c)(1)(ii). For US federal income tax purposes, Dealer is acting as nominee on behalf of [agent], a person that is a "US United States person" as that term is defined under Section 7701(a)(30) of the US Internal Revenue Code and an [ ] as that term is defined in section 1.6049-4(c)(1)(ii) of the U.S. Treasury Regulations.

(t) *Waiver of Trial by Jury.* **EACH OF ISSUER AND DEALER HEREBY IRREVOCABLY WAIVES (ON ITS OWN BEHALF AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ON BEHALF OF ITS STOCKHOLDERS) ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THE TRANSACTION OR THE ACTIONS OF DEALER OR ITS AFFILIATES IN THE NEGOTIATION, PERFORMANCE OR ENFORCEMENT HEREOF.**

(u) *Governing Law*. **THIS CONFIRMATION AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS CONFIRMATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK. THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND THE UNITED STATES COURT FOR THE SOUTHERN DISTRICT OF NEW YORK IN CONNECTION WITH ALL MATTERS RELATING HERETO AND WAIVE ANY OBJECTION TO THE LAYING OF VENUE IN, AND ANY CLAIM OF INCONVENIENT FORUM WITH RESPECT TO, THESE COURTS.**

(v) *Amendment.* This Confirmation and the Agreement may not be modified, amended or supplemented, except in a written instrument signed by Issuer and Dealer.

(w) *Counterparts.* This Confirmation may be executed in several counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

(x) *Issuer Representation Regarding Certain Regulatory Matters.* Issuer (A) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities; (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing; and (C) has total assets of at least $50 million.

[*Signature Page Follows*]

Issuer hereby agrees (a) to check this Confirmation carefully and immediately upon receipt so that errors or discrepancies can be promptly identified and rectified and (b) to confirm that the foregoing (in the exact form provided by Dealer) correctly sets forth the terms of the agreement between Dealer and Issuer with respect to the Transaction, by manually signing this Confirmation or this page hereof as evidence of agreement to such terms and providing the other information requested herein and immediately returning an executed copy to us.

Yours faithfully,

[DEALER]

By: _____
Name:
Title:

By: _____
Name:
Title:

[AGENT], as Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

Agreed and Accepted By:

RH

By: _____
Name:
Title:

Annex A

For each Component of the Transaction, the Number of Warrants and Expiration Date is set forth below.

Component	Number of Warrants	Expiration Date

Component	Number of Warrants	Expiration Date

Strike Price:	USD $[.]
Premium:	USD [ ]
Maximum Stock Loan Rate:	[ ]%
Initial Stock Loan Rate:	[ ]
Capped Number of Shares:	[ ]

Exhibit 10.3

September 13, 2019

To: RH
15 Koch Road, Suite J
Corte Madera, California, CA 94925
Attention: Office of Legal Counsel
Attention: Chief Financial Officer
Facsimile No.: 415-927-7264

From: [Dealer]
[Notice details]

[Agent]
[Notice details]

Re: Additional Convertible Bond Hedge Transaction

Ladies and Gentlemen:

The purpose of this communication (this "**Confirmation**") is to set forth the terms and conditions of the above-referenced transaction entered into on the Trade Date specified below (the "**Transaction**") between [dealer] ("**Dealer**") through its agent [agent] (the "**Agent**") and RH ("**Counterparty**"). This communication constitutes a "Confirmation" as referred to in the ISDA Master Agreement specified below.

1. This Confirmation is subject to, and incorporates, the definitions and provisions of the 2006 ISDA Definitions (including the Annex thereto) (the "**2006 Definitions**") and the definitions and provisions of the 2002 ISDA Equity Derivatives Definitions (the "**Equity Definitions**", and together with the 2006 Definitions, the "**Definitions**"), in each case as published by the International Swaps and Derivatives Association, Inc. ("**ISDA**"). In the event of any inconsistency between the 2006 Definitions and the Equity Definitions, the Equity Definitions will govern. Certain defined terms used herein have the meanings assigned to them in the Indenture to be dated as of September [ ], 2019 between Counterparty and U.S. Bank National Association as trustee (the "**Indenture**") relating to the USD [, ,] principal amount of [0.00%] convertible securities due 2024 to be issued on September 17, 2019 (the "**Base Convertible Securities**") together with any [0.00%] convertible securities due 2024 issued pursuant to the Initial Purchasers' option under the Purchase Agreement (as defined below) (the "**Optional Convertible Securities**") and any additional [0.00%] convertible securities due 2024 subsequently issued pursuant to Section 2.14 of the Indenture (the "**Additional Convertible Securities**" and, together with the Base Convertible Securities and the Optional Convertible Securities, the "**Convertible Securities**"). In the event of any inconsistency between the terms defined in the Indenture and this Confirmation, this Confirmation shall govern. For the avoidance of doubt, references herein to sections of the Indenture are based on the draft of the Indenture most recently reviewed by the parties at the time of execution of this Confirmation. If any relevant sections of the Indenture are changed, added or renumbered following execution of this Confirmation but prior to the execution of the Indenture, the parties will amend this Confirmation in good faith to preserve the economic intent of the parties based on the draft of the Indenture so reviewed. The parties further acknowledge that references to the Indenture herein are references to the Indenture as in effect on the date of its execution and if the Indenture is, or the Convertible Securities are, amended, supplemented or modified following their execution, any such amendment, supplement or modification will be disregarded for purposes of this Confirmation (other than as provided in Section 8(a) below) unless the parties agree otherwise in writing.

This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall be subject to an agreement (the "**Agreement**") in the form of the 2002 ISDA Master Agreement as if Dealer and Counterparty had executed an agreement in such form but without any Schedule except for (i) the election of US Dollars ("USD") as the Termination Currency and (ii) the election that the "Cross Default" provisions of Section 5(a)(vi) of the Agreement shall apply to Counterparty and to Dealer (a) with a "Threshold Amount" of USD 20,000,000 applicable to Counterparty and 3% of the Dealer's

stockholders' equity applicable to Dealer, (b) the phrase "or becoming capable at such time of being declared" shall be deleted from clause (1) of such Section 5(a)(vi), (c) the following language shall be added to the end thereof: "Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (x) the default was caused solely by error or omission of an administrative or operational nature; (y) funds were available to enable the party to make the payment when due; and (z) the payment is made within two Local Business Days of such party's receipt of written notice of its failure to pay" and (d) "Specified Indebtedness" shall have the meaning specified in Section 14 of the Agreement, except that such term shall not include obligations in respect of deposits received in the ordinary course of Dealer's banking business. For the avoidance of doubt, the Transaction shall be the only transaction under the Agreement. If there exists any ISDA Master Agreement between Dealer and Counterparty or any confirmation or other agreement between Dealer and Counterparty pursuant to which an ISDA Master Agreement is deemed to exist between Dealer and Counterparty, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer and Counterparty are parties, the Transaction shall not be considered a Transaction under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

All provisions contained in, or incorporated by reference to, the Agreement will govern this Confirmation except as expressly modified herein. In the event of any inconsistency between this Confirmation and either the Definitions or the Agreement, this Confirmation shall govern.

2. The Transaction constitutes a Share Option Transaction for purposes of the Equity Definitions. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms:

Trade Date:	September [ ], 2019
Effective Date:	The closing date of the initial issuance of the Convertible Securities.
Option Type:	Call
Seller:	Dealer
Buyer:	Counterparty
Shares:	The common stock of Counterparty, par value USD 0.0001 per share (Ticker Symbol: "RH").
Number of Options:	[ ] (each, an "Option"). For the avoidance of doubt, the Number of Options outstanding shall be reduced by each exercise of Options hereunder and as contemplated in the Additional Termination Event set out in Section 8(a)(iii) below.
Number of Shares:	As of any date, the product of (i) the Number of Options and (ii) the Conversion Rate.
Conversion Rate:	As of any date, the "Conversion Rate" (as defined in the Indenture) as of such date, but without regard to any adjustments to the "Conversion Rate" pursuant to Section 10.05(l) or 10.07 of the Indenture.
Premium:	As provided in Annex A to this Confirmation.
Premium Payment Date:	The Effective Date
Exchange:	The New York Stock Exchange
Related Exchange:	All Exchanges

Procedures for Exercise:

Exercise Dates:	Each Conversion Date.

Conversion Date:	Each "Conversion Date", as defined in the Indenture, occurring during the period from and excluding the Effective Date to and including the Expiration Date, for Convertible Securities, each in denominations of USD1,000 principal amount, that are submitted for conversion on such Conversion Date in accordance with the terms of the Indenture but are not "Relevant Convertible Securities" under, and as defined in, the confirmation between the parties hereto regarding the Base Convertible Bond Hedge Transaction dated September 12, 2019 (the "**Base Convertible Bond Hedge Transaction Confirmation**") (such Convertible Securities, each in denominations of USD1,000 principal amount, the "**Relevant Convertible Securities**" for such Conversion Date). For the purposes of determining whether any Convertible Securities will be Relevant Convertible Securities hereunder or under the Base Convertible Bond Hedge Transaction Confirmation, Convertible Securities that are converted pursuant to the Indenture shall be allocated first to the Base Convertible Bond Hedge Transaction Confirmation until all Options thereunder are exercised or terminated.
Number of Relevant Options:	With respect to any conversion of a Convertible Security, (x) the Number of Options, multiplied by (y) the principal amount of Relevant Convertible Securities, divided by (z) the principal amount of Convertible Securities outstanding prior to giving effect to such conversion.
Applicable Percentage:	With respect to any conversion of a Convertible Security, (x) the product of (i) the Number of Relevant Options and (ii) $1,000, divided by (y) the principal amount of Relevant Convertible Securities.
Required Exercise on Conversion Dates:	On each Conversion Date, a number of Options equal to the Number of Relevant Options shall be automatically exercised.
Expiration Date:	The second "Scheduled Trading Day" immediately preceding the "Maturity Date" (each as defined in the Indenture).
Automatic Exercise:	As provided above under "Required Exercise on Conversion Dates".
Exercise Notice Deadline:	In respect of any exercise of Options hereunder on any Conversion Date, the Exchange Business Day prior to the first "Scheduled Trading Day" of the "Cash Settlement Averaging Period" (each as defined in the Indenture) relating to the Convertible Securities converted on the Conversion Date occurring on the relevant Exercise Date; *provided* that in the case of any exercise of Options hereunder in connection with the conversion of any Relevant Convertible Securities on any Conversion Date occurring during the period starting on and including the 50th "Scheduled Trading Day" and ending on and including the second "Scheduled Trading Day" immediately preceding the "Maturity Date" (each as defined in the Indenture) (the "**Final Conversion Period**"), the Exercise Notice Deadline shall be the Exchange Business Day immediately following such Conversion Date.
Notice of Exercise:	Notwithstanding anything to the contrary in the Equity Definitions, Dealer shall have no obligation to make any payment or delivery in respect of any exercise of Options hereunder unless Counterparty notifies Dealer in writing prior to 4:00 PM, New York City time, on the Exercise Notice Deadline in respect of such exercise of (i) the number of Options being exercised on the relevant Exercise Date

(which shall be the Number of Relevant Options), (ii) the scheduled settlement date under the Indenture for the Convertible Securities converted on the Conversion Date corresponding to such Exercise Date, (iii) whether such Relevant Convertible Securities will be settled by Counterparty by delivery of cash, Shares or a combination of cash and Shares and, if such a combination, the "Specified Dollar Amount" (as defined in the Indenture) and (iv) the first "Scheduled Trading Day" of the "Cash Settlement Averaging Period" (as defined in the Indenture); *provided* that in the case of any exercise of Options hereunder in connection with the conversion of any Relevant Convertible Securities on any Conversion Date occurring during the Final Conversion Period, the contents of such notice shall be as set forth in clause (i) above; *provided, further*, that any "Notice of Exercise" delivered to Dealer pursuant to the Base Convertible Bond Hedge Transaction Confirmation shall be deemed to be a Notice of Exercise pursuant to this Confirmation and the terms of such Notice of Exercise shall apply, *mutatis mutandis*, to this Confirmation. Counterparty acknowledges its responsibilities under applicable securities laws, and in particular Section 9 and Section 10(b) of the Exchange Act (as defined below) and the rules and regulations thereunder, in respect of any election of a settlement method with respect to the Convertible Securities. For the avoidance of doubt, if Counterparty fails to give such notice when due in respect of any exercise of Options hereunder, Dealer's obligation to make any payment or delivery in respect of such exercise shall be permanently extinguished, and late notice shall not cure such failure; *provided* that notwithstanding the foregoing, such notice (and the related exercise of Options) shall be effective if given after the Exercise Notice Deadline, but prior to 4:00 PM New York City time, on the fifth Exchange Business Day following the Exercise Notice Deadline, in which event Dealer's Delivery Obligation shall not be extinguished but may instead be adjusted by the Calculation Agent to reflect the additional costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities (including the unwinding of any hedge position) as a result of Dealer not having received such notice on or prior to the Exercise Notice Deadline.

Notice of Convertible Security Settlement Method:

Counterparty shall notify Dealer in writing before 4:00 P.M. (New York City time) on the last "Scheduled Trading Day" immediately prior to the 50th "Scheduled Trading Day" preceding the "Maturity Date" (each as defined in the Indenture) of the irrevocable election by the Counterparty, in accordance with Section 10.03 of the Indenture, of the settlement method and, if applicable, the "Specified Dollar Amount" (as defined in the Indenture) applicable to Relevant Convertible Securities with a Conversion Date occurring on or after the 50th "Scheduled Trading Day" preceding the "Maturity Date" and ending on and including the second "Scheduled Trading Day" immediately preceding the "Maturity Date" (each as defined in the Indenture) (such notice, the **"Notice of Convertible Security Settlement Method,"** and such period, the "**Free Convertibility Period**"). If Counterparty fails timely to provide such notice, Counterparty shall be deemed to have notified Dealer of combination settlement with a "Specified Dollar Amount" (as defined in the Indenture) of USD1,000 for all conversions

	occurring during the Free Convertibility Period. Counterparty agrees that it shall settle any Relevant Convertible Securities with a Conversion Date occurring during the Free Convertibility Period in the same manner as provided in the Notice of Convertible Security Settlement Method it provides or is deemed to have provided hereunder.
Dealer's Telephone Number and Telex and/or Facsimile Number and Contact Details for purpose of Giving Notice:	[Dealer] [Notice details]
Settlement Terms:	
Settlement Date:	In respect of an Exercise Date occurring on a Conversion Date, the settlement date for the cash and/or Shares (if any) to be delivered in respect of the Relevant Convertible Securities converted on such Conversion Date pursuant to Section 10.03 and/or 10.07 of the Indenture; *provided* that the Settlement Date will not be prior to the latest of (i) the date one Settlement Cycle following the final day of the relevant "Cash Settlement Averaging Period", as defined in the Indenture, (ii) the Exchange Business Day immediately following the date on which Counterparty gives notice to Dealer of such Settlement Date prior to 4:00 PM, New York City time or (iii) the Exchange Business Day immediately following the date Counterparty provides the Notice of Delivery Obligation prior to 4:00 PM, New York City time.
Delivery Obligation:	In lieu of the obligations set forth in Sections 8.1 and 9.1 of the Equity Definitions, and subject to "Notice of Exercise" above, in respect of an Exercise Date occurring on a Conversion Date, Dealer will deliver to Counterparty, on the related Settlement Date, the product of (i) the Applicable Percentage and (ii) a number of Shares and/or amount of cash in USD equal to the aggregate number of Shares, if any, that Counterparty is obligated to deliver to the holder(s) of the Relevant Convertible Securities converted on such Conversion Date pursuant to Section 10.03 of the Indenture and/or the aggregate amount of cash, if any, in excess of USD1,000 per Convertible Security (in denominations of USD1,000) that Counterparty is obligated to deliver to holder(s) pursuant to Section 10.03 of the Indenture, as determined by the Calculation Agent by reference to such Section of the Indenture (except that such aggregate number of Shares shall be determined without taking into consideration any rounding pursuant to Section 10.03(b) of the Indenture and shall be rounded down to the nearest whole number) and cash in lieu of fractional Shares, if any, resulting from such rounding, if Counterparty had elected to satisfy its conversion obligation in respect of such Relevant Convertible Securities by the Convertible Security Settlement Method, notwithstanding any different actual election by Counterparty with respect to the settlement of such Convertible Securities (the "**Convertible Obligation**"); *provided, however*, that, in each case, such Delivery Obligation shall be determined (i) excluding any Shares and/or cash that Counterparty is obligated to deliver to holder(s) of the Relevant Convertible Securities as a result of any adjustments to the Conversion Rate pursuant to Section 10.05(l) or 10.07 of the Indenture and (ii) without regard to the election, if any, by

	Counterparty to adjust the Conversion Rate (and, for the avoidance of doubt, the Delivery Obligation shall not include any interest payment on the Relevant Convertible Securities that the Counterparty is (or would have been) obligated to deliver to holder(s) of the Relevant Convertible Securities for such Conversion Date); and *provided further* that if such exercise relates to the conversion of Relevant Convertible Securities in connection with which holders thereof are entitled to receive an additional amount of cash and/or Shares pursuant to the adjustments to the Conversion Rate set forth in Section 10.07 of the Indenture, then, notwithstanding the foregoing, the Delivery Obligation shall include such additional Shares and/or cash (as determined by the Calculation Agent by reference to such Section of the Indenture), except that the Delivery Obligation shall be capped so that the value of the Delivery Obligation per Option (with the value of any Shares included in the Delivery Obligation determined by the Calculation Agent using the Applicable Limit Price on the Settlement Date) does not exceed the amount as determined by the Calculation Agent (such limit, the "**Section 6 Amount Limit**") that would be payable by Dealer pursuant to Section 6 of the Agreement (such amount to be determined solely based on the then current values of the variables that Dealer has used to determine the Premium payable by Counterparty for the Options) if such Conversion Date were an Early Termination Date resulting from an Additional Termination Event with respect to which the Transaction (except that, for purposes of determining such amount (x) the Number of Options shall be deemed to be equal to the Number of Relevant Options in respect of such Exercise Date and (y) such amount payable will be determined as if Section 10.07 of the Indenture were deleted) was the sole Affected Transaction and Counterparty was the sole Affected Party (determined without regard to Section 8(b) of this Confirmation). Notwithstanding the foregoing, and in addition to the caps described above, in all events the Delivery Obligation shall be capped so that the value of the Delivery Obligation does not exceed the value of the Convertible Obligation (with the Convertible Obligation determined based on the actual settlement method elected by Counterparty with respect to such Relevant Convertible Securities instead of the Convertible Security Settlement Method and with the value of any Shares included in either the Delivery Obligation or such Convertible Obligation determined by the Calculation Agent using the Applicable Limit Price on the Settlement Date). "Applicable Limit Price" means, on any day, the opening price per Share as displayed under the heading "Op" on Bloomberg Screen RH.N<equity> (or any successor thereto).
Convertible Security Settlement Method:	For any Relevant Convertible Securities, if Counterparty has notified Dealer in the related Notice of Exercise (or in the Notice of Convertible Security Settlement Method, as the case may be) that it has elected to satisfy its conversion obligation in respect of such Relevant Convertible Securities in cash or in a combination of cash and Shares in accordance with Section 10.03(a) of the Indenture (a "**Cash Election**") with a "Specified Dollar Amount" (as defined in the Indenture) of at least USD1,000, the Convertible Security Settlement Method shall be the settlement method actually so elected by Counterparty in respect of such Relevant Convertible Securities; otherwise, the Convertible Security Settlement Method

shall (i) assume Counterparty made a Cash Election with respect to such Relevant Convertible Securities with a "Specified Dollar Amount" (as defined in the Indenture) of USD1,000 per Relevant Convertible Security and (ii) be calculated as if the relevant "Cash Settlement Averaging Period" (as defined in the Indenture) pursuant to Section 1.01 of the Indenture consisted of 45 Trading Days commencing on (x) the second "Scheduled Trading Day" (as defined in the Indenture) after the Conversion Date for conversions occurring prior to the Free Convertibility Period or (y) the 46th "Scheduled Trading Day" prior to the "Maturity Date" (each as defined in the Indenture) for conversions occurring during the Free Convertibility Period and any reference herein to the "Cash Settlement Averaging Period" in respect of such Relevant Convertible Securities shall be deemed to refer to such extended "Cash Settlement Averaging Period".

Notice of Delivery Obligation: No later than the Exchange Business Day immediately following the last day of the relevant "Cash Settlement Averaging Period", as defined in the Indenture, Counterparty shall give Dealer notice of the final number of Shares and/or the amount of cash comprising the Convertible Obligation; *provided* that, with respect to any Exercise Date occurring during the Final Conversion Period, Counterparty may provide Dealer with a single notice of an aggregate number of Shares and/or the amount of cash comprising the Convertible Obligations for all Exercise Dates occurring in such period (it being understood, for the avoidance of doubt, that the requirement of Counterparty to deliver such notice shall not limit Counterparty's obligations with respect to Notice of Exercise or Notice of Convertible Security Settlement Method or Dealer's obligations with respect to Delivery Obligation, each as set forth above, in any way).

Other Applicable Provisions: To the extent Dealer is obligated to deliver Shares hereunder, the provisions of Sections 9.1(c), 9.8, 9.9 and 9.11 (except that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities laws arising as a result of the fact that Counterparty is the Issuer of the Shares) and 9.12 of the Equity Definitions will be applicable as if "Physical Settlement" applied to the Transaction.

Restricted Certificated Shares: Notwithstanding anything to the contrary in the Equity Definitions, Dealer may, in whole or in part, deliver Shares required to be delivered to Counterparty hereunder in certificated form in lieu of delivery through the Clearance System. With respect to such certificated Shares, the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by deleting the remainder of the provision after the word "encumbrance" in the fourth line thereof.

Share Adjustments:

Method of Adjustment: Notwithstanding Section 11.2 of the Equity Definitions, upon the occurrence of any event or condition set forth in Sections 10.05(a), 10.05(b), 10.05(c), 10.05(d), 10.05(e) and 10.05(i) of the Indenture that results in an adjustment under the Indenture (an "**Indenture Adjustment Event**"), the Calculation Agent shall make a

	corresponding adjustment to the terms relevant to the exercise, settlement or payment of the Transaction. Promptly upon the occurrence of any Indenture Adjustment Event, Counterparty shall notify the Calculation Agent of such Indenture Adjustment Event; and once the adjustments to be made to the terms of the Indenture and the Convertible Securities in respect of such Indenture Adjustment Event have been determined, Counterparty shall promptly notify the Calculation Agent in writing of the details of the new conversion rate under the Indenture resulting from such Indenture Adjustment Event, and if requested in writing by Dealer, the details of such Indenture Adjustment Event calculations made by Counterparty.
Extraordinary Events:	
Merger Events:	Notwithstanding Section 12.1(b) of the Equity Definitions, a "Merger Event" means the occurrence of any event or condition set forth in Section 10.06(a) of the Indenture.
Consequences of Merger Events:	Notwithstanding Sections 12.2 and 12.3 of the Equity Definitions, upon the occurrence of a Merger Event that results in an adjustment under the Indenture, the Calculation Agent shall make a corresponding adjustment to the terms relevant to the exercise, settlement or payment of the Transaction; provided that such adjustment shall be made without regard to any adjustment to the Conversion Rate pursuant to Section 10.05(l) or 10.07 of the Indenture and the election, if any, by Counterparty to adjust the Conversion Rate; and *provided further* that if, with respect to a Merger Event, (i) the consideration for the Shares includes (or, at the option of a holder of Shares, may include) shares of an entity or person that is not a corporation organized under the laws of the United States, any State thereof or the District of Columbia or (ii) the Counterparty following such Merger Event will not be a corporation organized under the laws of the United States, any State thereof or the District of Columbia or will not be the Issuer following such Merger Event, Cancellation and Payment (Calculation Agent Determination) shall apply.
Notice of Merger Consideration:	Upon the occurrence of a Merger Event that causes the Shares to be converted into the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), Counterparty shall reasonably promptly (but, in any event prior to the relevant merger date) notify the Calculation Agent of (i) the weighted average of the types and amounts of consideration received by the holders of Shares entitled to receive cash, securities or other property or assets with respect to or in exchange for such Shares in any Merger Event who affirmatively make such an election and (ii) the proposed adjustment to the conversion rate under the Indenture that would result from such Merger Event and the details of the proposed adjustment to be made under the Indenture in respect of such Merger Event.

Nationalization, Insolvency or Delisting:	Cancellation and Payment (Calculation Agent Determination); *provided* that, in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it shall also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any such exchange or quotation system, such exchange or quotation system shall thereafter be deemed to be the Exchange.
Additional Disruption Events:	
(a) Change in Law:	Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase "the interpretation" in the third line thereof with the phrase "or announcement or statement of the formal or informal interpretation", (ii) immediately following the word "Transaction" in clause (X) thereof, adding the phrase "in the manner contemplated by Hedging Party on the Trade Date", (iii) adding the words "(including, for the avoidance of doubt and without limitation, adoption or promulgation of new regulations authorized or mandated by existing statute)" after the word "regulation" in the second line thereof, (iv) adding the words "or any Hedge Positions" after the word "Shares" in the clause (X) thereof and (v) adding the words ", or holding, acquiring or disposing of Shares or any Hedge Positions relating to," after the words "obligations under" in clause (Y) thereof.
(b) Failure to Deliver:	Applicable
(c) Insolvency Filing:	Applicable
(d) Hedging Disruption:	Applicable; *provided* that: (i) Section 12.9(a)(v) of the Equity Definitions is hereby amended by (a) inserting the following words at the end of clause (A) thereof: "in the manner contemplated by the Hedging Party on the Trade Date" and (b) inserting the following two phrases at the end of such Section: "For the avoidance of doubt, the term "equity price risk" shall be deemed to include, but shall not be limited to, stock price and volatility risk. And, for the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms."; and (ii) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words "to terminate the Transaction", the words "or a portion of the Transaction affected by such Hedging Disruption".
(e) Increased Cost of Hedging:	Not Applicable
Hedging Party:	For all applicable Potential Adjustment Events and Extraordinary Events, Dealer
Determining Party:	For all applicable Extraordinary Events, Dealer, which shall in each case act in good faith and in a commercially reasonable manner

Non-Reliance:	Applicable
Agreements and Acknowledgments Regarding Hedging Activities:	Applicable
Additional Acknowledgments:	Applicable
Adjustment and Termination Consultation:	Upon the occurrence of any event that would permit Dealer (whether in its capacity as Calculation Agent or otherwise) to adjust the terms of the Transaction or terminate the Transaction, if Dealer determines, in its discretion, that it is commercially and legally practicable, prior to Dealer making such adjustment or effecting such termination, Dealer shall seek to consult with Counterparty in good faith regarding such adjustment or termination. The foregoing shall not (i) limit the rights of the Dealer to make such adjustment or effect such termination at any time or (ii) obligate Dealer to delay, or continue delaying, making such adjustment or effecting such termination at any time (in each case, whether in Dealer's capacity as Calculation Agent or otherwise).
3. Calculation Agent:	Dealer; *provided* that (i) if an Event of Default as a result of Section 5(a)(vii) of the Agreement has occurred and is continuing with respect to Dealer, then the Counterparty shall have the right to designate a Calculation Agent that is a leading recognized dealer in equity derivatives (as determined in good faith by the Counterparty) for so long as such Event of Default is continuing and *provided, further*, that all determinations made by the Calculation Agent shall be made in good faith and in a commercially reasonable manner. Following any calculation, adjustment or determination by the Calculation Agent hereunder, upon a written request by Counterparty, the Calculation Agent will promptly provide to Counterparty a written explanation (including, if applicable, a report in a commonly used file format for the storage and manipulation of financial data) describing in reasonable detail the basis for the relevant calculation, adjustment or determination (including any quotations, market data or information from internal or external sources used in making such calculation, adjustment or determination, as the case may be, but without disclosing Dealer's proprietary models or other information that may be proprietary or subject to contractual, legal or regulatory obligations to not disclose such information) and shall use commercially reasonable efforts to provide such written explanation within ten (10) Exchange Business Days after the receipt of any such request.
4. Account Details:	
Dealer Payment Instructions:	Bank: ABA#: Acct No.: Beneficiary: Ref:
Counterparty Payment Instructions:	To be provided by Counterparty.

5. Offices:

The Office of Dealer for the Transaction is: [ ]

The Office of Counterparty for the Transaction is: Not applicable

6. Notices: For purposes of this Confirmation:

RH
15 Koch Road, Suite J
Corte Madera, California, CA 94925
Attention: Office of Legal Counsel
Attention: Chief Financial Officer
Facsimile No.: 415-927-7264

with a copy to:

Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105
Attn: Gavin B. Grover, Esq.
Fax: (415) 268-7522

Address for notices or communications to Dealer:

[Dealer]
[Notice details]

7. Representations, Warranties and Agreements:

(a) In addition to the representations and warranties in the Agreement and those contained elsewhere herein, Counterparty represents and warrants to and for the benefit of, and agrees with, Dealer as follows:

(i) On the Trade Date, (A) none of Counterparty and its officers and directors is aware of any material nonpublic information regarding Counterparty or the Shares and (B) all reports and other documents filed by Counterparty with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended (the "**Exchange Act**") when considered as a whole (with the more recent such reports and documents deemed to amend inconsistent statements contained in any earlier such reports and documents), do not contain any untrue statement of a material fact or any omission of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading.

(ii) (A) On the Trade Date, the Shares or securities that are convertible into, or exchangeable or exercisable for Shares, are not, and shall not be, subject to a "restricted period," as such term is defined in Regulation M under the Exchange Act ("**Regulation M**") unless (x) such Shares or securities are excepted from section 101(a) of Regulation M by sections 101(c)(1) or 101(c)(3) of Regulation M and section 102(a) of Regulation M by sections 102(d)(1) or 102(d)(3) of Regulation M or (y) such Shares or securities are of the kind that may be excepted from the prohibitions of sections 101(a) and 102(a) of Regulation M by sections 101(b)(10) and 102(b)(7) of Regulation M and (B) Counterparty shall not engage in any "distribution," as such term is defined in Regulation M, other than a distribution meeting the requirements of the exceptions set forth in sections 101(b)(10) and 102(b)(7) of Regulation M, until the second Exchange Business Day immediately following the Trade Date.

(iii) On the Trade Date, neither Counterparty nor any "affiliate" or "affiliated purchaser" (each as defined in Rule10b-18 under the Exchange Act ("**Rule 10b-18**")) shall directly or indirectly (including, without limitation, by means of any cash-settled or other derivative instrument) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any Shares (or an equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable or exercisable for Shares, except through Dealer, Goldman, Sachs & Co., Bank of America, N.A., or any of their affiliates.

(iv) Without limiting the generality of Section 13.1 of the Equity Definitions, Counterparty acknowledges that Dealer is not making any representations or warranties or taking any position or expressing any view with respect to the treatment of the Transaction under any accounting standards including ASC Topic 260, *Earnings Per Share*, ASC Topic 815, *Derivatives and Hedging*, or ASC Topic 480, *Distinguishing Liabilities from Equity* and ASC 815-40, *Derivatives and Hedging – Contracts in Entity's Own Equity* (or any successor issue statements) or under FASB's Liabilities & Equity Project.

(v) Without limiting the generality of Section 3(a)(iii) of the Agreement, the Transaction will not violate Rule13e-1 or Rule 13e-4 under the Exchange Act.

(vi) Prior to the Trade Date, Counterparty shall deliver to Dealer a resolution of Counterparty's board of directors authorizing the Transaction and such other certificate or certificates as Dealer shall reasonably request.

(vii) Counterparty is not entering into this Confirmation to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for Shares) or to otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for Shares) or otherwise in violation of the Exchange Act.

(viii) Counterparty is not, and after giving effect to the transactions contemplated hereby will not be, required to register as an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

(ix) On each of the Trade Date and the Premium Payment Date, Counterparty is not, or will not be, "insolvent" (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the "**Bankruptcy Code**")) and Counterparty would be able to purchase a number of Shares equal to the Number of Shares plus the "Number of Shares", as defined in the Base Convertible Bond Hedge Transaction Confirmation, in compliance with the laws of the jurisdiction of its incorporation.

(x) No state or local law, rule, regulation or regulatory order in the State of Delaware or California applicable to the Shares would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares.

(xi) The representations and warranties of Counterparty set forth in Section 3 of the Agreement and Section 1(a) of the Purchase Agreement dated as of September [ ], 2019, between the Counterparty and [BofA Securities, Inc.] as representative of the Initial Purchasers party thereto (the "**Purchase Agreement**") are true and correct and are hereby deemed to be repeated to Dealer as if set forth herein.

(xii) Counterparty understands no obligations of Dealer to it hereunder will be entitled to the benefit of deposit insurance and that such obligations will not be guaranteed by any affiliate of Dealer or any governmental agency.

(b) Each of Dealer and Counterparty agrees and represents that it is an "eligible contract participant" as defined in Section 1a(18) of the U.S. Commodity Exchange Act, as amended.

(c) Each of Dealer and Counterparty acknowledges that the offer and sale of the Transaction to it is intended to be exempt from registration under the Securities Act of 1933, as amended (the "**Securities Act**"), by virtue of Section 4(a)(2) thereof. Accordingly, Counterparty represents and warrants to Dealer that (i) it has the financial ability to bear the economic risk of its investment in the Transaction and is able to bear a total loss of its investment, (ii) it is an "accredited investor" as that term is defined in Regulation D as promulgated under the Securities Act, (iii) it is entering into the Transaction for its own account and without a view to the distribution or resale thereof and (iv) the assignment, transfer or other disposition of the Transaction has not been and will not be registered under the Securities Act and is restricted under this Confirmation, the Securities Act and state securities laws.

(d) Counterparty agrees and acknowledges that Dealer is a "financial institution" and "financial participant" within the meaning of Sections 101(22) and 101(22A) of the Bankruptcy Code. The parties hereto further agree and acknowledge that it is the intent of the parties that (A) this Confirmation is a "securities contract," as such term is defined in Section 741(7) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection

herewith is a "termination value," "payment amount" or "other transfer obligation" within the meaning of Section 362 of the Bankruptcy Code and a "settlement payment" within the meaning of Section 546 of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a "termination value," "payment amount" or "other transfer obligation" within the meaning of Section 362 of the Bankruptcy Code and a "transfer," as such term is defined in Section 101(54) of the Bankruptcy Code and a "payment or other transfer of property" within the meaning of Sections 362 and 546 of the Bankruptcy Code, and (B) Dealer is entitled to the protections afforded by, among other sections, Sections 362(b)(6), 362(b)(27), 362(o), 546(e), 546(j), 548(d)(2), 555 and 561 of the Bankruptcy Code.

(e) Counterparty shall deliver to Dealer an opinion of counsel, dated as of the Effective Date and reasonably acceptable to Dealer in form and substance, with respect to due incorporation, existence and good standing of Counterparty in Delaware, its qualifications as a foreign corporation and good standing in California, the due authorization, execution and delivery of this Confirmation, and the absence of conflict of the execution, delivery and performance of this Confirmation with any material agreement required to be filed as an exhibit to Counterparty's Annual Report on Form 10-K and Counterparty's charter documents.

8. Other Provisions:

(a) *Additional Termination Events*.

(i) An "Event of Default" with respect to Counterparty under the terms of the Convertible Securities as set forth in Section 6.01 of the Indenture shall constitute an Additional Termination Event with respect to which the Transaction is the sole Affected Transaction and Counterparty is the sole Affected Party and Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement.

(ii) An Amendment Event shall constitute an Additional Termination Event with respect to which the Transaction is the sole Affected Transaction and Counterparty is the sole Affected Party and Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement. "**Amendment Event**" means that Counterparty amends, modifies, supplements, waives or obtains a waiver in respect of any term of the Indenture or the Convertible Securities governing the principal amount, coupon (but only if such event results in a decrease to such coupon), maturity, the amount payable upon a repurchase obligation of Counterparty upon a fundamental change, any term relating to conversion of the Convertible Securities (including changes to the conversion price, conversion settlement dates or conversion conditions), or any term that would require consent of the holders of not less than 100% of the principal amount of the Convertible Securities to amend, in each case without the consent of Dealer.

(iii) Promptly (but in any event within five Scheduled Trading Days) following any Repurchase Event (as defined below), Counterparty may notify Dealer of such Repurchase Event and the aggregate principal amount of all or a portion of the Convertible Securities subject to such Repurchase Event (any such notice, a "**Convertible Securities Repurchase Notice**", and such Convertible Securities as specified in a Convertible Securities Repurchase Notice, the "**Affected Convertible Securities**"); *provided* that any such Convertible Securities Repurchase Notice shall contain an acknowledgment by Counterparty of its responsibilities under applicable securities laws, and in particular Section 9 and Section 10(b) of the Exchange Act and the rules and regulations thereunder, in respect of such Repurchase Event and the delivery of such Convertible Securities Repurchase Notice. The receipt by Dealer from Counterparty of any Convertible Securities Repurchase Notice shall constitute an Additional Termination Event as provided in this Section 8(a)(iii). Upon receipt of any such Convertible Securities Repurchase Notice, Dealer shall designate an Exchange Business Day following receipt of such Convertible Securities Repurchase Notice (which Exchange Business Day shall be on or as promptly as reasonably practicable after the related settlement date for the relevant Repurchase Event) as an Early Termination Date with respect to the portion of the Transaction corresponding to a number of Options (the "**Repurchase Options**") equal to the lesser of (A) (x) the aggregate principal amount of such Affected Convertible Securities, *divided* by (y) USD 1,000, and (B) the Number of Options as of the date Dealer designates such Early Termination Date and, as of such Early Termination Date, the Number of Options shall be reduced by the number of Repurchase Options. Any payment hereunder with respect to such termination (the "**Repurchase Unwind Payment**") shall be calculated pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Repurchase Options, (2) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (3) the terminated portion of the Transaction were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 8(b) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this Section 8(a)(iii) as if Counterparty was not the Affected Party). "**Repurchase Event**" means that (i) any Convertible Securities are repurchased (whether pursuant to Section 3.02 of the Indenture or otherwise) by Counterparty or any of its subsidiaries, (ii) any Convertible Securities are delivered to Counterparty in exchange for delivery of any property or assets of Counterparty or any of its subsidiaries (howsoever

described), (iii) any principal of any of the Convertible Securities is repaid prior to the final maturity date of the Convertible Securities(other than as a result of an event described in Section 8(a)(i)), or (iv) any Convertible Securities are exchanged by or for the benefit of the Holders (as defined in the Indenture) thereof for any other securities of Counterparty or any of its Affiliates (or any other property, or any combination thereof) pursuant to any exchange offer or similar transaction; *provided* that any conversion of Convertible Securitiesthat occurs pursuant to the terms of the Indenture shall not constitute a Repurchase Event. For the avoidance of doubt, in determining the amount payable in respect of such Affected Transaction pursuant to Section 6 of the Agreement, the Calculation Agent shall assume (1) the relevant Repurchase Event and any conversions, adjustments, agreements, payments, deliveries or acquisitions by or on behalf of Counterparty leading thereto had not occurred, (2) no adjustments to the Conversion Rate have occurred pursuant to Section 10.05(l) or 10.07 of the Indenture and (3) the corresponding Convertible Securities remain outstanding as if the circumstances related to the Repurchase Event had not occurred. Notwithstanding any provisions in this Confirmation to the contrary, pursuant to this Section 8(a)(iii), Counterparty may, in its sole discretion, elect to terminate the Transaction and other bond hedge transactions with other dealers relating to the Convertible Securities on a non-pro rata basis.

(iv) [Reserved.]

(b) *Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events*. If Dealer shall owe Counterparty any amount pursuant to "Consequences of Merger Events" above or Sections 12.6, 12.7 or 12.9 of the Equity Definitions or pursuant to Section 6(d)(ii) of the Agreement (a "**Payment Obligation**"), Counterparty shall have the right, in its sole discretion, to require Dealer to satisfy any such Payment Obligation by the Share Termination Alternative (as defined below) by giving irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, no later than 9:30 A.M. New York City time on the relevant merger date, Announcement Date, Early Termination Date or date of cancellation or termination in respect of an Extraordinary Event, as applicable ("**Notice of Share Termination**"); *provided* that if Counterparty does not elect to require Dealer to satisfy its Payment Obligation by the Share Termination Alternative, Dealer shall have the right, in its sole discretion, to elect to satisfy its Payment Obligation by the Share Termination Alternative, notwithstanding Counterparty's failure to elect or election to the contrary; and *provided further* that Counterparty shall not have the right to so elect (but, for the avoidance of doubt, Dealer shall have the right to so elect) in the event (i) of an Insolvency, a Nationalization or a Merger Event, in each case, in which the consideration or proceeds to be paid to holders of Shares consists solely of cash, (ii) of an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party, which Event of Default or Termination Event resulted from an event or events within Counterparty's control or (iii) that Counterparty fails to remake the representation set forth in Section 7(a)(i) as of the date of such election. Upon such Notice of Share Termination, the following provisions shall apply on the Scheduled Trading Day immediately following the relevant merger date, Announcement Date, Early Termination Date or date of cancellation or termination in respect of an Extraordinary Event, as applicable:

Share Termination Alternative:	If applicable, means that Dealer shall deliver to Counterparty the Share Termination Delivery Property on the date on which the Payment Obligation would otherwise be due pursuant to "Consequences of Merger Events" above, Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) of the Agreement, as applicable, or such later date or dates as the Calculation Agent may reasonably determine (such delivery to occur as soon as reasonably practicable under the circumstances) (the "**Share Termination Payment Date**"), in satisfaction of the Payment Obligation. For the avoidance of doubt, a delay in delivery of the Share Termination Delivery Property shall not result in a change in the composition of such Share Termination Delivery Property.
Share Termination Delivery Property:	A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of the aggregate amount of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.
Share Termination Unit Price:	The value of property contained in one Share Termination Delivery Unit on the date such Share Termination Delivery Units are to be delivered as Share Termination Delivery Property, as determined by the Calculation Agent in its discretion by commercially reasonable means and notified by the Calculation Agent to Dealer at the time of notification of the Payment Obligation.

Share Termination Delivery Unit:	In the case of a Termination Event, Event of Default, Delisting or Additional Disruption Event, one Share or, in the case of an Insolvency, Nationalization or Merger Event, one Share or a unit consisting of the number or amount of each type of property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Insolvency, Nationalization or Merger Event, as applicable. If such Insolvency, Nationalization or Merger Event involves a choice of consideration to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.
Failure to Deliver:	Applicable
Other applicable provisions:	If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9 and 9.11 (except that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities laws arising as a result of the fact that Counterparty is the issuer of the Shares or any portion of the Share Termination Delivery Units) and 9.12 of the Equity Definitions will be applicable as if "Physical Settlement" applied to the Transaction, except that all references to "Shares" shall be read as references to "Share Termination Delivery Units."

(c) *Disposition of Hedge Shares.* Counterparty hereby agrees that if, in the good faith reasonable judgment of Dealer, based on the advice of counsel, any Shares (the "**Hedge Shares**") acquired by Dealer or one of its affiliates for the purpose of hedging Dealer's obligations pursuant to the Transaction cannot be sold in the public market by Dealer without registration under the Securities Act, Counterparty shall, at its election: (i) in order to allow Dealer to sell the Hedge Shares in a registered offering, make available to Dealer an effective registration statement under the Securities Act to cover the resale of such Hedge Shares and (A) enter into an agreement, in form and substance satisfactory to Dealer, substantially in the form of an underwriting agreement for underwritten follow-on offerings of equity securities of companies of comparable size, maturity and lines of business, (B) provide accountant's "comfort" letters in customary form for underwritten follow-on offerings of equity securities, (C) provide disclosure opinions of nationally recognized outside counsel to Counterparty as are customarily requested in connection with underwritten follow-on offers of equity securities of companies of comparable size, maturity and lines of business, (D) provide other customary opinions, certificates and closing documents customary in form for underwritten follow-on offerings of equity securities of companies of comparable size, maturity and lines of business and (E) afford Dealer a reasonable opportunity to conduct a "due diligence" investigation with respect to Counterparty customary in scope for underwritten follow-on offerings of equity securities of companies of comparable size, maturity and lines of business; *provided, however*, that if Dealer, in its sole reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this Section 8(c) shall apply at the election of Counterparty; *provided* that Dealer has given Counterparty reasonable notice of its determination and provided Counterparty with reasonable opportunity to satisfy Dealer's concerns; (ii) in order to allow Dealer to sell the Hedge Shares in a private placement, enter into a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities of companies of comparable size, maturity and lines of business, in form and substance reasonably satisfactory to Dealer, including customary representations, covenants, blue sky and other governmental filings and/or registrations, indemnities to Dealer, due diligence rights (for Dealer or any designated buyer of the Hedge Shares from Dealer), opinions and certificates and such other documentation as is customary for private placements agreements, all reasonably acceptable to Dealer (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary, in its reasonable judgment, to compensate Dealer for any discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement); or (iii) purchase the Hedge Shares from Dealer at the VWAP Price on such Exchange Business Days, and in the amounts, requested by Dealer. "VWAP Price" means, on any Exchange Business Day, the per Share volume-weighted average price as displayed under the heading "Bloomberg VWAP" on Bloomberg Screen RH.N <Equity> VAP (or any successor thereto) in respect of the period from 9:30 A.M. to 4:00 P.M. (New York City time) on such Exchange Business Day (or if such volume-weighted average price is unavailable or is manifestly incorrect, the market value of one Share on such Exchange Business Day, as determined by the Calculation Agent using a volume-weighted method).

(d) *Repurchase and Conversion Rate Adjustment Notices.* Counterparty shall, on any day on which Counterparty effects any repurchase of Shares or consummates or otherwise executes or engages in any transaction or event (a "**Conversion Rate Adjustment Event**") that would lead to an increase in the Conversion Rate (as such term is defined in the Indenture), give Dealer a written notice of such repurchase or Conversion Rate Adjustment Event (a "**Repurchase Notice**") if, following such repurchase or Conversion Rate Adjustment Event, the Notice Percentage as determined on the date of such Repurchase Notice is (i) greater than 4.5% and (ii) greater by 0.5% than the Notice Percentage included in the immediately preceding Repurchase Notice (or, in the case of the first such Repurchase Notice, greater than the Notice Percentage as of the date hereof), and, if such repurchase or Conversion Rate Adjustment Event, or the intention to effect the same, would constitute material non-public information with respect to Counterparty or the Shares, Counterparty shall make public disclosure thereof at or prior to delivery of such Repurchase Notice. The "**Notice Percentage**" as of any day is the fraction, expressed as a percentage, the numerator of which is the sum of the Number of Shares and the aggregate number of Shares underlying any other call option transaction sold by Dealer to Counterparty and the denominator of which is the number of Shares outstanding on such day. In the event that Counterparty fails to provide Dealer with a Repurchase Notice on the day and in the manner specified in this Section 8(d) then Counterparty agrees to indemnify and hold harmless Dealer, its affiliates and their respective directors, officers, employees, agents and controlling persons (Dealer and each such person being an "**Indemnified Party**") from and against any and all losses, claims, damages and liabilities (or actions in respect thereof), joint or several, to which such Indemnified Party may become subject under applicable securities laws, including without limitation, Section 16 of the Exchange Act, relating to or arising out of such failure. If for any reason the foregoing indemnification is unavailable to any Indemnified Party or insufficient to hold harmless any Indemnified Party, then Counterparty shall contribute, to the maximum extent permitted by law, to the amount paid or payable by the Indemnified Party as a result of such loss, claim, damage or liability. In addition, Counterparty will reimburse any Indemnified Party for any reasonable expenses (including reasonable counsel fees and expenses) as they are incurred (after notice to Counterparty) in connection with the investigation of, preparation for or defense or settlement of any pending or threatened claim or any action, suit or proceeding arising therefrom, whether or not such Indemnified Party is a party thereto and whether or not such claim, action, suit or proceeding is initiated or brought by or on behalf of Counterparty. Counterparty shall be relieved from liability under this Section 8(d) to the extent that the Indemnified Party fails promptly to notify Counterparty of any action commenced against it in respect of which indemnity may be sought hereunder; *provided* that failure to notify Counterparty (x) shall not relieve Counterparty from any liability hereunder to the extent it is not materially prejudiced as a result thereof and (y) shall not, in any event, relieve Counterparty from any liability that it may have otherwise than on account of the Transaction (including damages resulting from a breach of the Counterparty's obligations under this Section 8(d)). For purposes of the preceding sentence, the obligation to notify promptly shall in no event obligate the Dealer to provide such notice earlier than 10 Exchange Business Days from the relevant event. This indemnity shall survive the completion of the Transaction contemplated by this Confirmation and any assignment and delegation of the Transaction made pursuant to this Confirmation or the Agreement shall inure to the benefit of any permitted assignee of Dealer.

(e) *Transfer and Assignment*.

(i) Counterparty may transfer any of its rights or obligations under the Transaction with the prior written consent of Dealer, such consent not to be unreasonably withheld or delayed. For the avoidance of doubt, Dealer may condition its consent on any of the following, without limitation: (i) the receipt by Dealer of opinions and documents reasonably satisfactory to it in connection with such assignment, (ii) such assignment being effected on terms reasonably satisfactory to Dealer with respect to any legal and regulatory requirements relevant to Dealer, (iii) payment by Counterparty of all reasonable costs and expenses, including reasonable counsel fees, incurred by Dealer in connection with such assignment, (iv) Dealer not being obliged, as a result of such assignment, to pay the assignee on any payment date, an amount greater than Dealer would have been required to pay in the absence of such assignment, (v) the Dealer will not, as a result of such transfer and assignment, be required to pay the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Dealer would have been required to pay to Counterparty in the absence of such transfer and assignment, (vi) no Event of Default, Potential Event of Default or Termination Event occurring as a result of such assignment and (vii) Counterparty continuing to be obligated to provide notices hereunder relating to the Convertible Securities and continuing to be obligated with respect to "Disposition of Hedge Shares" and "Repurchase Notices" above. For the avoidance of doubt, the right of the Counterparty to transfer or assign its rights otherwise shall be as set forth in Section 7 of the Agreement; *provided, however,* that such right of the Counterparty to transfer and assign shall not alter or limit any provision set forth under Extraordinary Events hereunder.

(ii) Dealer may not transfer any of its rights or obligations under the Transaction without the prior written consent of Counterparty, except that Dealer may, without Counterparty's consent, transfer or assign all or any part of its rights or obligations under the Transaction to any affiliate of Dealer if (i) such transfer or assignment shall be subject to the restrictions set forth in the legend appearing at the top of this Confirmation, (ii) the transferee shall be a "United States person" as determined for U.S. federal income tax purposes, (iii) Dealer shall have caused the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Counterparty to permit Counterparty to determine that such transfer or assignment complies with clause (ii) of this sentence, (iv) no material adverse legal or regulatory consequence shall result to Dealer, Counterparty or the transferee as a result of such transfer and (v) either (a) the transferee has a rating for its long term, unsecured and unsubordinated indebtedness that is equal to or better than Dealer's credit rating at the time of such transfer or assignment, or (b) the transferee's obligations hereunder will be guaranteed, pursuant to the terms of a customary guarantee in a form used by Dealer generally for similar transactions, by Dealer or Dealer's ultimate parent. Dealer shall as soon as reasonably practicable notify Counterparty of such transfer or assignment.

If at any time at which any Excess Ownership Position exists, if Dealer is unable after using its commercially reasonable efforts to effect a transfer or assignment to a third party financial institution that is a recognized dealer in the market for U.S. corporate equity derivatives reasonably acceptable to Counterparty on pricing terms and within a time period reasonably acceptable to Dealer such that an Excess Ownership Position no longer exists, Dealer may designate any Scheduled Trading Day as an Early Termination Date with respect to a portion (the "**Terminated Portion**") of the Transaction, such that such Excess Ownership Position no longer exists. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment or delivery shall be made pursuant to Section 6 of the Agreement as if (i) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Terminated Portion of the Transaction, (ii) Counterparty shall be the sole Affected Party with respect to such partial termination and (iii) such portion of the Transaction shall be the only Terminated Transaction (and, for the avoidance of doubt, the provisions of Section 8(b) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this sentence as if Counterparty was not the Affected Party).

(f) "**Excess Ownership Position**" means any of the following: (i) the Option Equity Percentage exceeds 14.5%, (ii) the Equity Percentage exceeds 9.0%, (iii) Dealer or any "affiliate" or "associate" of Dealer would own in excess of 13% of the outstanding Shares for purposes of Section 203 of the Delaware General Corporation Law or (iv) Dealer, Dealer Group (as defined below) or any person whose ownership position would be aggregated with that of Dealer or Dealer Group (Dealer, Dealer Group or any such person, a "**Dealer Person**") under any federal, state or local laws, regulations, regulatory orders or organizational documents or contracts of Counterparty that are, in each case, applicable to ownership of Shares ("**Applicable Laws**"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership in excess of a number of Shares equal to (x) the number of Shares that would give rise to reporting or registration obligations or other requirements (including obtaining prior approval by a state or federal regulator) of a Dealer Person, or could result in an adverse effect on a Dealer Person, under Applicable Laws, as determined by Dealer in its reasonable discretion, and with respect to which such requirements have not been met or the relevant approval has not been received or that would give rise to any consequences under the constitutive documents of Counterparty or any contract or agreement to which Counterparty is a party, in each case *minus* (y) 1% of the number of Shares outstanding on the date of determination. The "**Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates or any other person subject to aggregation with Dealer, for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act, or any "group" (within the meaning of Section 13) of which Dealer is or may be deemed to be a part (Dealer and any such affiliates, persons and groups, collectively, "**Dealer Group**") beneficially owns (within the meaning of Section 13 of the Exchange Act), without duplication, on such day (or, to the extent that, as a result of a change in law, regulation or interpretation after the date hereof, the equivalent calculation under Section 16 of the Exchange Act and the rules and regulations thereunder results in a higher number, such number) and (B) the denominator of which is the number of Shares outstanding on such day. The "**Option Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the sum of (1) the product of the Number of Options and the Option Entitlement and (2) the aggregate number of Shares underlying any other call option transaction sold by Dealer to Counterparty, and (B) the denominator of which is the number of Shares outstanding.

(g) *Staggered Settlement*. Dealer may, by notice to Counterparty on or prior to any Settlement Date (a "**Nominal Settlement Date**"), elect to deliver the Shares on two or more dates (each, a "**Staggered Settlement Date**") or at two or more times on the Nominal Settlement Date as follows:

(i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which will be on or prior to such Nominal Settlement Date, but not prior to the beginning of the related "**Cash Settlement Averaging Period**", as defined in the Indenture) or delivery times and how it will allocate the Shares it is required to deliver under "Delivery Obligation" (above) among the Staggered Settlement Dates or delivery times; and

(ii) the aggregate number of Shares that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates and delivery times will equal the number of Shares that Dealer would otherwise be required to deliver on such Nominal Settlement Date.

(h) *Right to Extend.* Dealer may postpone any Exercise Date or Settlement Date or any other date of valuation or delivery by Dealer, with respect to some or all of the relevant Options (in which event the Calculation Agent shall make appropriate adjustments to the Delivery Obligation), if Dealer determines, in its reasonable discretion, that such extension is reasonably necessary or appropriate to (i) preserve Dealer's hedging or hedge unwind activity hereunder in light of existing liquidity conditions in the cash market, the stock loan market or any other market in which Dealer, in the exercise of its commercially reasonable discretion, deems it advisable to hedge its exposure to the Transaction or (ii) to enable Dealer to effect purchases of Shares in connection with its hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures applicable to Dealer similarly applicable to bond hedge transactions and consistently applied (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer); *provided* that any such extension pursuant to clause (i) shall not exceed 45 Exchange Business Days.

(i) *Adjustments*. For the avoidance of doubt, whenever the Calculation Agent is called upon to make an adjustment pursuant to the terms of this Confirmation or the Definitions to take into account the effect of an event, the Calculation Agent shall make such adjustment by reference to the effect of such event on the Hedging Party, assuming that the Hedging Party maintains a commercially reasonable hedge position.

(j) *Disclosure.* Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.

(k) *Designation by Dealer*. Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities to or from Counterparty, Dealer may designate any of its affiliates to purchase, sell, receive or deliver such shares or other securities and otherwise to perform Dealer obligations in respect of the Transaction and any such designee may assume such obligations. Dealer shall be discharged of its obligations to Counterparty to the extent, and only to the extent, of any performance by Dealer's designee.

(l) *No Netting and Set-off*. Each party waives any and all rights it may have to set off delivery or payment obligations it owes to the other party under the Transaction against any delivery or payment obligations owed to it by the other party, whether arising under the Agreement, under any other agreement between the parties hereto, by operation of law or otherwise. The provisions of Section 2(c) of the Agreement shall not apply to the Transaction.

(m) *Equity Rights*. Dealer acknowledges and agrees that this Confirmation is not intended to convey to it rights with respect to the Transaction that are senior to the claims of common stockholders in the event of Counterparty's bankruptcy. For the avoidance of doubt, the parties agree that the preceding sentence shall not apply at any time other than during Counterparty's bankruptcy to any claim arising as a result of a breach by Counterparty of any of its obligations under this Confirmation or the Agreement. For the avoidance of doubt, the parties acknowledge that none of the obligations of Counterparty or Dealer under this Confirmation are secured by any collateral that would otherwise secure the obligations of Counterparty herein under or pursuant to any other agreement.

(n) *Early Unwind*. In the event the sale by Counterparty of the Optional Convertible Securities is not consummated with the initial purchasers pursuant to the Purchase Agreement for any reason by the close of business in New York on September [ ], 2019 (or such later date as agreed upon by the parties, which in no event shall be later than

October [ ], 2019) (September [ ], 2019 or such later date being the "**Early Unwind Date**"), the Transaction shall automatically terminate (the "**Early Unwind**"), on the Early Unwind Date and the Transaction and all of the respective rights and obligations of Dealer and Counterparty thereunder shall be cancelled and terminated; provided that, for the avoidance of doubt, Dealer shall repay to Counterparty any Premium paid by Counterparty to Dealer in connection with the Transaction. Following such termination, cancellation and payment, each party shall be released and discharged by the other party (to the extent permitted by applicable law) from and agrees not to make any claim against the other party with respect to any obligations or liabilities of either party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date. Dealer and Counterparty represent and acknowledge to the other that upon an Early Unwind and following the payment referred to above, all obligations with respect to the Transaction shall be deemed fully and finally discharged.

(o) *Payments by Counterparty upon Early Termination.* The parties hereby agree that, notwithstanding anything to the contrary herein, in the Definitions or in the Agreement, following the payment of the Premium, in the event that an Early Termination Date (whether as a result of an Event of Default or a Termination Event) occurs or is designated with respect to the Transaction or the Transaction is terminated or cancelled pursuant to Article 12 of the Equity Definitions and, as a result, Counterparty would owe to Dealer an amount calculated under Section 6(e) of the Agreement or Article 12 of the Equity Definitions, such amount shall be deemed to be zero.

(p) *Wall Street Transparency and Accountability Act of 2010.* The parties hereby agree that none of (v) Section 739 of the Wall Street Transparency and Accountability Act of 2010 ("**WSTAA**"), (w) any similar legal certainty provision in any legislation enacted, or rule or regulation promulgated, on or after the Trade Date, (x) the enactment of WSTAA or any regulation under the WSTAA, (y) any requirement under WSTAA nor (z) an amendment made by WSTAA, shall limit or otherwise impair either party's rights to terminate, renegotiate, modify, amend or supplement this Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Confirmation, the Equity Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from Change in Law, an Excess Ownership Position or Illegality (as defined in the Agreement)).

(q) *Tax Matters*

(i) *Withholding Tax imposed on payments tonon-US counterparties under the United States Foreign Account Tax Compliance Act* "Tax" and "Indemnifiable Tax", each as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**"), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code (a "**FATCA Withholding Tax**"). For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.

(ii) *HIRE Act*. "Tax" and "Indemnifiable Tax", each as defined in Section 14 of the Agreement, shall not include any tax imposed on payments treated as dividends from sources within the United States under Section 871(m) of the Code or any regulations issued thereunder.

(iii) *Tax documentation.* Each party shall provide to the other party a valid U.S. Internal Revenue Service FormW-9 (or, in the case of Dealer, Form W-8IMY for Dealer together with Form W-9 for [agent]), or any successor thereto, (i) on or before the date of execution of this Confirmation and (ii) promptly upon learning that any such tax form previously provided by it has become obsolete or incorrect. Additionally, each party shall, promptly upon request by the other party, provide such other tax forms and documents reasonably requested by the other party.

(iv) *Tax Representations*. Counterparty is a corporation for U.S. federal income tax purposes and is organized under the laws of the State of Delaware. Counterparty is a "U.S. person" (as that term is used in section 1.1441-4(a)(3)(ii) of United States Treasury Regulations) for U.S. federal income tax purposes and an exempt recipient under Treasury Regulation Section 1.6049-4(c)(1)(ii). For US federal income tax purposes, Dealer is acting as nominee on behalf of [agent], a person that is a "US United States person" as that term is defined under Section 7701(a)(30) of the US Internal Revenue Code and an [ ] as that term is defined in section 1.6049-4(c)(1)(ii) of the U.S. Treasury Regulations.

(r) *Waiver of Trial by Jury.* **EACH OF COUNTERPARTY AND DEALER HEREBY IRREVOCABLY WAIVES (ON ITS OWN BEHALF AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ON BEHALF OF ITS STOCKHOLDERS) ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THE TRANSACTION OR THE ACTIONS OF DEALER OR ITS AFFILIATES IN THE NEGOTIATION, PERFORMANCE OR ENFORCEMENT HEREOF**.

(s) *Governing Law; Jurisdiction*. **THIS CONFIRMATION AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS CONFIRMATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK. THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND THE UNITED STATES COURT FOR THE SOUTHERN DISTRICT OF NEW YORK IN CONNECTION WITH ALL MATTERS RELATING HERETO AND WAIVE ANY OBJECTION TO THE LAYING OF VENUE IN, AND ANY CLAIM OF INCONVENIENT FORUM WITH RESPECT TO, THESE COURTS.**

(t) *Amendment.* This Confirmation and the Agreement may not be modified, amended or supplemented, except in a written instrument signed by Counterparty and Dealer.

(u) *Counterparts.* This Confirmation may be executed in several counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

(v) *Counterparty Representation Regarding Certain Regulatory Matters.* Counterparty (A) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities; (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing; and (C) has total assets of at least $50 million.

[*Signature Page Follows*]

Counterparty hereby agrees (a) to check this Confirmation carefully and immediately upon receipt so that errors or discrepancies can be promptly identified and rectified and (b) to confirm that the foregoing (in the exact form provided by Dealer) correctly sets forth the terms of the agreement between Dealer and Counterparty with respect to the Transaction, by manually signing this Confirmation or this page hereof as evidence of agreement to such terms and providing the other information requested herein and immediately returning an executed copy to us.

Yours faithfully,

[DEALER]

By: _____
Name:
Title:

By: _____
Name:
Title:

[AGENT], as Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

Agreed and Accepted By:

RH

By: _____
Name:
Title:

Premium: USD [ ] (Premium per Option USD [ ]).

Exhibit 10.4

THE SECURITIES REPRESENTED HEREBY (THE "WARRANTS") WERE ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THE WARRANTS MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO A REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR AN APPLICABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS THEREOF.

September 13, 2019

To: RH
15 Koch Road, Suite J
Corte Madera, California, CA 94925
Attention: Office of Legal Counsel
Attention: Chief Financial Officer
Facsimile No.: 415-927-7264

From: [Dealer]
[Contact details]

[Agent]
[Contact details]

Re: Additional Issuer Warrant Transaction

Ladies and Gentlemen:

The purpose of this communication (this "**Confirmation**") is to set forth the terms and conditions of the above-referenced transaction entered into on the Trade Date specified below (the "**Transaction**") between [dealer] ("**Dealer**") through its agent [agent] (the "**Agent**") and RH ("**Issuer**"). This communication constitutes a "Confirmation" as referred to in the ISDA Master Agreement specified below.

1. This Confirmation is subject to, and incorporates, the definitions and provisions of the 2006 ISDA Definitions (including the Annex thereto) (the "**2006 Definitions**") and the definitions and provisions of the 2002 ISDA Equity Derivatives Definitions (the "**Equity Definitions**", and together with the 2006 Definitions, the "**Definitions**"), in each case as published by the International Swaps and Derivatives Association, Inc. ("**ISDA**"). In the event of any inconsistency between the 2006 Definitions and the Equity Definitions, the Equity Definitions will govern. For purposes of the Equity Definitions, each reference herein to a Warrant shall be deemed to be a reference to a Call Option or an Option, as context requires.

This Confirmation evidences a complete and binding agreement between Dealer and Issuer as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall be subject to an agreement (the "**Agreement**") in the form of the 2002 ISDA Master Agreement as if Dealer and Issuer had executed an agreement in such form but without any Schedule except for (i) the election of US Dollars ("**USD**") as the Termination Currency and (ii) the election that the "Cross Default" provisions of Section 5(a)(vi) of the Agreement shall apply to Issuer and to Dealer (a) with a "Threshold Amount" of USD 20,000,000 applicable to Issuer and 3% of the Dealer's stockholders equity applicable to Dealer, (b) the phrase "or becoming capable at such time of being declared" shall be deleted from clause (1) of such Section 5(a)(vi), (c) the following language shall be added to the end thereof: "Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (x) the default was caused solely by error or omission of an administrative or operational nature; (y) funds were available to enable the party to make the payment when due; and (z) the payment is made within two Local Business Days of such party's receipt of written notice of its failure to pay" and (d) "Specified Indebtedness" shall have the meaning specified in Section 14 of the Agreement, except that such term shall not include obligations in respect of deposits received in the ordinary course of Dealer's banking business. For the avoidance of doubt, the Transaction shall be the only transaction under the Agreement. If there exists any ISDA Master Agreement between

Dealer and Issuer or any confirmation or other agreement between Dealer and Issuer pursuant to which an ISDA Master Agreement is deemed to exist between Dealer and Issuer, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer and Issuer are parties, the Transaction shall not be considered a Transaction under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

All provisions contained in, or incorporated by reference to, the Agreement will govern this Confirmation except as expressly modified herein. In the event of any inconsistency between this Confirmation and either the Definitions or the Agreement, this Confirmation shall govern.

2. The Transaction is a Warrant Transaction, which shall be considered a Share Option Transaction for purposes of the Equity Definitions. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms:	
Trade Date:	September [ ], 2019
Effective Date:	September [ ], 2019, or such other date as agreed between the parties, subject to Section 8(n) below
Components:	The Transaction will be divided into individual Components, each with the terms set forth in this Confirmation, and, in particular, with the Number of Warrants and Expiration Date set forth in this Confirmation. The payments and deliveries to be made upon settlement of the Transaction will be determined separately for each Component as if each Component were a separate Transaction under the Agreement.
Warrant Style:	European
Warrant Type:	Call
Seller:	Issuer
Buyer:	Dealer
Shares:	The common stock of Issuer, par value USD 0.0001 per share (Ticker Symbol: "RH").
Number of Warrants:	For each Component, as provided in Annex A to this Confirmation.
Warrant Entitlement:	One Share per Warrant
Strike Price:	As provided in Annex A to this Confirmation.
Premium:	As provided in Annex A to this Confirmation.
Premium Payment Date:	The Effective Date
Exchange:	The New York Stock Exchange
Related Exchange:	All Exchanges
Procedures for Exercise:	
In respect of any Component:	
Expiration Time:	Valuation Time
Expiration Date:	As provided in Annex A to this Confirmation (or, if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day that is not already an Expiration Date for another Component); *provided* that if that date is a Disrupted Day, the Expiration Date for

	such Component shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day and is not or is not deemed to be an Expiration Date in respect of any other Component of the Transaction hereunder; and *provided further* that if the Expiration Date has not occurred pursuant to the preceding proviso as of the Final Disruption Date, Dealer may elect in its reasonable discretion that the Final Disruption Date shall be the Expiration Date (irrespective of whether such date is an Expiration Date in respect of any other Component for the Transaction) and, notwithstanding anything to the contrary in this Confirmation or the Definitions, the Relevant Price for such Expiration Date shall be the prevailing market value per Share determined by the Calculation Agent in a commercially reasonable manner. "**Final Disruption Date**" means [ ]. Notwithstanding the foregoing and anything to the contrary in the Equity Definitions, if a Market Disruption Event occurs on any Expiration Date, the Calculation Agent may (except as set out in "Regulatory Disruption" below) reasonably determine that such Expiration Date is a Disrupted Day only in part, in which case (i) the Calculation Agent shall make reasonable adjustments to the Number of Warrants for the relevant Component for which such day shall be the Expiration Date and shall designate the Scheduled Trading Day determined in the manner described in the second preceding sentence as the Expiration Date for the remaining Warrants for such Component, and (ii) the VWAP Price for such Disrupted Day shall be reasonably determined by the Calculation Agent based on transactions in the Shares on such Disrupted Day taking into account the nature and duration of such Market Disruption Event on such day. Any Scheduled Trading Day on which, as of the date hereof, the Exchange is scheduled to close prior to its normal close of trading shall be deemed not to be a Scheduled Trading Day; if a closure of the Exchange prior to its normal close of trading on any Scheduled Trading Day is scheduled following the date hereof, then such Scheduled Trading Day shall be deemed to be a Disrupted Day in full. Section 6.6 of the Equity Definitions shall not apply to any Valuation Date occurring on an Expiration Date.
Market Disruption Event:	Section 6.3(a) of the Equity Definitions is hereby amended (A) by deleting the words "during the one hour period that ends at the relevant Valuation Time, Latest Exercise Time, Knock-in Valuation Time or Knock-out Valuation Time, as the case may be," in clause (ii) thereof and (B) by replacing the words "or (iii) an Early Closure." therein with "(iii) an Early Closure, or (iv) a Regulatory Disruption." Section 6.3(d) of the Equity Definitions is hereby amended by deleting the remainder of the provision following the term "Scheduled Closing Time" in the fourth line thereof.
Regulatory Disruption:	Any event that Dealer, in its reasonable discretion, determines makes it appropriate with regard to any U.S. federal or state legal, regulatory or self-regulatory requirements or related policies and procedures similarly applicable to warrant transactions and consistently applied (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer), including, without limitation, Rule 10b-18 under the Securities Exchange Act of 1934, as amended (the "**Exchange**

	Act"), for Dealer to refrain from or decrease any market activity in connection with the Transaction. Dealer shall notify Issuer as soon as reasonably practicable (but in no event later than two Scheduled Trading Days after such Regulatory Disruption) that a Regulatory Disruption has occurred and the Expiration Dates affected by it; *provided* that if such deemed Market Disruption Event is deemed to have occurred solely in response to internal policies and procedures, such Scheduled Trading Day or Scheduled Trading Days will each be a Disrupted Day in full.
Automatic Exercise:	Applicable; and means that the Number of Warrants for each Component will be deemed to be automatically exercised at the Expiration Time on the Expiration Date for such Component unless Dealer notifies Seller (by telephone or in writing) prior to the Expiration Time on the Expiration Date that it does not wish Automatic Exercise to occur, in which case Automatic Exercise will not apply.
Issuer's Telephone Number and Telex and/or Facsimile Number and Contact Details for purpose of Giving Notice:	RH 15 Koch Road, Suite J Corte Madera, California, CA 94925 Attention: Office of Legal Counsel Attention: Chief Financial Officer Facsimile No.: 415-927-7264 with a copy to: Morrison & Foerster LLP 425 Market Street San Francisco, CA 94105 Attn: Gavin B. Grover, Esq. Fax: (415) 268-7522
Settlement Terms:	
In respect of any Component:	
Settlement Currency:	USD
Settlement Method Election:	Applicable; *provided* that (i) Issuer may elect Cash Settlement only if, on or prior to the Settlement Method Election Date, Issuer delivers written notice to Dealer stating that Issuer has elected that Cash Settlement apply to every Component of the Transaction; (ii) on such notice delivery date, Issuer represents and warrants to Dealer in writing that, as of such notice delivery date, (A) none of Issuer and its officers or directors, or any person that "controls" (within the meaning of the definition of an "affiliate" under Rule 144 under the Securities Act) any of the foregoing, is aware of any material nonpublic information regarding Issuer or the Shares, (B) Issuer is electing Cash Settlement in good faith and not as part of a plan or scheme to evade compliance with the federal securities laws, (C) the Issuer is not "insolvent" (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the "**Bankruptcy Code**")), (D) it would be able to purchase the Number of Shares plus the "Number of

	Shares", as defined in the Base Warrant Confirmation dated September 12, 2019, between the parties hereto, in compliance with the laws of Issuer's jurisdiction or organization, (E) Issuer has the requisite corporate power to make such election and to execute and deliver any documentation relating to such election that it is required by this Confirmation to deliver and to perform its obligations under this Confirmation and has taken all necessary corporate action to authorize such election, execution, delivery and performance, (F) such election and performance of its obligations under this Confirmation do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets, and (G) any transaction that Dealer makes with respect to the Shares during the period beginning at the time that Issuer delivers notice of its Cash Settlement election and ending at the close of business on the final day of the Settlement Period shall be made by Dealer at Dealer's sole discretion for Dealer's own account and Issuer shall not have, and shall not attempt to exercise, any influence over how, when, whether or at what price Dealer effects such transactions, including, without limitation, the prices paid or received by Dealer per Share pursuant to such transactions, or whether such transactions are made on any securities exchange or privately; and (iii) such Settlement Method Election shall apply to every Component. At any time prior to making a Settlement Method Election Issuer may, without the consent of Dealer, amend this Confirmation by notice to Dealer to eliminate Issuer's right to elect Cash Settlement. For the avoidance of doubt, Net Share Settlement and Cash Settlement shall be the only settlement methods, and Physical Settlement shall not apply.
Electing Party:	Issuer
Settlement Method Election Date:	The third Scheduled Trading Day immediately preceding the scheduled Expiration Date for the Component with the earliest scheduled Expiration Date.
Default Settlement Method:	Net Share Settlement
VWAP Price:	For any Valuation Date, the Rule 10b-18 dollar volume weighted average price per Share for such Valuation Date based on transactions executed during such Valuation Date, as displayed under the heading "Bloomberg VWAP" on Bloomberg Screen RH.N <Equity> VAP (or any successor thereto) or if such volume-weighted average price is not so reported on such Valuation Date for any reason or is manifestly incorrect, the market value of one Share on such Exchange Business Day, as reasonably determined by the Calculation Agent using a volume-weighted method.
Net Share Settlement:	
Net Share Settlement:	On each Settlement Date, Issuer shall deliver to Dealer a number of Shares equal to the Number of Shares to be Delivered for such Settlement Date to the account specified by Dealer and cash in lieu of any fractional shares valued at the Relevant Price on the Valuation Date corresponding to such Settlement Date.

Number of Shares to be Delivered:	In respect of any Exercise Date, subject to the last sentence of Section 9.5 of the Equity Definitions, the product of (i) the number of Warrants exercised or deemed exercised on such Exercise Date, (ii) the Warrant Entitlement and (iii) (A) the excess, if any, of the VWAP Price on the Valuation Date occurring on such Exercise Date over the Strike Price (or if there is no such excess, zero) *divided by* (B) such VWAP Price. The Number of Shares to be Delivered shall be delivered by Issuer to Dealer no later than 12:00 noon (local time in New York City) on the relevant Settlement Date.
Settlement Date:	The Settlement Date, determined as if Physical Settlement applied.
Other Applicable Provisions:	If Net Share Settlement is applicable, the provisions of Sections 9.1(c), 9.8, 9.9, 9.11 (except that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities laws arising as a result of the fact that Seller is the Issuer of the Shares) and 9.12 of the Equity Definitions will be applicable as if "Physical Settlement" applied to the Transaction.
Cash Settlement:	
Option Cash Settlement Amount:	For any Exercise Date, the product of (i) the number of Warrants exercised or deemed exercised on such Exercise Date, (ii) the Warrant Entitlement and (iii) the excess of the VWAP Price on the Valuation Date occurring on such Exercise Date over the Strike Price (or, if there is no such excess, zero).
Adjustments:	
In respect of any Component:	
Method of Adjustment:	Calculation Agent Adjustment; *provided* that customary share repurchases based on market prices whether executed on an exchange or off market or in block transactions shall not be considered Potential Adjustment Events (for the avoidance of doubt, accelerated share repurchases or other similar structured buyback transactions are outside this exception).
Extraordinary Dividend:	Any Dividend that has anex-dividend date occurring on or after the Trade Date and on or prior to the date on which Issuer satisfies all of its delivery obligations hereunder
Dividend:	Any dividend or distribution on the Shares (other than any dividend or distribution of the type described in Sections 11.2(e)(i), 11.2(e)(ii)(A) or 11.2(e)(ii)(B) of the Equity Definitions).
Extraordinary Events:	
Consequences of Merger Events:	
(a) Share-for-Share:	Modified Calculation Agent Adjustment

(b) Share-for-Other:	Cancellation and Payment (Calculation Agent Determination)
(c) Share-for-Combined:	Cancellation and Payment (Calculation Agent Determination)
Tender Offer:	Applicable; *provided* that for purposes of Section 12.3(d) of the Equity Definitions, only in the case of a self-tender by the Issuer, references in the definition of Tender Offer under the Equity Definitions to 10% shall be replaced with 20%.
Consequences of Tender Offers:	
(a) Share-for-Share:	Modified Calculation Agent Adjustment
(b) Share-for-Other:	Cancellation and Payment (Calculation Agent Determination) on that portion of the Other Consideration that consists of cash; Modified Calculation Agent Adjustment on the remainder of the Other Consideration.
(c) Share-for-Combined:	Modified Calculation Agent Adjustment
Modified Calculation Agent Adjustment:	If, in respect of any Merger Event to which Modified Calculation Agent Adjustment applies, the adjustments to be made in accordance with Section 12.2(e)(i) of the Equity Definitions would result in Issuer being different from the issuer of the Shares, then with respect to such Merger Event, as a condition precedent to the adjustments contemplated in Section 12.2(e)(i) of the Equity Definitions, Dealer, the Issuer of the Affected Shares and the entity that will be the Issuer of the New Shares shall, prior to the Merger Date, have entered into such documentation containing representations, warranties and agreements relating to securities law and other issues as requested by Dealer that Dealer has determined, in its reasonable discretion, to be reasonably necessary or appropriate to allow Dealer to continue as a party to the Transaction, as adjusted under Section 12.2(e)(i) of the Equity Definitions, and to preserve its hedging or hedge unwind activities in connection with the Transaction in a manner compliant with applicable U.S. federal or state legal, regulatory or self-regulatory requirements, and with related policies and procedures applicable to Dealer similarly applicable to warrant transactions and consistently applied (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer), and if such conditions are not met or if the Calculation Agent reasonably determines that no adjustment that it could make under Section 12.2(e)(i) of the Equity Definitions will produce a commercially reasonable result, then the consequences set forth in Section 12.2(e)(ii) of the Equity Definitions shall apply.
Consequences of Announcement Events:	Modified Calculation Agent Adjustment as set forth in Section 12.3(d) of the Equity Definitions; *provided* that references to “Tender Offer” shall be replaced by references to “Announcement Event” and references to “Tender Offer Date” shall be replaced by references to “date of such Announcement Event”. An Announcement Event shall be an “Extraordinary Event” for purposes of the Equity Definitions, to which Article 12 of the Equity Definitions is applicable.

Announcement Event:	(i) The public announcement by any entity of (x) any transaction or event that, if completed, would constitute a Merger Event or Tender Offer, (y) any acquisition by Issuer or any of its subsidiaries where the aggregate consideration exceeds 25% of the market capitalization of Issuer as of the date of such announcement (an "**Acquisition Transaction**") or (z) the intention to enter into a Merger Event or Tender Offer or an Acquisition Transaction, (ii) the public announcement by Issuer of an intention to solicit or enter into, or to explore strategic alternatives or other similar undertaking that may include, a Merger Event or Tender Offer or an Acquisition Transaction or (iii) any subsequent public announcement by any entity of a withdrawal, discontinuation, termination or other change to a transaction or intention that is the subject of an announcement of the type described in clause (i) or (ii) of this sentence, as determined, in each case, by the Calculation Agent. For purposes of this definition of "Announcement Event," the remainder of the definition of "Merger Event" in Section 12.1(b) of the Equity Definitions following the definition of "Reverse Merger" therein shall be disregarded.
New Shares:	In the definition of New Shares in Section 12.1(i) of the Equity Definitions, (a) the text in clause (i) thereof shall be deleted in its entirety (including the word "and" following such clause (i)) and replaced with "publicly quoted, traded or listed on any of the New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or their respective successors)," and (b) the phrase "and (iii) issued by a corporation organized under the laws of the United States, any State thereof or the District of Columbia" shall be inserted immediately prior to the period.
Nationalization, Insolvency or Delisting:	Cancellation and Payment (Calculation Agent Determination); *provided* that in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it shall also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any such exchange or quotation system, such exchange or quotation system shall thereafter be deemed to be the Exchange.
Additional Disruption Events:	
(a) Change in Law:	Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase "the interpretation" in the third line thereof with the phrase "or announcement or statement of the formal or informal interpretation", (ii) immediately following the word "Transaction" in clause (X) thereof, adding the phrase "in the manner contemplated by Hedging Party on the Trade Date", (iii) adding the words "(including, for the avoidance of doubt and without limitation, adoption or promulgation of new regulations authorized

	or mandated by existing statute)" after the word "regulation" in the second line thereof, (iv) adding the words "or any Hedge Positions" after the word "Shares" in the clause (X) thereof and (v) adding the words ", or holding, acquiring or disposing of Shares or any Hedge Positions relating to," after the words "obligations under" in clause (Y) thereof.
(b) Failure to Deliver:	Applicable
(c) Insolvency Filing:	Applicable
(d) Hedging Disruption:	Applicable; *provided* that: (i) Section 12.9(a)(v) of the Equity Definitions is hereby amended by (a) inserting the following words at the end of clause (A) thereof: "in the manner contemplated by the Hedging Party on the Trade Date" and (b) inserting the following two phrases at the end of such Section: "For the avoidance of doubt, the term "equity price risk" shall be deemed to include, but shall not be limited to, stock price and volatility risk. And, for the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms."; and (ii) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words "to terminate the Transaction", the words "or a portion of the Transaction affected by such Hedging Disruption".
(e) Increased Cost of Hedging:	Not Applicable
(f) Loss of Stock Borrow:	Applicable
Maximum Stock Loan Rate:	As provided in Annex A to this Confirmation.
(g) Increased Cost of Stock Borrow:	Applicable
Initial Stock Loan Rate:	As provided in Annex A to this Confirmation.
Hedging Party:	Dealer for all applicable Potential Adjustment Events and Extraordinary Events
Determining Party:	For all applicable Extraordinary Events, Dealer, which shall in each case act in good faith and in a commercially reasonable manner
Non-Reliance:	Applicable
Agreements and Acknowledgments Regarding Hedging Activities:	Applicable
Additional Acknowledgments:	Applicable
Adjustment and Termination Consultation:	Upon the occurrence of any event that would permit Dealer (whether in its capacity as Calculation Agent or otherwise) to adjust the terms of the Transaction or terminate the Transaction, if Dealer determines, in its discretion, that it is commercially and legally practicable, prior to Dealer making such adjustment or effecting such termination, Dealer shall seek to consult with Issuer in good faith regarding such adjustment or termination. The foregoing shall not (i) limit the rights of the Dealer to make such adjustment or

effect such termination at any time or (ii) obligate Dealer to delay, or continue delaying, making such adjustment or effecting such termination at any time (in each case, whether in Dealer's capacity as Calculation Agent or otherwise).

3. Calculation Agent: Dealer; *provided* that (i) if an Event of Default as a result of Section 5(a)(vii) of the Agreement has occurred and is continuing with respect to Dealer, then the Issuer shall have the right to designate a Calculation Agent that is a leading recognized dealer in equity derivatives (as determined in good faith by the Issuer) for so long as such Event of Default is continuing and *provided, further*, that all determinations made by the Calculation Agent shall be made in good faith and in a commercially reasonable manner. Following any calculation, adjustment or determination by the Calculation Agent hereunder, upon a written request by Issuer, the Calculation Agent will promptly provide to Issuer a written explanation (including, if applicable, a report in a commonly used file format for the storage and manipulation of financial data) describing in reasonable detail the basis for the relevant calculation, adjustment or determination (including any quotations, market data or information from internal or external sources used in making such calculation, adjustment or determination, as the case may be, but without disclosing Dealer's proprietary models or other information that may be proprietary or subject to contractual, legal or regulatory obligations to not disclose such information) and shall use commercially reasonable efforts to provide such written explanation within ten (10) Exchange Business Days after the receipt of any such request.

4. Account Details:

Dealer Payment Instructions:

Bank:
ABA#:
Acct No.:
Beneficiary:
Ref:

5. Offices:

The Office of Dealer for the Transaction is: [ ]

The Office of Issuer for the Transaction is: Not applicable

6. Notices: For purposes of this Confirmation:

(a) Address for notices or communications to Issuer:

RH
15 Koch Road, Suite J
Corte Madera, California, CA 94925
Attention: Office of Legal Counsel
Attention: Chief Financial Officer
Facsimile No.: 415-927-7264

with a copy to:

Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105
Attn: Gavin B. Grover, Esq.
Fax: (415) 268-7522

(b) Address for notices or communications to Dealer:

[Dealer]
[Notice details]

7. Representations, Warranties and Agreements:

(a) In addition to the representations and warranties in the Agreement and those contained elsewhere herein, Issuer represents and warrants to and for the benefit of, and agrees with, Dealer as follows:

(i) On the Trade Date, (A) none of Issuer and its officers and directors is aware of any material nonpublic information regarding Issuer or the Shares and (B) all reports and other documents filed by Issuer with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), when considered as a whole (with the more recent such reports and documents deemed to amend inconsistent statements contained in any earlier such reports and documents), do not contain any untrue statement of a material fact or any omission of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading.

(ii) Without limiting the generality of Section 13.1 of the Equity Definitions, Issuer acknowledges that Dealer is not making any representations or warranties or taking any position or expressing any view with respect to the treatment of the Transaction under any accounting standards including ASC Topic 260, *Earnings Per Share*, ASC Topic 815, *Derivatives and Hedging*, or ASC Topic 480, *Distinguishing Liabilities from Equity* and ASC 815-40, *Derivatives and Hedging – Contracts in Entity's Own Equity* (or any successor issue statements) or under FASB's Liabilities & Equity Project.

(iii) Prior to the Trade Date, Issuer shall deliver to Dealer a resolution of Issuer's board of directors authorizing the Transaction and such other certificate or certificates as Dealer shall reasonably request.

(iv) Issuer is not entering into this Confirmation to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for Shares) or to otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for Shares) or otherwise in violation of the Exchange Act.

(v) Issuer is not, and after giving effect to the transactions contemplated hereby will not be, required to register as an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

(vi) On the Trade Date, (A) the assets of Issuer at their fair valuation exceed the liabilities of Issuer, including contingent liabilities, (B) the capital of Issuer is adequate to conduct the business of Issuer and (C) Issuer has the ability to pay its debts and obligations as such debts mature and does not intend to, or does not believe that it will, incur debt beyond its ability to pay as such debts mature.

(vii) Issuer shall not take any action to decrease the number of Available Shares below the Capped Number (each as defined below).

(viii) The representations and warranties of Issuer set forth in Section 3 of the Agreement and Section 1(a) of the Purchase Agreement (the "**Purchase Agreement**") dated as of the Trade Date between Issuer and [BofA Securities, Inc.] as representative of the Initial Purchasers party thereto are true and correct and are hereby deemed to be repeated to Dealer as if set forth herein.

(ix) Issuer understands no obligations of Dealer to it hereunder will be entitled to the benefit of deposit insurance and that such obligations will not be guaranteed by any Affiliate of Dealer or any governmental agency.

(x) On the Trade Date and during the period starting on the first Expiration Date and ending on the last Expiration Date (the "**Settlement Period**"), the Shares or securities that are convertible into, or exchangeable or exercisable for Shares, are not, and shall not be, subject to a "restricted period," as such term

is defined in Regulation M under the Exchange Act ("**Regulation M**") unless (x) such Shares or securities are excepted from section 101(a) of Regulation M by sections 101(c)(1) or 101(c)(3) of Regulation M and section 102(a) of Regulation M by sections 102(d)(1) or 102(d)(3) of Regulation M or (y) such Shares or securities are of the kind that may be excepted from the prohibitions of sections 101(a) and 102(a) of Regulation M by sections 101(b)(10) and 102(b)(7) of Regulation M and (B) Issuer shall not engage in any "distribution" (as such term is defined in Regulation M) other than a distribution meeting the requirements of the exceptions set forth in sections 101(b)(10) and 102(b)(7) of Regulation M, until the second Exchange Business Day immediately following the Trade Date or until the second Exchange Business Day immediately following the Settlement Period, as applicable.

(xi) During the Settlement Period, neither Issuer nor any "affiliate" or "affiliated purchaser" (each as defined in Rule 10b-18 under the Exchange Act ("**Rule 10b-18**")) shall directly or indirectly (including, without limitation, by means of any cash-settled or other derivative instrument) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any Shares (or an equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable or exercisable for Shares, except with the consent of Dealer, not to be unreasonably withheld, and except for purchases from its employees that are not "Rule 10b-18 purchases" as defined in Rule 10b-18(a)(13) under the Exchange Act.

(xii) On the Trade Date (A) a number of Shares equal to the Capped Number have been reserved for issuance by all required corporate action of Issuer, (B) the Shares issuable upon exercise of the Warrants (the "**Warrant Shares**") have been duly authorized and, when delivered against payment therefor (which may include Net Share Settlement in lieu of cash) and otherwise as contemplated by the terms of the Warrant following the exercise of the Warrant in accordance with the terms and conditions of the Warrant, will be validly issued, fully-paid and non-assessable, and the issuance of the Warrant Shares will not be subject to any preemptive or similar rights.

(xiii) No state or local law, rule, regulation or regulatory order in the State of Delaware or Californiaapplicable to the Shares would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares.

(b) Each of Dealer and Issuer agrees and represents that it is an "eligible contract participant" as defined in Section 1a(18) of the U.S. Commodity Exchange Act, as amended.

(c) Each of Dealer and Issuer acknowledges that the offer and sale of the Transaction to it is intended to be exempt from registration under the Securities Act of 1933, as amended (the "**Securities Act**"), by virtue of Section 4(a)(2) thereof. Accordingly, Dealer represents and warrants to Issuer that (i) it has the financial ability to bear the economic risk of its investment in the Transaction and is able to bear a total loss of its investment, (ii) it is an "accredited investor" as that term is defined in Regulation D as promulgated under the Securities Act, (iii) it is entering into the Transaction for its own account without a view to the distribution or resale thereof and (iv) the assignment, transfer or other disposition of the Transaction has not been and will not be registered under the Securities Act and is restricted under this Confirmation, the Securities Act and state securities laws.

(d) Each of Dealer and Issuer agrees and acknowledges that Dealer is a "financial institution," "swap participant" and "financial participant" within the meaning of Sections 101(22), 101(53C) and 101(22A) of the Bankruptcy Code. The parties hereto further agree and acknowledge that it is the intent of the parties (A) that this Confirmation is (i) a "securities contract," as such term is defined in Section 741(7) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a "termination value," "payment amount" or "other transfer obligation" within the meaning of Section 362 of the Bankruptcy Code and a "settlement payment," as such term is defined in Section 741(8) of the Bankruptcy Code, and (ii) a "swap agreement," as such term is defined in Section 101(53B) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a "termination value," "payment amount" or "other transfer obligation" within the meaning of Section 362 of the Bankruptcy Code and a "transfer," as such term is defined in Section 101(54) of the Bankruptcy Code, and (B) that Dealer is entitled to the protections afforded by, among other sections, Sections 362(b)(6), 362(b)(17), 362(o), 546(e), 546(g), 548(d)(2), 555 and 560 of the Bankruptcy Code.

(e) Issuer shall deliver to Dealer an opinion of counsel, dated as of the Effective Date and reasonably acceptable to Dealer in form and substance, with respect to due incorporation, existence and good standing of Issuer in Delaware, its qualifications as a foreign corporation and good standing in California, the due authorization, execution and delivery of this Confirmation, the enforceability of this Confirmation, the absence of conflict of the execution, delivery and performance of this Confirmation with any material agreement required to be filed as an exhibit to Issuer's Annual Report on Form 10-K and Issuer's charter documents, and that the Warrant Shares have been duly authorized by all necessary corporate action on the part of Issuer and reserved for issuance and when issued and delivered in accordance with the terms of this Confirmation would, if issued on the date of such opinion, be validly issued, fully paid and nonassessable and free of preemptive rights under Issuer's certificate of incorporation and bylaws and Delaware law.

(f) Dealer represents and warrants to and for the benefit of Issuer that it will not require the Issuer to post any collateral pursuant the requirements set out in Regulation (EU) No 648/2012 with respect to this Transaction.

8. Other Provisions:

(a) *Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events*. If Issuer shall owe Dealer any amount pursuant to Sections 12.2, 12.3, 12.6, 12.7 or 12.9 of the Equity Definitions or pursuant to Section 6(d)(ii) of the Agreement (a "**Payment Obligation**"), Issuer shall have the right, in its sole discretion, to satisfy any such Payment Obligation by the Share Termination Alternative (as defined below) by giving irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, no later than 9:30 A.M. New York City time on the Merger Date, Tender Offer Date, Announcement Date, Early Termination Date or date of cancellation or termination in respect of an Extraordinary Event, as applicable ("**Notice of Share Termination**"); *provided* that if Issuer does not elect to satisfy its Payment Obligation by the Share Termination Alternative, Dealer shall have the right, in its sole discretion, to elect to require Issuer to satisfy its Payment Obligation by the Share Termination Alternative, notwithstanding Issuer's failure to elect or election to the contrary; and *provided further* that Issuer shall not have the right to so elect (but, for the avoidance of doubt, Dealer shall have the right to so elect) in the event (i) of an Insolvency, a Nationalization, a Tender Offer or a Merger Event, in each case, in which the consideration or proceeds to be paid to holders of Shares consists solely of cash, (ii) of an Event of Default in which Issuer is the Defaulting Party or a Termination Event in which Issuer is the Affected Party, which Event of Default or Termination Event resulted from an event or events within Issuer's control or (iii) that Issuer fails to remake the representation set forth in Section 7(a)(i) as of the date of such election. Upon such Notice of Share Termination, the following provisions shall apply on the Scheduled Trading Day immediately following the Merger Date, the Tender Offer Date, Announcement Date, Early Termination Date or date of cancellation or termination in respect of an Extraordinary Event, as applicable:

Share Termination Alternative:	If applicable, means that Issuer shall deliver to Dealer the Share Termination Delivery Property on the date on which the Payment Obligation would otherwise be due pursuant to Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) of the Agreement, as applicable or such later date or dates as the Calculation Agent may reasonably determine (such delivery to occur as soon as reasonably practicable under the circumstances) (the "**Share Termination Payment Date**"), in satisfaction of the Payment Obligation. For the avoidance of doubt, a delay in delivery of the Share Termination Delivery Property shall not result in a change in the composition of such Share Termination Delivery Property.
Share Termination Delivery Property:	A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of the aggregate amount of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.
Share Termination Unit Price:	The value of property contained in one Share Termination Delivery Unit on the date such Share Termination Delivery Units are to be delivered as Share Termination Delivery Property, as determined by the Calculation Agent in its reasonable discretion by commercially reasonable means and notified by the Calculation Agent to Issuer at the time of notification of the Payment Obligation.

Share Termination Delivery Unit:	In the case of a Termination Event, Event of Default, Delisting or Additional Disruption Event, one Share or, in the case of an Insolvency, Nationalization, Merger Event or Tender Offer, one Share or a unit consisting of the number or amount of each type of property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Insolvency, Nationalization, Merger Event or Tender Offer, as applicable. If such Insolvency, Nationalization, Merger Event or Tender Offer involves a choice of consideration to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.
Failure to Deliver:	Applicable
Other applicable provisions:	If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9 and 9.11 (except that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities laws arising as a result of the fact that Seller is the issuer of the Shares or any portion of the Share Termination Delivery Units) and 9.12 of the Equity Definitions will be applicable as if "Physical Settlement" applied to the Transaction, except that all references to "Shares" shall be read as references to "Share Termination Delivery Units".

(b) *Registration/Private Placement Procedures*. (i) If, in the reasonable judgment of Dealer, based on the advice of counsel, for any reason, any Shares or any securities of Issuer or its affiliates comprising any Share Termination Delivery Units deliverable to Dealer hereunder (any such Shares or securities, "**Delivered Securities**") would not be immediately freely transferable by Dealer under Rule 144 under the Securities Act, then the provisions set forth in this Section 8(b) shall apply. At the election of Issuer by notice to Dealer within one Exchange Business Day after the relevant delivery obligation arises, but in any event at least one Exchange Business Day prior to the date on which such delivery obligation is due, either (A) all Delivered Securities delivered by Issuer to Dealer shall be, at the time of such delivery, covered by an effective registration statement of Issuer for immediate resale by Dealer (such registration statement and the corresponding prospectus (the "**Prospectus**") (including, without limitation, any sections describing the plan of distribution) in form and content commercially reasonably satisfactory to Dealer) or (B) Issuer shall deliver additional Delivered Securities so that the value of such Delivered Securities, as reasonably determined by the Calculation Agent to reflect an appropriate liquidity discount, equals the value of the number of Delivered Securities that would otherwise be deliverable if such Delivered Securities were freely tradeable (without prospectus delivery) upon receipt by Dealer (such value, the "**Freely Tradeable Value**"); *provided* that Issuer may not make the election described in this clause (B) if, on the date of its election, it has taken, or caused to be taken, any action that would make unavailable either the exemption pursuant to Section 4(a)(2) of the Securities Act for the delivery by Issuer to Dealer (or any affiliate designated by Dealer) of the Delivered Securities or the exemption pursuant to Section 4(a)(1) or Section 4(a)(3) of the Securities Act for resales of the Delivered Securities by Dealer (or any such affiliate of Dealer). (For the avoidance of doubt, as used in this paragraph (b) only, the term "Issuer" shall mean the issuer of the relevant securities, as the context shall require.)

(ii) If Issuer makes the election described in clause (b)(i)(A) above (and clause (b)(iii) below does not apply):

(A) Dealer (or an Affiliate of Dealer designated by Dealer) shall be afforded a reasonable opportunity to conduct a due diligence investigation with respect to Issuer that is customary in scope for underwritten follow-on offerings of equity securities of companies of comparable size, maturity and lines of business and that yields results that are satisfactory to Dealer or such Affiliate, as the case may be, in its reasonable discretion subject to execution by such recipients of customary confidentiality agreements reasonably acceptable to Issuer; and

(B) Dealer (or an Affiliate of Dealer designated by Dealer) and Issuer shall enter into an agreement (a '**Registration Agreement**") on commercially reasonable terms in connection with the public resale of such Delivered Securities by Dealer or such Affiliate substantially similar to underwriting agreements customary for underwritten follow-on offerings of equity securities of companies of comparable size, maturity and lines of business, in form and substance commercially reasonably satisfactory to Dealer or such Affiliate and Issuer, which Registration Agreement shall include, without limitation, provisions substantially similar to those

contained in such underwriting agreements of companies of comparable size, maturity and lines of business relating to the indemnification of, and contribution in connection with the liability of, Dealer and its Affiliates and Issuer, shall provide for the payment by Issuer of all reasonable expenses in connection with such resale, including all registration costs and all reasonable fees and expenses of counsel for Dealer, and in connection with an underwritten offering of Delivered Securities shall use its commercially reasonable efforts to provide for the delivery of accountants' "comfort letters" to Dealer or such Affiliate in customary form and substance of companies of comparable size, maturity and lines of business with respect to the financial statements and certain financial information contained in or incorporated by reference into the Prospectus.

(iii) If Issuer makes the election described in clause (b)(i)(B) above or if Issuer makes the election described in clause (b)(i)(A) but fails to comply with (ii) above or if applicable legal, regulatory or self-regulatory requirements, or related policies and procedures applicable to Dealer similarly applicable to warrant transactions and consistently applied (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer) would preclude or impose liability for the public resale of the Delivered Securities pursuant to the Prospectus:

Dealer (or an Affiliate of Dealer designated by Dealer) and any potential institutional purchaser of any such Delivered Securities from Dealer or such Affiliate identified by Dealer shall be afforded a commercially reasonable opportunity to conduct a due diligence investigation in compliance with applicable law with respect to Issuer customary in scope for private placements of equity securities of companies of comparable size, maturity and lines of business (including, without limitation, the right to have made available to them for inspection all financial and other records, pertinent corporate documents and other information reasonably requested by them subject to execution by such recipients of customary confidentiality agreements reasonably acceptable to Issuer);

Dealer (or an Affiliate of Dealer designated by Dealer) and Issuer shall enter into an agreement (a '**Private Placement Agreement**") on commercially reasonable terms in connection with the private placement of such Delivered Securities by Issuer to Dealer or such Affiliate and the private resale of such Delivered Securities by Dealer or such Affiliate, substantially similar to private placement purchase agreements customary for private placements of equity securities of similar size, in form and substance commercially reasonably satisfactory to Dealer and Issuer, which Private Placement Agreement shall include, without limitation, provisions substantially similar to those contained in such private placement purchase agreements relating to the indemnification of, and contribution in connection with the liability of, Dealer and its Affiliates and Issuer, shall provide for the payment by Issuer of all reasonable expenses in connection with such resale, including all reasonable fees and expenses of counsel for Dealer (which such expenses, at the election of the Issuer, may be paid in Shares by including the amount of such expenses as an additional component of Required Proceeds), shall contain representations, warranties and agreements of Issuer reasonably necessary or advisable to establish and maintain the availability of an exemption from the registration requirements of the Securities Act for such resales, and shall use commercially reasonable efforts to provide for the delivery of accountants' "comfort letters" to Dealer or such Affiliate with respect to the financial statements and certain financial information contained in or incorporated by reference into the offering memorandum prepared for the resale of such Delivered Securities as are customarily requested in comfort letters covering private placements of equity securities of companies of comparable size, maturity and lines of business;

Issuer agrees that under applicable law as it currently exists any Delivered Securities so delivered to Dealer, (i) may be transferred by and among Dealer and its Affiliates, and Issuer shall effect such transfer without any further action by Dealer and (ii) after the minimum "holding period" within the meaning of Rule 144(d) under the Securities Act has elapsed with respect to such Delivered Securities, Issuer shall promptly remove, or cause the transfer agent for such Shares or securities to remove, any legends referring to any such restrictions or requirements from such Delivered Securities upon delivery by Dealer (or such Affiliate of Dealer) to Issuer or such transfer agent of seller's and broker's representation letters customarily delivered by Dealer in connection with resales of restricted securities pursuant to Rule 144 under the Securities Act, without any further requirement for the delivery of any certificate, consent, agreement, opinion of counsel, notice or any other document, any transfer tax stamps or payment of any other amount or any other action by Dealer (or such affiliate of Dealer); and

Issuer shall not take, or cause to be taken, any action that would make unavailable either the exemption pursuant to Section 4(a)(2) of the Securities Act for the sale by Issuer to Dealer (or any affiliate designated by Dealer) of the Shares or Share Termination Delivery Units, as the case may be, or the exemption pursuant to Section 4(a)(1) or Section 4(a)(3) of the Securities Act for resales of the Shares or Share Termination Delivery Units, as the case may be, by Dealer (or any such affiliate of Dealer).

(iii) Dealer or its affiliate may sell such Shares or Share Termination Delivery Units, as the case may be, during a period (the "**Resale Period**") commencing on the Exchange Business Day following delivery of such Shares or Share Termination Delivery Units, as the case may be, and ending on the Exchange Business Day on which Dealer completes the sale of all such Shares or Share Termination Delivery Units, as the case may be, or a sufficient number of Shares or Share Termination Delivery Units, as the case may be, so that the realized net proceeds of such sales exceed the Freely Tradeable Value (such amount of the Freely Tradeable Value, the "**Required Proceeds**"). If any of such delivered Shares or Share Termination Delivery Units remain after such realized net proceeds exceed the Required Proceeds, Dealer shall return such remaining Shares or Share Termination Delivery Units to Issuer. If the Required Proceeds exceed the realized net proceeds from such resale, Issuer shall transfer to Dealer by the open of the regular trading session on the Exchange on the Exchange Trading Day immediately following the last day of the Resale Period the amount of such excess (the "**Additional Amount**") in cash or in a number of additional Shares or Share Termination Delivery Units, as the case may be, ("**Make-whole Shares**") in an amount that, based on the Relevant Price on the last day of the Resale Period (as if such day was the "Valuation Date" for purposes of computing such Relevant Price), has a dollar value equal to the Additional Amount. The Resale Period shall continue to enable the sale of the Make-whole Shares in the manner contemplated by this Section 8(b)(iii). This provision shall be applied successively until the Additional Amount is equal to zero, subject to Section 8(d).

(c) *Beneficial Ownership*. Notwithstanding anything to the contrary in the Agreement or this Confirmation, in no event shall Dealer be entitled to receive, or shall be deemed to receive, any Shares in connection with this Transaction if, immediately upon giving effect to such receipt of such Shares, (i) the Warrant Equity Percentage exceeds 14.5%, (ii) Dealer's Beneficial Ownership would be equal to or greater than 9.0% of the outstanding Shares, (iii) Dealer or any "affiliate" or "associate" of Dealer would own in excess of 13% of the outstanding Shares for purposes of Section 203 of the Delaware General Corporation Law or (iv) Dealer, Dealer Group (as defined below) or any person whose ownership position would be aggregated with that of Dealer or Dealer Group (Dealer, Dealer Group or any such person, a "**Dealer Person**") under any federal, state or local laws, regulations, regulatory orders or organizational documents or contracts of Issuer that are, in each case, applicable to ownership of Shares ("**Applicable Laws**"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership in excess of a number of Shares equal to (x) the number of Shares that would give rise to reporting or registration obligations or other requirements (including obtaining prior approval by a state or federal regulator) of a Dealer Person, or could result in an adverse effect on a Dealer Person, under Applicable Laws, as determined by Dealer in its reasonable discretion, and with respect to which such requirements have not been met or the relevant approval has not been received or that would give rise to any consequences under the constitutive documents of Issuer or any contract or agreement to which Issuer is a party, in each case *minus* (y) 1% of the number of Shares outstanding on the date of determination (each of clause (i), (ii) and (iii) above, an "**Ownership Limitation**"). If any delivery owed to Dealer hereunder is not made, in whole or in part, as a result of an Ownership Limitation, Dealer's right to receive such delivery shall not be extinguished and Issuer shall make such delivery as promptly as practicable after, but in no event later than one Exchange Business Day after, Dealer gives notice to Issuer that such delivery would not result in any of such Ownership Limitations being breached. "**Dealer's Beneficial Ownership**" means the "beneficial ownership" (within the meaning of Section 13 of the Exchange Act and the rules promulgated thereunder (collectively, "**Section 13**")) of Shares, without duplication, by Dealer, together with any of its affiliates or other person subject to aggregation with Dealer under Section 13 for purposes of "beneficial ownership", or by any "group" (within the meaning of Section 13) of which Dealer is or may be deemed to be a part (Dealer and any such affiliates, persons and groups, collectively, "**Dealer Group**") (or, to the extent that, as a result of a change in law, regulation or interpretation after the date hereof, the equivalent calculation under Section 16 of the Exchange Act and the rules and regulations thereunder results in a higher number, such number). Notwithstanding anything in the Agreement or this Confirmation to the contrary, Dealer (or the affiliate designated by Dealer pursuant to Section 8(k) below) shall not become the record or beneficial owner, or otherwise have any rights as a holder, of any Shares that Dealer (or such affiliate) is not entitled to receive at any time pursuant to this Section 8(c), until such time as such Shares are delivered pursuant to this Section 8(c). The "**Warrant Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the sum of (1) the product of the Number of Warrants and the Warrant Entitlement and (2) the aggregate number of Shares underlying any other warrants purchased by Dealer from Issuer, and (B) the denominator of which is the number of Shares outstanding.

(d) *Limitations on Settlement by Issuer.* Notwithstanding anything herein or in the Agreement to the contrary, in no event shall Issuer be required to deliver Shares in connection with the Transaction in excess of the Capped Number of Shares (as provided in Annex A to this Confirmation), subject to adjustment from time to time in accordance with the provisions of this Confirmation or the Definitions; *provided* that no such adjustment shall cause the Capped Number to exceed the Available Shares, other than an adjustment resulting from actions of Issuer or events within

Issuer's control (the "**Capped Number**"). Issuer represents and warrants to Dealer (which representation and warranty shall be deemed to be repeated on each day that the Transaction is outstanding) that the Capped Number is equal to or less than the number of authorized but unissued Shares of the Issuer that are not reserved for future issuance in connection with transactions in the Shares (other than the Transaction) on the date of the determination of the Capped Number (such Shares, the "**Available Shares**"). In the event Issuer shall not have delivered the full number of Shares otherwise deliverable as a result of this Section 8(d) (the resulting deficit, the "**Deficit Shares**"), Issuer shall be continually obligated to deliver, from time to time until the full number of Deficit Shares have been delivered pursuant to this paragraph, Shares when, and to the extent, that (i) Shares are repurchased, acquired or otherwise received by Issuer or any of its subsidiaries after the Trade Date (whether or not in exchange for cash, fair value or any other consideration), (ii) authorized and unissued Shares previously reserved for issuance in respect of other transactions which prior to the relevant date become no longer so reserved or (iii) Issuer additionally authorizes any unissued Shares that are not reserved for other transactions. Issuer shall immediately notify Dealer of the occurrence of any of the foregoing events (including the number of Shares subject to clause (i), (ii) or (iii) and the corresponding number of Shares to be delivered) and promptly deliver such Shares thereafter.

(e) *Right to Extend.* Dealer may postpone any Exercise Date or Settlement Date or any other date of valuation or delivery by Dealer, with respect to some or all of the relevant Warrants (in which event the Calculation Agent shall make appropriate adjustments to the Delivery Obligation), if Dealer determines, in its reasonable discretion, that such extension is reasonably necessary or appropriate to (i) preserve Dealer's hedging or hedge unwind activity hereunder in light of existing liquidity conditions in the cash market, the stock loan market or any other market in which Dealer, in the exercise of its commercially reasonable discretion, deems it advisable to hedge its exposure to the Transaction or (ii) to enable Dealer to effect purchases of Shares in connection with its hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Issuer or an affiliated purchaser of Issuer, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures applicable to Dealer similarly applicable to warrant transactions and consistently applied (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer); *provided* that any such extension pursuant to clause (i) shall not exceed 45 Exchange Business Days.

(f) *Equity Rights*. Dealer acknowledges and agrees that this Confirmation is not intended to convey to it rights with respect to the Transaction that are senior to the claims of common stockholders in the event of Issuer's bankruptcy. For the avoidance of doubt, the parties agree that the preceding sentence shall not apply at any time other than during Issuer's bankruptcy to any claim arising as a result of a breach by Issuer of any of its obligations under this Confirmation or the Agreement. For the avoidance of doubt, the parties acknowledge that none of the obligations of Issuer or Dealer under this Confirmation are secured by any collateral that would otherwise secure the obligations of Issuer herein under or pursuant to any other agreement.

(g) *Amendments to Equity Definitions.* The following amendments shall be made to the Equity Definitions:

(i) With respect to any Potential Adjustment Event, Section 11.2(a) of the Equity Definitions is hereby amended by deleting the words "a diluting or concentrative" and replacing them with the words "an"; and adding the phrase "or Warrants" at the end of the sentence.

(ii) The first sentence of Section 11.2(c) of the Equity Definitions, prior to clause (A) thereof, is hereby amended to read as follows: '(c) If "Calculation Agent Adjustment" is specified as the Method of Adjustment in the related Confirmation of a Share Option Transaction, then following the announcement or occurrence of any Potential Adjustment Event, the Calculation Agent will determine whether such Potential Adjustment Event has an effect on the theoretical value of the relevant Shares or options on the Shares and, if so, will (i) make appropriate adjustment(s), if any, to any one or more of:' and, the portion of such sentence immediately preceding clause (ii) thereof is hereby amended by deleting the words "diluting or concentrative" and the words "(provided that no adjustments will be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares)" and replacing such latter phrase with the words "(and, for the avoidance of doubt, adjustments may be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares)";

(iii) Section 12.9(b)(iv) of the Equity Definitions is hereby amended by (A) deleting (1) subsection (A) in its entirety, (2) the phrase "or (B)" following subsection (A) and (3) the phrase "in each case" in subsection (B); and (B) deleting the phrase "neither the Non-Hedging Party nor the Lending Party lends Shares in the amount of the Hedging Shares or" in the penultimate sentence; and

(iv) Section 12.9(b)(v) of the Equity Definitions is hereby amended by (A) adding the word "or" immediately before subsection "(B)" and deleting the comma at the end of subsection (A); and (B)(1) deleting subsection (C) in its entirety, (2) deleting the word "or" immediately preceding subsection (C) and (3) replacing in the penultimate sentence the words "either party" with "the Hedging Party" and (4) deleting clause (X) in the final sentence.

(h) *Transfer and Assignment*. Dealer may transfer or assign its rights and obligations hereunder and under the Agreement, in whole or in part, at any time to any person or entity which is a recognized dealer in the market for corporate equity derivatives without the consent of Issuer, *provided* that (i) the transferee shall be a "United States person" as determined for U.S. federal income tax purposes**,** (ii) no material adverse legal or regulatory consequence shall result to Dealer, Issuer or the transferee as a result of such transfer, (iii) Dealer shall have caused the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Issuer to permit Issuer to determine that such transfer or assignment complies with clause (i) of this sentence and (iv) either (x) the transferee is not a 'financial counterparty' (as defined in Regulation (EU) No 648/2012 as amended from time to time) subject to the requirements set out in Regulation (EU) No 648/2012 or any equivalent regulation requiring the transferee and Issuer to exchange collateral with respect to this Transaction or (y) the transferee represents and warrants to and for the benefit of Issuer that it will not require the Issuer to post any collateral pursuant the requirements set out in Regulation (EU) No 648/2012 with respect to this Transaction. At any time at which any Ownership Limitation or a Hedging Disruption exists, if Dealer, in its discretion, is unable to effect a transfer or assignment to a third party which is a recognized dealer in the market for corporate equity derivatives after using its commercially reasonable efforts on pricing terms and within a time period reasonably acceptable to Dealer such that an Ownership Limitation or a Hedging Disruption, as the case may be, no longer exists, Dealer may designate any Scheduled Trading Day as an Early Termination Date with respect to a portion (the "**Terminated Portion**") of the Transaction, such that such Ownership Limitation or Hedging Disruption, as the case may be, no longer exists. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment or delivery shall be made pursuant to Section 6 of the Agreement and Section 8(a) of this Confirmation as if (i) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Terminated Portion of the Transaction, (ii) Issuer shall be the sole Affected Party with respect to such partial termination and (iii) such portion of the Transaction shall be the only Terminated Transaction. For the avoidance of doubt, the right of the Issuer to transfer or assign its rights shall be as set forth in the Agreement and does not alter or limit any provision set forth under Extraordinary Events hereunder.

(i) *Adjustments*. For the avoidance of doubt, whenever the Calculation Agent is called upon to make an adjustment pursuant to the terms of this Confirmation or the Definitions to take into account the effect of an event, the Calculation Agent shall make such adjustment by reference to the effect of such event on the Hedging Party, assuming that the Hedging Party maintains a commercially reasonable hedge position.

(j) *Disclosure*. Effective from the date of commencement of discussions concerning the Transaction, Issuer and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Issuer relating to such tax treatment and tax structure.

(k) *Designation by Dealer*. Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities to or from Issuer, Dealer may designate any of its affiliates to purchase, sell, receive or deliver such shares or other securities and otherwise to perform Dealer obligations in respect of the Transaction and any such designee may assume such obligations. Dealer shall be discharged of its obligations to Issuer to the extent, and only to the extent, of any performance by Dealer's designee.

(l) Additional Termination Events. Upon the occurrence of any of the following events with respect to the Transaction, Dealer shall have the right to designate such event an Additional Termination Event with respect to which the Transaction shall be the sole Affected Transaction and Issuer shall be the sole Affected Party; *provided* that with respect to any Additional Termination Event, Dealer may choose to treat part of the Transaction as the sole Affected Transaction, and, upon the termination of the Affected Transaction, a Transaction with terms identical to those set forth herein except with a Number of Warrants equal to the unaffected number of Warrants shall be treated for all purposes as the Transaction, which shall remain in full force and effect:

(i) Dealer reasonably determines that it is advisable to terminate a portion of the Transaction so that Dealer's related hedging activities will comply with applicable securities laws, rules or regulations or related policies and procedures of Dealer similarly applicable to warrant transactions and consistently applied (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer);

(ii) any person, including any syndicate or group deemed to be a "person" or "group" within the meaning of Section 13(d) of the Exchange Act, other than the Issuer, any of the Issuer's subsidiaries and any of the Issuer's employee benefits plans of the Issuer and of its Subsidiaries, has filed a Schedule TO or any schedule, form or report under the Exchange Act disclosing that such person has become, and such person has become, directly or indirectly, through a purchase, merger, or other acquisition transaction or series of transactions, the "beneficial owner," as defined in Rule 13d-3 under the Exchange Act, of shares of the Company's common equity representing more than 50% of the total voting power of all shares of the Company's common equity entitled to vote generally in elections of directors; and

(iii) consummation of any consolidation or merger of the Issuer pursuant to which the Shares of the Issuer is or will be converted into cash, securities or other property or any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Issuer and the Issuer's subsidiaries, taken as a whole, to any person other than one or more of the Issuer's subsidiaries ; provided, however, that if in any such transaction the holders of more than 50% of the shares of the Issuer's common equity, representing more than 50% of the voting power of the common equity, immediately prior to such transaction, own, directly or indirectly, more than 50% of all classes of common equity, representing more than 50% of the total voting power of the continuing or surviving person or transferee or the parent thereof immediately after such transaction, such transaction shall not constitute an Additional Termination Event under this clause (iii).

Notwithstanding the foregoing, a transaction or a series of transactions as set forth in clause (ii) or (iii) above shall not constitute an Additional Termination Event if, at least 90% of the consideration received or to be received by holders of the Shares (excluding cash payments for fractional shares and cash payments made pursuant to dissenters' appraisal rights) in connection with such transaction or transactions that could otherwise constituting an Additional Termination Event under clause (ii) or (iii) above consists of shares of common stock or depositary receipts evidencing interests in ordinary shares or common equity traded on a National Securities Exchange and as a result of such transaction or transactions, the Shares will be consist of (or have been converted in the transaction to) such shares of common stock or depositary receipts, excluding cash payments for fractional shares or pursuant to dissenter's appraisal rights. "**National Securities Exchange**" means a securities exchange registered as a national securities exchange under Section 6(a) of the Exchange Act (or any successor thereto).

(m) *No Netting and Set-off*. Each party waives any and all rights it may have to set-off delivery or payment obligations it owes to the other party under the Transaction against any delivery or payment obligations owed to it by the other party, whether arising under the Agreement, under any other agreement between parties hereto, by operation of law or otherwise**.** The provisions of Section 2(c) of the Agreement shall not apply to the Transaction**.**

(n) *Early Unwind*. In the event the sale by Issuer of the Base Convertible Securities is not consummated with the initial purchasers pursuant to the Purchase Agreement for any reason by the close of business in New York on September [ ], 2019 (or such later date as agreed upon by the parties, which in no event shall be later than October [ ], 2019 (September [ ], 2019 or such later date being the "**Early Unwind Date**"), the Transaction shall automatically terminate (the "**Early Unwind**"), on the Early Unwind Date and the Transaction and all of the respective rights and obligations of Dealer and Issuer thereunder shall be cancelled and terminated; provided that, for the avoidance of doubt, Issuer shall repay to Dealer any Premium paid by Dealer to Issuer in connection with the Transaction. Following such termination cancellation and payment, each party shall be released and discharged by the other party (to the extent permitted by applicable law) from and agrees not to make any claim against the other party with respect to any obligations or liabilities of either party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date. Dealer and Issuer represent and acknowledge to the other that upon an Early Unwind and following the payment referred to above, all obligations with respect to the Transaction shall be deemed fully and finally discharged.

(o) *Effectiveness*. If, prior to the Effective Date, Dealer reasonably determines that it is advisable to cancel the Transaction because of concerns that Dealer's related hedging activities could be viewed as not complying with applicable securities laws, rules or regulations, the Transaction shall be cancelled and shall not become effective, and neither party shall have any obligation to the other party in respect of the Transaction.

(p) *Delivery of Cash*. For the avoidance of doubt, nothing in this Confirmation shall be interpreted as requiring Issuer to deliver cash in respect of the settlement of the Transaction, except in circumstances where the required cash settlement thereof is permitted for classification of the contract as equity by the US GAAP as in effect on the relevant Trade Date (including, without limitation, where Issuer so elects to deliver cash or fails timely to elect to deliver Shares or Share Termination Delivery Property in respect of such settlement).

(q) *Payments by Dealer upon Early Termination.* The parties hereby agree that, notwithstanding anything to the contrary herein, in the Definitions or in the Agreement, following the payment of the Premium, in the event that an Early Termination Date (whether as a result of an Event of Default or a Termination Event) occurs or is designated with respect to the Transaction or the Transaction is terminated or cancelled pursuant to Article 12 of the Equity Definitions and, as a result, Dealer would owe to Issuer an amount calculated under Section 6(e) of the Agreement or Article 12 of the Equity Definitions, such amount shall be deemed to be zero.

(r) *Wall Street Transparency and Accountability Act of 2010.* The parties hereby agree that none of (v) Section 739 of the Wall Street Transparency and Accountability Act of 2010 ("**WSTAA**"), (w) any similar legal certainty provision in any legislation enacted, or rule or regulation promulgated, on or after the Trade Date, (x) the enactment of WSTAA or any regulation under the WSTAA, (y) any requirement under WSTAA nor (z) an amendment made by WSTAA, shall limit or otherwise impair either party's rights to terminate, renegotiate, modify, amend or supplement this Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Confirmation, the Equity Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from Change in Law, Increased Cost of Hedging, Loss of Stock Borrow, Increased Cost of Stock Borrow, an Excess Ownership Position or Illegality (as defined in the Agreement)).

(s) *Tax Matters*

(i) *Withholding Tax imposed on payments tonon-US counterparties under the United States Foreign Account Tax Compliance Act* "Tax" and "Indemnifiable Tax", each as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**"), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code (a "**FATCA Withholding Tax**"). For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.

(ii) *HIRE Act*. "Tax" and "Indemnifiable Tax", each as defined in Section 14 of the Agreement, shall not include any tax imposed on payments treated as dividends from sources within the United States under Section 871(m) of the Code or any regulations issued thereunder.

(iii) *Tax documentation.* Each party shall provide to the other party a valid U.S. Internal Revenue Service FormW-9 (or, in the case of Dealer, Form W-8IMY for Dealer together with Form W-9 for [agent]), or any successor thereto, (i) on or before the date of execution of this Confirmation and (ii) promptly upon learning that any such tax form previously provided by Issuer has become obsolete or incorrect. Additionally, each party shall, promptly upon request by the other party, provide such other tax forms and documents reasonably requested by the other party.

(iv) *Tax Representations*. Issuer is a corporation for U.S. federal income tax purposes and is organized under the laws of the State of Delaware. Issuer is a "U.S. person" (as that term is used in section 1.1441-4(a)(3)(ii) of United States Treasury Regulations) for U.S. federal income tax purposes and an exempt recipient under Treasury Regulation Section 1.6049-4(c)(1)(ii). For US federal income tax purposes, Dealer is acting as nominee on behalf of [agent], a person that is a "US United States person" as that term is defined under Section 7701(a)(30) of the US Internal Revenue Code and an [ ] as that term is defined in section 1.6049-4(c)(1)(ii) of the U.S. Treasury Regulations.

(t) *Waiver of Trial by Jury.* **EACH OF ISSUER AND DEALER HEREBY IRREVOCABLY WAIVES (ON ITS OWN BEHALF AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ON BEHALF OF ITS STOCKHOLDERS) ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR**

COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THE TRANSACTION OR THE ACTIONS OF DEALER OR ITS AFFILIATES IN THE NEGOTIATION, PERFORMANCE OR ENFORCEMENT HEREOF.

(u) *Governing Law*. **THIS CONFIRMATION AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS CONFIRMATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK. THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND THE UNITED STATES COURT FOR THE SOUTHERN DISTRICT OF NEW YORK IN CONNECTION WITH ALL MATTERS RELATING HERETO AND WAIVE ANY OBJECTION TO THE LAYING OF VENUE IN, AND ANY CLAIM OF INCONVENIENT FORUM WITH RESPECT TO, THESE COURTS.**

(v) *Amendment.* This Confirmation and the Agreement may not be modified, amended or supplemented, except in a written instrument signed by Issuer and Dealer.

(w) *Counterparts.* This Confirmation may be executed in several counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

(x) *Issuer Representation Regarding Certain Regulatory Matters.* Issuer (A) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities; (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing; and (C) has total assets of at least $50 million.

[*Signature Page Follows*]

Issuer hereby agrees (a) to check this Confirmation carefully and immediately upon receipt so that errors or discrepancies can be promptly identified and rectified and (b) to confirm that the foregoing (in the exact form provided by Dealer) correctly sets forth the terms of the agreement between Dealer and Issuer with respect to the Transaction, by manually signing this Confirmation or this page hereof as evidence of agreement to such terms and providing the other information requested herein and immediately returning an executed copy to us.

Yours faithfully,

[DEALER]

By: _____
Name:
Title:

By: _____
Name:
Title:

[AGENT], as Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

Agreed and Accepted By:

RH

By: _____
Name:
Title:

Annex A

For each Component of the Transaction, the Number of Warrants and Expiration Date is set forth below.

Component	Number of Warrants	Expiration Date

Component	Number of Warrants	Expiration Date

Strike Price:	USD $[.]
Premium:	USD [ ]
Maximum Stock Loan Rate:	[ ]%
Initial Stock Loan Rate:	[ ]
Capped Number of Shares:	[ ]

RH ANNOUNCES EXERCISE OF OVER-ALLOTMENT OPTION FOR ITS 0.00% CONVERTIBLE NOTES DUE 2024

Corte Madera, CA – September 16, 2019 – RH (NYSE: RH) announced today the exercise of the entire over-allotment option of $50 million aggregate principal amount of its 0.00% convertible notes due 2024, resulting in a total offering size of $350 million. The sale of the notes to the initial purchaser, including the notes to be sold pursuant to the over-allotment option, is expected to settle on September 17, 2019, subject to customary closing conditions.

In connection with the exercise of the over-allotment option, RH has entered into additional convertible note hedge and warrant transactions on terms that have the effect of limiting earnings dilution as a result of the additional convertible notes issuance up to a 100% premium to RH's closing stock price on September 12, 2019. Under the terms of these transactions, the Company's shareholders are not expected to experience earnings dilution until the Company's stock price is above approximately $338.24.

As previously announced, RH expects to use the aggregate net proceeds from the offering to (i) pay the net costs of the convertible note hedge and warrant transactions, (ii) retire the Company's $200 million of outstanding second lien debt, (iii) reduce outstanding borrowings under the Company's credit facilities and (iv) for general corporate purposes.

The notes will not bear interest and will mature on September 15, 2024, unless earlier purchased by us or converted. The initial conversion rate is 4.7304 shares of common stock per $1,000 principal amount of notes, which is equivalent to an initial conversion price of approximately $211.40 per share representing a premium of 25% over RH's closing stock price on September 12, 2019. The notes will be convertible into cash, shares of RH's common stock, or a combination thereof, at RH's election.

This press release does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of these securities in any state or jurisdiction in which such offer, solicitation, or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction. The notes and the shares of common stock issuable upon conversion of the notes, if any, will not be registered under the Securities Act of 1933, as amended (the "Act"), or any state securities laws, and unless so registered, may not be offered or sold in the United States except pursuant to an exemption from the registration requirements of the Act and applicable state laws.

About RH

RH (NYSE: RH) is a curator of design, taste and style in the luxury lifestyle market. The Company offers collections through its Retail Galleries, Source Books, and online at RH.com, RHModern.com, RHBeachHouse.com, RHBabyandChild.com, RHTeen.com, and waterworks.com.

Forward-Looking Statements

Some of the statements in this press release are "forward-looking" and are made pursuant to the safe harbor provision of the Private Securities Litigation Reform Act of 1995. These "forward-looking" statements include statements relating to, among other things, the anticipated dilution impact to holders of the common stock due to the notes and the convertible note hedge and warrant transactions, any implications regarding the possible future price of the Company's common stock, the expected use of the net proceeds from these transactions, and the anticipated timing of the closing of the transactions. These statements involve risks and uncertainties that may cause results to differ materially from the statements set forth in this press release. The forward-looking statements in this press release speak only as of the date of this press release and are subject to uncertainty and changes. Given these circumstances, you should not place undue reliance on these forward-looking statements. RH expressly disclaims any obligation or undertaking to release publicly any updates or revisions to such forward-looking statements to reflect any change in its expectations with regard thereto or any changes in the events, conditions or circumstances on which any such statement is based.

Contact

Allison Malkin
203-682-8225
allison.malkin@icrinc.com