

**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): October 28, 2024

THE BOEING COMPANY

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

1-442
(Commission
file number)

91-0425694
(I.R.S. Employer
Identification No.)

929 Long Bridge Drive, Arlington, VA
(Address of principal executive offices)

22202
(Zip Code)

(703) 465-3500
(Registrant's telephone number, including area code)

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

- 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, \$5.00 Par Value	BA	New York Stock Exchange
Depository Shares, each representing a 1/20th interest in a share of 6.00% Series A Mandatory Convertible Preferred Stock, \$1.00 Par Value	BA-PRA	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.

On October 28, 2024, The Boeing Company (the “Company”) entered into an underwriting agreement (the “Underwriting Agreement”) with Goldman Sachs & Co. LLC, BofA Securities, Inc., Citigroup Global Markets Inc. and J.P. Morgan Securities LLC, as the representatives (the “Representatives”) of the underwriters (the “Underwriters”), pursuant to which the Company agreed to issue and sell 100,000,000 depositary shares (the “Depositary Shares”), each representing a 1/20th interest in a share of 6.00% Series A Mandatory Convertible Preferred Stock, liquidation preference \$1,000.00 per share, par value \$1.00 per share (the “Preferred Stock” and such offering, the “Depositary Shares Offering”). Pursuant to the Underwriting Agreement, the Company granted the Underwriters a 30-day option to purchase up to an additional 15,000,000 Depositary Shares, solely to cover over-allotments. On October 29, 2024, the Underwriters exercised this option in full.

The Depositary Shares Offering closed on October 31, 2024. A validity opinion issued by the Company’s counsel with respect to the Depositary Shares sold in the Depositary Shares Offering and the Preferred Stock underlying such Depositary Shares is filed as Exhibit 5.1 hereto.

The Depositary Shares Offering was made pursuant to a shelf registration statement on Form S-3 initially filed with the Securities and Exchange Commission (the “SEC”) on October 15, 2024 (Registration No. 333-282628), a base prospectus, dated October 22, 2024, included as part of the registration statement and a prospectus supplement, dated October 28, 2024 and filed with the SEC on October 29, 2024.

In connection with the Depositary Shares Offering, the Company filed a certificate of designations (the “Certificate of Designations”) with the Secretary of State of the State of Delaware, including a form of certificate for the Preferred Stock (the “Form of Certificate”), to establish the preferences, limitations, and relative rights of the Preferred Stock. The Certificate of Designations became effective upon filing.

In connection with the Depositary Shares Offering, the Company entered into a deposit agreement (the “Deposit Agreement”), dated October 31, 2024, by and among the Company, Computershare Inc. and Computershare Trust Company, N.A., acting jointly as depositary (the “Depositary”), and the holders from time to time of the depositary receipts (the “Depositary Receipts”), a form of which is included therein (the “Form of Depositary Receipt”). The Deposit Agreement provides for the deposit of shares of the Preferred Stock from time to time with the Depositary and for the issuance of Depositary Receipts evidencing Depositary Shares in respect of the deposited Preferred Stock.

The foregoing descriptions of the terms of the Underwriting Agreement, Certificate of Designations, Form of Certificate, Deposit Agreement and Form of Depositary Receipt are qualified in their entirety by reference to the Underwriting Agreement, Certificate of Designations, Form of Certificate, Deposit Agreement and Form of Depositary Receipt, a copy of each of which is filed as Exhibit 1.1, 3.1, 4.1, 4.2 and 4.3, respectively, hereto and is incorporated herein by reference.

Item 3.03. Material Modification to Rights of Security Holders.

On October 31, 2024, the Company filed the Certificate of Designations with the Secretary of State of the State of Delaware to establish the preferences, limitations and relative rights of the Preferred Stock. The Certificate of Designations became effective upon filing.

Subject to certain exceptions, so long as any share of Preferred Stock remains outstanding, no dividend or distribution will be declared or paid on the common stock, par value \$5.00 per share, of the Company (the “Common Stock”) or any other shares of junior stock, and no Common Stock or other junior stock or parity stock will be, directly or indirectly, purchased, redeemed or otherwise acquired for consideration by the Company or any of its subsidiaries unless all accumulated and unpaid dividends for all preceding dividend periods have been declared and paid upon, or a sufficient sum or number of shares of Common Stock have been set apart for the payment of such dividends upon, all outstanding shares of Preferred Stock.

Holders of the Depositary Shares will be entitled to a proportional fractional interest in the rights and preferences of the Preferred Stock, including conversion, dividend, liquidation and voting rights, subject to the provisions of the Deposit Agreement. The Preferred Stock will accumulate dividends (which may be paid in cash or, subject to certain limitations, in shares of Common Stock or in any combination of cash and Common Stock) at a rate per annum equal to 6.00% on the liquidation preference thereof, which is \$1,000 per share, payable when, as and if declared by the Company's board of directors (or an authorized committee thereof), on January 15, April 15, July 15 and October 15 of each year, beginning on January 15, 2025 and ending on, and including, October 15, 2027. Unless earlier converted, each outstanding share of Preferred Stock will automatically convert for settlement on or about October 15, 2027, into between 5.8280 and 6.9940 shares of Common Stock (and, correspondingly, each Depositary Share will automatically convert into between 0.2914 and 0.3497 shares of Common Stock), subject to customary anti-dilution adjustments, determined based on the average volume-weighted average price of the Common Stock over the 20 consecutive trading day period beginning on, and including, the 21st scheduled trading day prior to October 15, 2027. Other than during a fundamental change conversion period (as defined in the Certificate of Designations), at any time prior to the mandatory conversion settlement date, a holder of 20 Depositary Shares may cause the Depositary to convert one share of Preferred Stock, on such holder's behalf, into a number of shares of Common Stock equal to the minimum conversion rate of 5.8280, subject to certain anti-dilution and other adjustments.

In addition, in the event of our voluntary or involuntary liquidation, winding-up or dissolution, each holder of Preferred Stock will be entitled to receive a liquidation preference in the amount of \$1,000 per share of the Preferred Stock, plus an amount equal to accumulated and unpaid dividends on the shares to, but excluding, the date fixed for liquidation, winding-up or dissolution to be paid out of the Company's assets available for distribution to the Company's shareholders, after satisfaction of liabilities to the Company's creditors and holders of any senior stock and before any payment or distribution is made to holders of junior stock, including the Common Stock.

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

The information set forth under Item 3.03 of this Current Report on Form 8-K is hereby incorporated by reference in this Item 5.03.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit Number</u>	<u>Description</u>
1.1	Underwriting Agreement, dated October 28, 2024, among The Boeing Company and Goldman Sachs & Co. LLC, BofA Securities, Inc., Citigroup Global Markets Inc. and J.P. Morgan Securities LLC, as representatives of the several purchasers with respect to the Depositary Shares Offering
3.1	Certificate of Designations, filed with the Secretary of State of the State of Delaware and effective October 31, 2024
4.1	Form of Certificate for the 6.00% Series A Mandatory Convertible Preferred Stock (included as Exhibit A to Exhibit 3.1)
4.2	Deposit Agreement, dated as of October 31, 2024, among The Boeing Company, Computershare Inc. and Computershare Trust Company, N.A., acting jointly as Depositary, and the holders from time to time of the depositary receipts described therein
4.3	Form of Depositary Receipt for the Depositary Shares (included as Exhibit A to Exhibit 4.2)
5.1	Opinion of Kirkland & Ellis LLP
23.1	Consent of Kirkland & Ellis LLP (included in Exhibit 5.1)
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

SIGNATURE

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

THE BOEING COMPANY

(Registrant)

October 31, 2024

(Date)

/s/ John C. Demers

John C. Demers

Vice President, Assistant General Counsel and Corporate Secretary

THE BOEING COMPANY

100,000,000 Depositary Shares, Each representing a 1/20th Interest in a Share of 6.00% Series A Mandatory Convertible Preferred Stock, par value \$1.00 per share (initial liquidation preference of \$1,000 per share)

UNDERWRITING AGREEMENT

October 28, 2024

Goldman Sachs & Co. LLC
BofA Securities, Inc.
Citigroup Global Markets Inc.
J.P. Morgan Securities LLC

As Representatives of the several Purchasers named in Schedule A hereto

c/o Goldman Sachs & Co. LLC
200 West Street
New York, New York 10282

BofA Securities, Inc.
One Bryant Park
New York, New York 10036

Citigroup Global Markets Inc.
388 Greenwich Street
New York, New York 10013

J.P. Morgan Securities LLC
383 Madison Avenue
New York, New York 10179

The Boeing Company, a Delaware corporation (“Company”), proposes to issue and sell to the several purchasers listed in Schedule A hereto (the “Purchasers”), for whom you are acting as representatives (the “Representatives”), an aggregate of 100,000,000 depositary shares, each representing a 1/20th interest in a share of its 6.00% Series A Mandatory Convertible Preferred Stock, par value \$1.00 per share, with an initial liquidation preference of \$1,000 per share (“Preferred Stock”) (such depositary shares, the “Firm Shares”) and, at the option of the Purchasers, up to 15,000,000 additional depositary shares, each representing a 1/20th interest in a share of Preferred Stock, solely to cover over-allotments (such additional depositary shares, the “Option Shares”). In this underwriting agreement (this “Agreement”), the Firm Shares and the Option Shares that the Purchasers elect to purchase pursuant to Section 2 hereof are collectively referred to as the “Shares.”

The Preferred Stock will be convertible into a variable number of shares of the Company’s common stock, par value \$5.00 per share (“Common Stock”) (such shares of Common Stock into which the Preferred Stock is convertible, together with any shares of Common Stock delivered in payment of dividends on the Preferred Stock, the “Underlying Shares”). The terms of the Preferred Stock will be set forth in a certificate of designation (the “Certificate of Designation”) to be filed by the Company with the Secretary of State of the State of Delaware as an amendment to the Company’s amended and restated certificate of incorporation.

The Shares will be issued pursuant to a deposit agreement (the “Deposit Agreement”), to be dated as of the Closing Date (as defined below), among the Company, Computershare Trust Company, N.A. and Computershare Inc., acting as joint depository (the “Depository”), and holders from time to time of the Shares. Each Share will initially represent the right to receive a 1/20th interest in a share of the Preferred Stock pursuant to the Deposit Agreement. The Preferred Stock, when issued, will be deposited against delivery of depositary receipts (the “Depository Receipts”), which will evidence the Shares and will be issued by the Depository under the Deposit Agreement.

Substantially concurrently with the offering of the Shares contemplated hereby, the Company will, among other things, issue and sell up to 129,375,000 shares of its Common Stock, pursuant to a separate underwriting agreement and separate prospectus supplement, subject to customary closing conditions (the “Concurrent Offering”). The offering of the Shares is not contingent upon the completion of the Concurrent Offering, the Concurrent Offering is not contingent upon the completion of the offering of the Shares, and the Shares are not being offered together with the shares of Common Stock offered in the Concurrent Offering.

The Company hereby confirms its agreement with the several Purchasers concerning the purchase and sale of the Shares, as follows:

1. *Registration Statement.* A registration statement on Form S-3 (File No. 333-282628), including a prospectus, covering the Shares has been filed with the Securities and Exchange Commission (“Commission”) under the Securities Act of 1933, as amended, and the rules and regulations of the Commission thereunder (collectively, the “Securities Act”). Such registration statement, including the prospectus included therein (the “Base Prospectus”), and all documents filed as part thereof or incorporated by reference therein including the information, if any, deemed pursuant to Rule 430A, 430B or 430C under the Securities Act to be part of the registration statement at the time of its effectiveness, and at each deemed effective date with respect to the Purchasers pursuant to Rule 430B(f)(2) of the Securities Act, are hereinafter collectively called the “Registration Statement.” The Base Prospectus, as supplemented by the prospectus supplement dated October 28, 2024 specifically relating to the Shares in the form first filed under Rule 424(b) under the Securities Act (or in the form first made available to the Purchasers by the Company to meet the requests of purchasers pursuant to Rule 173 under the Securities Act), and all documents filed as part thereof or incorporated or deemed to be incorporated by reference therein, are hereinafter collectively called the “Prospectus,” and the preliminary form of the Prospectus is hereinafter called the “Preliminary Prospectus.” If the Company has filed an abbreviated registration statement pursuant to Rule 462(b) under the Securities Act (the “Rule 462 Registration Statement”), then any reference herein to the term “Registration Statement” shall be deemed to include such Rule 462 Registration Statement. For purposes of this Agreement, “free writing prospectus” has the meaning set forth in Rule 405 under the Securities Act and “Time of Sale Prospectus” means the Preliminary Prospectus, together with each free writing prospectus, if any, identified in Schedule B hereto. “Time of Sale” means 9:00 p.m. (Eastern Time) on the date of this Agreement. Any reference to “amend,” “amendment” or “supplement” with respect to the Registration Statement, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include any documents filed after such date under the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission thereunder (collectively, the “Exchange Act”) that are deemed to be incorporated by reference therein.

2. *Purchase of the Shares.* On the basis of the representations, warranties and agreements contained in this Agreement and the Deposit Agreement, but subject to the terms and conditions herein set forth, the Company agrees to issue and sell the Firm Shares to the several Purchasers, and each Purchaser agrees, severally and not jointly, to purchase from the Company the respective number of Firm Shares set forth opposite such Purchaser’s name in Schedule A hereto at a price per share of \$49.1875 (the “Purchase Price”). In addition, on the basis of the representations, warranties and agreements contained in this Agreement and the Deposit Agreement, but subject to the terms and conditions herein set forth, the Company agrees to issue and sell the Option Shares to the several Purchasers as provided in this Agreement and the Deposit Agreement, and the Purchasers shall have the option to purchase, severally and not jointly, from the Company the Option Shares at the Purchase Price less an amount per share equal to any dividends or distributions declared by the Company and payable on the Firm Shares but not payable on the Option Shares. If any Option Shares are to be purchased, the number of Option Shares to be purchased by each Purchaser shall be the number of Option Shares which bears the same ratio to the aggregate number of Option Shares being purchased as the number of Firm Shares set forth opposite the name of such Purchaser in Schedule A hereto (or such number increased as set forth in Section 12 hereof) bears to the aggregate number of Firm Shares being purchased from the Company by the several Purchasers, subject, however, to such adjustments to eliminate any fractional Shares as you, in your sole discretion, shall make. The Purchasers may exercise the option to purchase Option Shares at any time in whole, or from time to time in part, solely to cover over-allotments, on or before the thirtieth day following the date of the Prospectus, by written notice from the Representatives to the Company. Such notice shall set forth the aggregate number of Option Shares as to which the option is being exercised and the date and time when the Option Shares are to be delivered and paid for, which may be the same date and time as the Closing Date (as defined below) but shall not be earlier than the Closing Date nor later than the tenth full business day after the date of such notice (unless such time and date are postponed in

accordance with the provisions of Section 12 hereof). Any such notice shall be given at least two business days prior to the date and time of delivery specified therein, except to the extent that the date on which the Option Shares are to be delivered is the same date and time as the Closing Date, in which case such notice may be delivered one business day prior to the date and time of delivery specified therein.

3. *Offering by the Purchasers.* The Company understands that the Purchasers intend to make a public offering of the Shares as soon after the effectiveness of this Agreement as in the judgment of the Purchasers is advisable, and initially to offer the Shares on the terms set forth in the Time of Sale Prospectus. The Company acknowledges and agrees that the Purchasers may offer and sell Shares to or through any affiliate of a Purchaser and that any such affiliate may offer and sell Shares purchased by it to or through any Purchaser.

4. *Representations and Warranties of the Company.* The Company represents and warrants to and agrees with each Purchaser that:

(a) The Registration Statement has become effective under the Securities Act. No stop order suspending the effectiveness of the Registration Statement is in effect, and no proceedings for such purpose are pending before or threatened by the Commission.

(b) Any free writing prospectus that the Company is required to file pursuant to Rule 433(d) under the Securities Act has been, or will be, filed with the Commission in accordance with the requirements of the Securities Act. Each free writing prospectus that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act or that was prepared by or on behalf of or used or referred to by the Company complies or will comply in all material respects with the requirements of the Securities Act. Except for the free writing prospectuses, if any, identified in Schedule B to this Agreement, the Company has not prepared, used or referred to, and will not, without your prior consent, prepare, use or refer to, any free writing prospectus. Each free writing prospectus that the Company has filed, as of its issue date and at all subsequent times through the completion of the public offer and sale of the Shares or until any earlier date that the Company notifies the Purchasers as described in the next sentence, will not contain any information that conflicts with the information contained in the Registration Statement, including any document incorporated by reference therein, the Time of Sale Prospectus, the Prospectus and any prospectus supplement deemed to be a part thereof that has not been superseded or modified. If at any time following issuance of a free writing prospectus that the Company has filed, there occurs an event or development as a result of which such free writing prospectus contained an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, the Company will promptly notify the Purchasers so that any use of such free writing prospectus may cease until it is amended or supplemented. The foregoing two sentences do not apply to statements or omissions in such document based upon written information furnished to the Company by any Purchaser specifically for use therein, it being understood and agreed that the only such information furnished by any Purchaser consists of the information described as such in Section 11(b) hereof.

(c) The Registration Statement complies in all material respects to the requirements of the Securities Act and does not include any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, except that the foregoing does not apply to statements or omissions in such document based upon written information furnished to the Company by any Purchaser specifically for use therein, it being understood and agreed that the only such information furnished by any Purchaser consists of the information described as such in Section 11(b) hereof. At the Time of Sale, the Time of Sale Prospectus did not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except that the foregoing does not apply to statements or omissions in such document based upon written information furnished to the Company by any Purchaser specifically for use therein, it being understood and agreed that the only such information furnished by any Purchaser consists of the information described as such in Section 11(b) hereof. The Prospectus, as of its date, complies in all material respects with the requirements of the Securities Act and does not contain and, as amended or supplemented, if applicable, and as of the Closing Date and as of the Additional Closing Date (as defined below), as the case may be, will comply in all material respects with the requirements of the Securities Act and will not contain any untrue statement of a material fact or omit to

state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except that the foregoing does not apply to statements or omissions in such document based upon written information furnished to the Company by any Purchaser specifically for use therein, it being understood and agreed that the only such information furnished by any Purchaser consists of the information described as such in Section 11(b) hereof. The documents incorporated by reference in the Registration Statement, the Time of Sale Prospectus or the Prospectus pursuant to Item 12 of Form S-3 of the Securities Act, at the time they were filed with the Commission, complied in all material respects with the requirements of the Exchange Act. Any additional documents deemed to be incorporated by reference in the Time of Sale Prospectus or the Prospectus, will, when they are filed with the Commission, comply in all material respects with the requirements of the Exchange Act and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(d) The Company (i) has not alone engaged in any Testing-the-Waters Communications other than Testing-the-Waters Communications with the consent of Goldman Sachs & Co. LLC with entities that the Company reasonably believed to be qualified institutional buyers (“QIBs”) within the meaning of Rule 144A under the Securities Act or institutions that are accredited investors within the meaning of Rule 501(a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9), (a)(12) or (a)(13) under the Securities Act (“IAIs”) and otherwise in compliance with the requirements of Rule 163B under the Securities Act and (ii) has not authorized anyone other than the Representatives to engage in Testing-the-Waters Communications. The Company reconfirms that the Representatives have been authorized to act on its behalf in undertaking Testing-the-Waters Communications. The Company has not distributed or approved for distribution any Written Testing-the-Waters Communications other than those listed on Schedule D hereto. “Written Testing-the-Waters Communication” means any Testing-the-Waters Communication that is a written communication within the meaning of Rule 405 under the Securities Act. Any individual Written Testing-the-Waters Communication does not conflict with the information contained in the Registration Statement or the Time of Sale Prospectus, complied in all material respects with the requirements of the Securities Act, and when taken together with the Time of Sale Prospectus as of the Time of Sale did not, and as of the Closing Date and as of the Additional Closing Date, as the case may be, will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. If at any time following the use of a Written Testing-the-Waters Communication, there occurs an event or development as a result of which such Written Testing-the-Waters Communication contained an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, the Company will promptly notify the Purchasers so that any use of such Written Testing-the-Waters Communication may cease until it is amended or supplemented. The foregoing two sentences do not apply to statements or omissions in such document based upon written information furnished to the Company by any Purchaser specifically for use therein, it being understood and agreed that the only such information furnished by any Purchaser consists of the information described as such in Section 11(b) hereof.

(e) The Company has been duly incorporated and is an existing corporation in good standing under the laws of the State of Delaware, with power and corporate authority to own its properties and conduct its business as described in the Registration Statement, the Time of Sale Prospectus and the Prospectus. The Company is duly qualified to do business as a foreign corporation in good standing in all other jurisdictions in which its ownership or lease of property or the conduct of its business requires such qualification, except where failure to so qualify would not individually or in the aggregate have a material adverse effect on the financial condition, business, properties or results of operations of the Company and its subsidiaries taken as a whole or on the Company’s ability to perform its obligations under this Agreement (a “Material Adverse Effect”).

(f) The Company has an authorized capitalization as set forth in the Registration Statement, the Time of Sale Prospectus and the Prospectus. All outstanding shares of capital stock of the Company have been duly and validly authorized and issued and are fully paid and non-assessable and are not subject to any pre-emptive or similar rights. Except as described in the Registration Statement, the Time of Sale

Prospectus and the Prospectus, there are no outstanding rights (including, without limitation, pre-emptive rights), warrants or options to acquire, or instruments convertible into or exchangeable for, any shares of capital stock or other equity interest in the Company, or any contract, commitment, agreement, understanding or arrangement of any kind relating to the issuance of any capital stock of the Company, any such convertible or exchangeable securities or any such rights, warrants or options.

(g) Each “significant subsidiary” (as such term is defined in Rule 1-02 of Regulation S-X) of the Company, if any, (each a “Material Subsidiary” and together the “Material Subsidiaries”) has been duly incorporated and is an existing corporation or other entity in good standing under the laws of the jurisdiction of its incorporation or organization, with power and authority to own its properties and conduct its business as described in the Registration Statement, the Time of Sale Prospectus and the Prospectus. Each Material Subsidiary of the Company is duly qualified to do business as a foreign corporation or other entity in good standing in all other jurisdictions in which its ownership or lease of property or the conduct of its business requires such qualification, except where failure to so qualify would not have a Material Adverse Effect. All of the issued and outstanding capital stock or ownership interests of each Material Subsidiary of the Company has been duly authorized and validly issued and is fully paid and non-assessable. The capital stock or ownership interests of each Material Subsidiary owned by the Company, directly or through subsidiaries, is owned free from liens and encumbrances except for such liens or encumbrances that would not have a Material Adverse Effect.

(h) This Agreement has been duly authorized, executed and delivered by the Company.

(i) The Shares have been duly authorized and, when issued and delivered and against payment of the purchase price therefor as provided in this Agreement and when the Depositary Receipts have been duly executed and delivered by the Depositary in accordance with the Deposit Agreement, will be duly and validly issued, fully paid and non-assessable. The Shares conform to the descriptions thereof in the Registration Statement, the Time of Sale Prospectus and the Prospectus. The issuance of the Shares is not subject to any pre-emptive or similar rights. The persons in whose names the Shares are registered will be entitled to the rights specified therein and in the Deposit Agreement.

(j) The Deposit Agreement has been duly authorized by the Company and, when duly executed and delivered in accordance with its terms by each of the parties thereto, will constitute a valid and legally binding obligation of the Company enforceable against the Company in accordance with its terms, except as the enforceability thereof may be limited by the bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting enforcement of creditors’ rights generally.

(k) The Certificate of Designation has been duly authorized by the Company. The Certificate of Designation sets forth the rights, preferences and priorities of the Preferred Stock, and the holders of the Preferred Stock will have the rights set forth in the Certificate of Designation upon filing with the Secretary of State for the State of Delaware.

(l) The Preferred Stock, when issued by the Company, may be freely deposited by the Company with the Depositary against issuance of the Shares. The Preferred Stock has been duly authorized by the Company for issuance and deposit in accordance with the provisions of this Agreement and the Deposit Agreement and, when issued and deposited against issuance of the Shares, and upon the filing and effectiveness of the Certificate of Designation, will be validly issued, fully paid and non-assessable and will conform in all material respects to the descriptions thereof in the Registration Statement, the Time of Sale Prospectus and the Prospectus. Upon payment of the purchase price for the Shares and deposit of the Preferred Stock against issuance of the Shares in accordance with this Agreement and the Deposit Agreement, the Purchasers will receive good, valid and marketable title to the Shares, free and clear of any liens. No holder of the Preferred Stock will be subject to personal liability solely by reason of being such a holder; and the issuance of the Preferred Stock is not subject to any pre-emptive or similar rights.

(m) Upon issuance and deposit of the Preferred Stock against issuance of the Shares in accordance with this Agreement and the Deposit Agreement and the filing and effectiveness of the Certificate of Designation, the Preferred Stock will be convertible into the Underlying Shares in accordance with the terms of the Preferred Stock and the Certificate of Designation. A number of Underlying Shares equal to the Maximum Number of Underlying Shares (as defined below) has been duly authorized and reserved for issuance by all necessary corporate action (for the avoidance of doubt, such Underlying Shares may be Common Stock previously issued and held by the Company as treasury stock) and such Underlying Shares, when issued in accordance with the terms of the Preferred Stock and the Certificate of Designation will be validly issued, fully paid and non-assessable, will conform in all material respects to the descriptions thereof in the Registration Statement, the Time of Sale Prospectus and the Prospectus and will not be subject to any pre-emptive or similar rights. As used herein, "Maximum Number of Underlying Shares" means the product of (A) the sum of (x) a number of shares of Common Stock equal to the initial maximum conversion rate per share of the Preferred Stock set forth in the Certificate of Designation and (y) the maximum number of shares of Common Stock deliverable by the Company in respect of dividends payable per share of Preferred Stock (whether or not declared), *multiplied by* (B) the aggregate number of shares of Preferred Stock in respect of the Shares (assuming the exercise in full of the option set forth in Section 2 herein but without giving effect to any "Make-whole Dividend Amount" (as defined in the Certificate of Designation)), in each case in accordance with, and as adjusted pursuant to, the terms of the Certificate of Designation.

(n) The statements in the Registration Statement, the Time of Sale Prospectus and the Prospectus, insofar as they summarize provisions of the Shares, the Preferred Stock, the Underlying Shares, this Agreement, the Deposit Agreement and the Certificate of Designation (together, the "Transaction Documents"), fairly summarize the applicable provisions of the Transaction Documents in all material respects.

(o) No consent, approval, authorization, or order of, or filing with, any governmental agency or body or any court is required for the execution, delivery and performance by the Company of the Transaction Documents, the issuance and sale of the Shares, the issuance and deposit of the Preferred Stock with the Depositary against the issuance of the Shares and the issuance of a number of Underlying Shares equal to the Maximum Number of Underlying Shares, except such as have been obtained and made under the Securities Act and such as may be required under state securities laws and any law or regulation applicable to the filing of the Certificate of Designation with the Secretary of State of the State of Delaware.

(p) The execution, delivery and performance of the Transaction Documents, the issuance and sale of the Shares, the issuance and deposit of the Preferred Stock with the Depositary against the issuance of the Shares and the issuance of a number of Underlying Shares equal to the Maximum Number of Underlying Shares have been duly authorized by all necessary corporate action and do not and will not result in a breach or violation of any of the terms and provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property, or assets of the Company or any Material Subsidiary under (i) any statute, any rule, regulation or order of any governmental agency or body or any court, domestic or foreign, having jurisdiction over the Company or any Material Subsidiary of the Company (*provided, however*, that enforcement of rights to indemnity and contribution in this Agreement may be limited by federal or state securities laws or principles of public policy) or any of their properties, (ii) any material agreement or instrument to which the Company or any such Material Subsidiary is a party or by which the Company or any such Material Subsidiary is bound or to which any of the properties of the Company or any such Material Subsidiary is subject, or (iii) the charter or by-laws of the Company or any such Material Subsidiary, except in the case of (i) and (ii), where such breach or violation or default would not have a Material Adverse Effect.

(q) Except as disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus, the Company and its Material Subsidiaries have good and marketable title to all real properties and good title to all other properties and assets owned by them that are material to the business of the Company and its subsidiaries consolidated as a single enterprise, in each case, free from liens, encumbrances and defects that would materially affect the value thereof or materially interfere with the use made or to be made thereof by them. Except as disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus, the Company and its Material Subsidiaries hold any leased real or personal property under valid and enforceable leases with such exceptions that are not material to the business of the Company and its subsidiaries consolidated as a single enterprise and that would not materially interfere with the use made or to be made thereof by them.

(r) Neither the Company nor any of its Material Subsidiaries is (i) in violation of its charter or bylaws or (ii) in default in the performance or observance of any obligation, agreement, covenant or condition contained in any contract, indenture, mortgage, loan agreement, note, lease or other instrument to which it is a party or by which it or any of them or their properties may be bound or to which any of their properties may be subject, except in the case of (ii), where such default would not have a Material Adverse Effect.

(s) Except as disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus, the Company and its Material Subsidiaries (i) possess adequate certificates, authorities, licenses, permits, orders or approvals issued by appropriate governmental agencies or bodies necessary to conduct the business now operated by them, including, without limitation, from the Federal Aviation Administration, except where the failure to do so would not have a Material Adverse Effect, and (ii) have not received any notice of proceedings relating to the revocation or modification of any such certificate, authority or permit that, if determined adversely to the Company or any of its Material Subsidiaries, would have a Material Adverse Effect.

(t) Except as disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus, no strike, lockout, or work stoppage involving the employees of the Company or any Material Subsidiary exists or, to the knowledge of the Company, is imminent that might have a Material Adverse Effect.

(u) Except as disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus, neither the Company nor any of its subsidiaries is in violation of any statute, rule, regulation, decision or order of any governmental agency or body or any court, domestic or foreign, relating to the use, disposal or release of hazardous or toxic substances or relating to the protection or restoration of the environment or human exposure to hazardous or toxic substances (collectively, “environmental laws”), owns or operates any real property contaminated with any substance that is subject to any environmental laws, is liable for any off-site disposal or contamination pursuant to any environmental laws, or is subject to any claim relating to any environmental laws, which violation, contamination, liability or claim would individually or in the aggregate have a Material Adverse Effect, and the Company is not aware of any pending investigation which might lead to such a claim.

(v) Except as disclosed in the Registration Statement, the Time of Sale Prospectus or the Prospectus, there are no pending actions, suits or proceedings against or affecting the Company, any of its subsidiaries or any of their respective officers, in their capacity as such, or any of their respective properties that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, or would materially and adversely affect the ability of the Company to perform its obligations under this Agreement or which are otherwise material in the context of the offer and sale of the Shares, and no such actions, suits or proceedings are, to the Company’s knowledge, threatened or contemplated.

(w) The financial statements included in the Registration Statement, the Time of Sale Prospectus and the Prospectus present fairly in all material respects the financial position of the Company and its consolidated subsidiaries as of the dates shown and their results of operations and cash flows for the periods shown (subject, in the case of unaudited statements, to normal year-end audit adjustments), and such financial statements have been prepared in conformity with the generally accepted accounting principles in the United States applied on a consistent basis (except as otherwise noted therein).

(x) Except as disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus, since the date of the latest audited financial statements included in the Registration Statement, the Time of Sale Prospectus and the Prospectus, there has been no material adverse change, nor any development or event reasonably likely to involve a prospective material adverse change, in the financial condition, business, properties or results of operations of the Company and its subsidiaries taken as a whole.

(y) The Company is not and, after giving effect to the offering and sale of the Shares and of the shares of Common Stock in the Concurrent Offering and the application of the proceeds thereof as described in the Registration Statement, the Time of Sale Prospectus and the Prospectus, will not be required to register under the Investment Company Act of 1940, as amended.

(z) To the Company's knowledge, after due inquiry, the accountants who certified the financial statements and supporting schedules included in the Registration Statement, the Time of Sale Prospectus and the Prospectus are an independent registered public accounting firm as required by the Securities Act and the Exchange Act.

(aa) The capitalization of the Company has not materially changed since the date of the Time of Sale Prospectus and the Prospectus.

(bb) Neither the Company nor any subsidiary has taken or will take, directly or indirectly, any action designed to, or that might be reasonably expected to, cause or result in stabilization or manipulation of the price of the Shares.

(cc) No person has the right to require the Company or any of its subsidiaries to register any securities for sale under the Securities Act by reason of the filing of the Registration Statement with the Commission or the issuance and sale of the Shares.

(dd) The Company maintains a system of "disclosure controls and procedures" (as defined in Rule 13a-15(e) of the Exchange Act) that complies with the requirements of the Exchange Act and has been designed to ensure that information required to be disclosed by the Company in reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Commission's rules and forms, including controls and procedures designed to ensure that such information is accumulated and communicated to the Company's management as appropriate to allow timely decisions regarding required disclosure. The Company has carried out evaluations of the effectiveness of their disclosure controls and procedures as required by Rule 13a-15 of the Exchange Act.

(ee) The Company maintains a system of "internal control over financial reporting" (as defined in Rule 13a-15(f) of the Exchange Act) that complies with the requirements of the Exchange Act and has been designed by, or under the supervision of, its principal executive and principal financial officers, or persons performing similar functions, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles, including, but not limited to policies and procedures that: (i) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the Company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on the financial statements. Except as disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus, there are no material weaknesses in the Company's internal controls.

(ff) The interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement fairly presents the information called for in all material respects and has been prepared in accordance with the Commission's rules and guidelines applicable thereto.

Any certificate signed by any officer of the Company or any subsidiary and delivered to the Purchasers or to counsel for the Purchasers shall be deemed a representation and warranty by the Company and not the officer in its individual capacity to the Purchasers as to the matters covered thereby.

5. *Delivery and Payment.* The Company will deliver the Shares to be purchased on the Closing Date or the Additional Closing Date, as the case may be, to you for the accounts of the Purchasers through the facilities of The Depository Trust Company (“DTC”) against payment of the purchase price by wire transfer to an account specified by the Company in same day funds (x) with respect to the Firm Shares, at 10:00 a.m. (Eastern Time) on October 31, 2024 or at such other time not later than seven full business days thereafter as you and the Company determine (the “Closing Date”) and (y) with respect to the Option Shares, at the time as specified by you in the written notice of the Purchasers’ election to purchase such Option Shares (the “Additional Closing Date”). The Shares to be delivered will be in definitive fully registered form registered in such denominations and in such names as you request in writing not later than 3:00 p.m., New York Time, on the full business day prior to the Closing Date or the Additional Closing Date, as the case may be, or, if no such request is received, in the names of the respective Purchasers in the amounts agreed to be purchased by them pursuant to this Agreement on the Closing Date or the Additional Closing Date, as the case may be. If you request that any Shares be issued in a name or names other than that of the Purchaser agreeing to purchase such Shares hereunder, the Company shall not be obligated to pay any transfer taxes resulting therefrom.

6. *Offering by the Purchasers.* The several Purchasers propose to offer the Shares for sale to the public as set forth in the Time of Sale Prospectus and the Prospectus.

7. *Covenants of the Company.* The Company covenants and agrees with the several Purchasers that:

(a) It will promptly cause the Preliminary Prospectus and the Prospectus to be filed with the Commission as required by Rule 424.

(b) It will furnish to each Purchaser a copy of each proposed free writing prospectus to be prepared by or on behalf of, used by, or referred to by the Company and not to use or refer to any proposed free writing prospectus to which the Purchasers reasonably object.

(c) It will not take any action that would result in a Purchaser or the Company being required to file with the Commission pursuant to Rule 433(d) under the Securities Act a free writing prospectus prepared by or on behalf of a Purchaser that otherwise would not have been required to be filed thereunder.

(d) For as long as a prospectus relating to the Shares is required to be delivered under the Securities Act, if any event relating to or affecting the Company or of which the Company shall be advised in writing by the Purchasers shall occur which, which in the opinion of the Company or your counsel, should be set forth in a supplement or amendment to the Registration Statement, the Time of Sale Prospectus or the Prospectus in order either to make the Registration Statement, the Time of Sale Prospectus or the Prospectus comply with the requirements of the Securities Act or which would require the making of any change in the Time of Sale Prospectus or the Prospectus so that as thereafter delivered to Purchasers such Time of Sale Prospectus or the Prospectus will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, the Company will promptly amend or supplement the Registration Statement, the Time of Sale Prospectus or the Prospectus by either (i) preparing and filing with the Commission supplement(s) or amendment(s) to the Registration Statement, the Time of Sale Prospectus or the Prospectus, or (ii) making an appropriate filing pursuant to the Exchange Act, which will supplement or amend the Registration Statement, the Time of Sale Prospectus or the Prospectus so that, as supplemented or amended, the Time of Sale Prospectus or the Prospectus when the Time of Sale Prospectus or the Prospectus is delivered to a purchaser will comply with the Securities Act and will not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The Company will not file any amendment or supplement to the Registration Statement, the Time of Sale Prospectus or the Prospectus (x) prior to the Closing Date, without the Representatives’ consent, which consent shall not be unreasonably withheld and (y) prior to any Additional Closing Date, without providing such amendment or supplement to the Representatives for review a reasonable period of time prior to its filing.

(e) The Company will make generally available to its security holders as soon as practicable, but in any event not later than eighteen months after the effective date of the Registration Statement (as defined in Rule 158(c) under the Securities Act), an earnings statement of the Company and its subsidiaries (which need not be audited) complying with Section 11(a) of the Securities Act and Rule 158 under the Securities Act.

(f) The Company will furnish to you copies of the following documents, in each case as soon as available after filing and in such quantities as you reasonably request: (i) the registration statement relating to the Shares as originally filed and all post-effective amendments thereto (at least one of which will be signed and will include all exhibits except those incorporated by reference to previous filings with the Commission); (ii) each prospectus relating to the Shares; and (iii) during the time when a prospectus relating to the Shares is required to be delivered under the Securities Act, all post-effective amendments and supplements to the Registration Statement, the Time of Sale Prospectus or the Prospectus, respectively (except supplements relating to securities that are not the Shares).

(g) During the period of one year after the Closing Date, the Company will furnish to you, and upon request, to each of the other Purchasers (unless such reports are available electronically on the Commission's website or the Company's website): (i) as soon as practicable after the end of each fiscal year, a copy of its annual report to shareholders for such year, and (ii) as soon as available, a copy of each report or definitive proxy statement of the Company filed with the Commission under the Exchange Act or mailed to shareholders.

(h) Whether or not any sale of the Shares is consummated, the Company will pay and bear all costs and expenses incident to the performance of its obligations under this Agreement, including (i) the preparation, printing and filing of the Registration Statement (including financial statements and exhibits) as originally filed and of each amendment thereto, (ii) the authorization, issuance, sale, preparation and distribution of the Shares and the filing of the Certificate of Designation with the Secretary of State of the State of Delaware, (iii) the delivery of the Shares to the Purchasers, (iv) the fees and disbursements of the Company's counsel and accountants, (v) the delivery to the Purchasers of copies of the Registration Statement as originally filed and the printing and delivery of each amendment thereto, of each preliminary prospectus and of the Prospectus and any amendments or supplements thereto, (vi) the fees and expenses of any transfer agent and registrar for the Shares and of the Depositary (including reasonable fees and expenses of any counsel to such parties), (vii) all expenses incurred by the Company in connection with any "road show" presentation to potential investors and (viii) all expenses and application fees related to the listing of the Shares and a number of Underlying Shares equal to the Maximum Number of Underlying Shares on the New York Stock Exchange. If this Agreement is terminated by the Purchasers in accordance with the provisions of Section 9, the Company shall reimburse the Purchasers for all of their reasonable out-of-pocket expenses, including the reasonable fees and disbursements of counsel for the Purchasers.

(i) For a period of 90 days after the date of the Prospectus, the Company will not (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, or submit to, or file with, the Commission a registration statement under the Securities Act relating to, any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock, or publicly disclose the intention to undertake any of the foregoing, or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Common Stock or any such other securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise, without the prior written consent of Goldman Sachs & Co. LLC, other than the Shares to be sold hereunder, the Preferred Stock in respect thereof and any shares of Common Stock issued upon conversion of, or issued and paid as a dividend on, the Preferred Stock. The restrictions described above do not apply to (i) the issuance of shares of Common Stock or securities convertible into or exercisable for shares of Common Stock pursuant to the conversion or exchange of convertible or exchangeable securities or the exercise of warrants or options (including net exercise) or the settlement of RSUs (including net settlement), in each case, outstanding on the date of this Agreement, (ii) grants of stock options, stock awards, restricted stock, RSUs, or other equity awards and the issuance of shares of Common Stock or securities convertible into or exercisable or exchangeable for shares of Common Stock (whether upon the exercise of stock options or otherwise) to the Company's employees, officers, directors, advisors, or consultants pursuant to the terms of an equity compensation plan in effect as of the Closing Date, (iii) contributions of shares of Common Stock to the Company's 401(k) plan in effect as of the Closing Date, (iv) issuance of shares of Common Stock pursuant to the terms of the Company's qualified and nonqualified retirement plans in effect as of the Closing Date, (v) the issuance of up to 5% of the

outstanding shares of Common Stock, or securities convertible into, exercisable for, or which are otherwise exchangeable for, Common Stock, immediately following the Closing Date, in acquisitions or other similar strategic transactions; (vi) the filing of any registration statement on Form S-8 relating to securities granted or to be granted pursuant to any plan in effect on the date of this Agreement or any assumed benefit plan pursuant to an acquisition or similar strategic transaction, (vii) the issuance of shares of Common Stock pursuant to the Agreement and Plan of Merger, dated June 30, 2024, among the Company, Spirit AeroSystems Holdings, Inc. and Sphere Acquisition Corp., and the filing of any registration statement on Form S-4 or any amendment or supplement thereto relating to such shares of Common Stock, and (viii) the shares of Common Stock that may be issued pursuant to the Concurrent Offering.

(j) The Company will prepare a final term sheet relating to the offering of the Shares and the Concurrent Offering, containing only information that describes the final terms of the offering of the Shares and the Concurrent Offering in a form consented to by the Purchasers, and to file such final term sheet within the period required by Rule 433(d)(5)(ii) under the Securities Act following the date the final terms have been established for the offering of the Shares and the Concurrent Offering.

(k) The Company will advise the Purchasers promptly, and confirm such advice in writing, (i) when any amendment to the Registration Statement has been filed or becomes effective prior to the Closing Date or the Additional Closing Date, as the case may be; (ii) when any supplement to the Prospectus or any amendment to the Prospectus or any free writing prospectus has been filed prior to the Closing Date or the Additional Closing Date, as the case may be; (iii) of any request by the Commission for any amendment to the Registration Statement or any amendment or supplement to the Prospectus or the receipt of any comments from the Commission relating to the Registration Statement or any other request by the Commission for any additional information relating to the offering of the Shares prior to the Closing Date or the Additional Closing Date, as the case may be; (iv) of the issuance by the Commission of any order suspending the effectiveness of the Registration Statement or preventing or suspending the use of any Preliminary Prospectus or the Prospectus or the initiation or threatening of any proceeding for that purpose or pursuant to Section 8A of the Securities Act; (v) of the occurrence of any event during the period that a prospectus is required to be delivered as a result of which the Prospectus, the Time of Sale Prospectus or any free writing prospectus as then amended or supplemented would include any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances existing when the Prospectus, the Time of Sale Prospectus or any such free writing prospectus is delivered to a purchaser, not misleading; and (vi) of the receipt by the Company of any notice with respect to any suspension of the qualification of the Shares for offer and sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; and the Company will use its reasonable best efforts to prevent the issuance of any such order suspending the effectiveness of the Registration Statement, preventing or suspending the use of any Preliminary Prospectus or the Prospectus or suspending any such qualification of the Shares and, if any such order is issued, will use its reasonable best efforts to obtain as soon as possible the withdrawal thereof.

(l) The Company will qualify the Shares for offering and sale under the applicable securities laws of such states and other jurisdictions as you may reasonably designate in consultation with the Company and maintain such qualifications in effect for a period of not less than a year from the date of the Prospectus; *provided, however*, that the Company shall not be obligated to file any general consent to service of process or to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject. The Company will file such statements and reports as may be required by the laws of each jurisdiction in which the Shares have been qualified as above provided. The Company will also supply you with such information as is necessary for the determination of the legality of the Shares for investment under the laws of such jurisdictions as you may request.

(m) The Company will use its reasonable best efforts in cooperation with you to permit the Shares offered and sold in transactions by you to be eligible for clearance and settlement through DTC.

(n) The Company will apply the net proceeds received by it from the sale of the Shares in the manner specified in the Time of Sale Prospectus and the Prospectus under the heading "Use of Proceeds."

(o) The Company will use its reasonable best efforts to list, subject to notice of issuance, the Shares on the New York Stock Exchange and to effect and maintain the listing of a number of Underlying Shares equal to the Maximum Number of Underlying Shares on the New York Stock Exchange.

(p) Prior to the Closing Date or the Additional Closing Date, as the case may be, the Company will deposit the relevant number of shares of Preferred Stock with the Depositary in accordance with the provisions of this Agreement and the Deposit Agreement and otherwise comply with this Agreement and the Deposit Agreement so that the relevant Shares will be issued by the Depositary against receipt of such shares of Preferred Stock and delivered to the Purchasers against payment therefor at such Closing Date or such Additional Closing Date, as the case may be. The Company will reserve and keep available at all times for issuance, free of pre-emptive or similar rights, a number of Underlying Shares equal to the Maximum Number of Underlying Shares (for the avoidance of doubt, such Underlying Shares may be Common Stock previously issued and held by the Company as treasury stock). Between the date hereof and the Closing Date or the Additional Closing Date, as the case may be, the Company will not do or authorize any act or thing that would result in the adjustment of the "fixed conversion rates" (as defined in the Time of Sale Prospectus) of the Preferred Stock.

(q) The Company authorizes the Purchasers to make such public disclosure of information relating to stabilization of the Shares as is required by applicable law and regulation.

8. *Covenants of the Purchasers.*

(a) Each Purchaser severally covenants with the Company not to take any action that would result in the Company being required to file with the Commission under Rule 433(d) a free writing prospectus prepared by or on behalf of such Purchaser that otherwise would not be required to be filed by the Company thereunder, but the for the action of the Purchaser.

(b) Each Purchaser that is not a U.S. registered broker-dealer, represents that if it sells Shares in the United States it will do so through one or more U.S. registered broker-dealers as permitted by the Financial Industry Regulatory Authority regulations.

(c) Each Purchaser hereby agrees that it will not offer, sell or deliver any of the Shares in any jurisdiction outside the United States except under circumstances that will result in compliance with the applicable laws thereof, and that it will take at its own expense whatever action is required to permit its resale of the Shares in such jurisdictions. Each Purchaser understands that no action has been taken to permit a public offering in any jurisdiction outside the United States where action would be required for such purpose. Each Purchaser agrees not to cause any advertisement of the Shares to be published in any newspaper or periodical or posted in any public place and not to issue any circular relating to the Shares, except in any such case with the prior express written consent of the Company and the Representatives acting on behalf of the Purchasers.

9. *Conditions of the Obligations of the Purchasers.* The obligations of the several Purchasers to purchase and pay for the Firm Shares on the Closing Date or the Option Shares on the Additional Closing Date will be subject to the accuracy of the representations and warranties on the part of the Company herein, to the accuracy of the statements of Company officers made pursuant to the provisions hereof, to the performance by the Company of its obligations hereunder and to the following additional conditions precedent:

(a) On the date of execution of this Agreement and on the Closing Date or the Additional Closing Date, as the case may be, you shall have received from Deloitte & Touche LLP, independent registered public accounting firm with respect to the Company within the meaning of the Securities Act, a letter, dated such a date, in form and substance reasonably satisfactory to you containing statements and information of the type customarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained or incorporated by reference in the Registration Statement, the Time of Sale Prospectus and the Prospectus; *provided* that the letter delivered on the Closing Date or Additional Closing Date shall use a "cut-off" date no more than two business days prior to the Closing Date or such Additional Closing Date, as the case may be.

(b) The Registration Statement shall remain effective and at the Closing Date or the Additional Closing Date, as the case may be, no stop order suspending the effectiveness of the Registration Statement shall have been issued, no proceedings for such purpose shall have been instituted or, to the knowledge of the Company or you, shall be threatened by the Commission. The Prospectus and each issuer "free writing prospectus" shall have been timely filed with the Commission under the Securities Act, as required. All requests by the Commission for additional information relating to the offering of the Shares shall have been complied with to the reasonable satisfaction of the Purchasers.

(c) Subsequent to the date of this Agreement, there shall not have occurred (A) any change or any development involving a prospective change not contemplated by the Time of Sale Prospectus as of the date of this Agreement in or affecting the financial condition, business or properties of the Company and its subsidiaries taken as a whole or (B) (i) any downgrading in the rating of any debt securities or preferred stock of or guaranteed by the Company or any of its subsidiaries by any "nationally recognized statistical rating organization" (as defined in Section 3(a)(62) under the Exchange Act) or (ii) new or revised public announcement that any such organization has under surveillance or review its rating of any debt securities or preferred stock of or guaranteed by the Company or any of its subsidiaries (other than an announcement with positive implications of a possible upgrading, and no implication of a possible downgrading, of such rating) or any new or revised public announcement that the Company has been placed on negative outlook, which, in the case of clauses (A) and (B) above, in the judgment of the Purchasers that have severally agreed to purchase a majority of the Shares, materially impairs the investment quality of the Shares.

(d) You shall have received an opinion and a negative assurance letter, dated the Closing Date or the Additional Closing Date, as the case may be, of Kirkland & Ellis LLP, as counsel for the Company, in form and substance reasonably satisfactory to you.

(e) You shall have received an opinion and a negative assurance letter, dated the Closing Date or the Additional Closing Date, as the case may be, of Davis Polk & Wardwell LLP, as counsel for the Purchasers, with respect to such matters as you may reasonably request, and the Company shall have furnished to such counsel such documents as they reasonably request for the purpose of enabling them to pass on such matters.

(f) You shall have received a certificate of the Chief Executive Officer, President or any Vice President of the Company and a principal financial or accounting officer of the Company, dated the Closing Date or the Additional Closing Date, as the case may be, in which such officers shall state, to the best of their knowledge after reasonable investigation, (i) the representations and warranties of the Company in this Agreement are true and correct in all material respects, (ii) the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to the Closing Date, (iii) no stop order suspending the effectiveness of the Registration Statement has been issued and no proceedings for such purpose have been instituted, are pending or, to the best knowledge of the Company, threatened by the Commission, and (iv) that, subsequent to the date of the most recent financial statements set forth or incorporated by reference in the Time of Sale Prospectus or the Prospectus, there has been no material adverse change, nor any development or event reasonably likely to involve a prospective material adverse change, in the financial condition, business, properties or results of operations of the Company and its subsidiaries taken as a whole, except as set forth or contemplated in the Time of Sale Prospectus or the Prospectus.

(g) The Shares to be delivered on the Closing Date or the Additional Closing Date, as the case may be, shall have been approved for listing on the New York Stock Exchange, subject to official notice of issuance. A number of Underlying Shares equal to the Maximum Number of Underlying Shares shall have been approved for listing on the New York Stock Exchange, subject to official notice of issuance.

(h) The Certificate of Designation shall have been filed with the Secretary of State of the State of Delaware and shall have become effective.

(i) The “lock-up” agreements, each substantially in the form of Schedule C to this Agreement, between you and certain officers and directors of the Company relating to sales and certain other dispositions of shares of Common Stock or certain other securities, delivered to you on or before the date hereof, shall be full force and effect on the Closing Date or the Additional Closing Date, as the case may be.

(j) The Company and the Depositary shall have executed and delivered the Deposit Agreement, and you shall have received a copy thereof.

(k) Prior to the Closing Date or the Additional Closing Date, as the case may be, the Company shall have deposited the relevant number of shares of Preferred Stock with the Depositary in accordance with the provisions of this Agreement and the Deposit Agreement and otherwise complied with this Agreement and the Deposit Agreement so that the relevant Shares will be issued by the Depositary against receipt of such shares of Preferred Stock and delivered to the Purchasers against payment therefor at such Closing Date or such Additional Closing Date, as the case may be.

(l) The Company will furnish you with such conformed copies of such opinions, certificates, letters and documents as you reasonably request.

In case any such condition shall not have been satisfied on or prior to the Closing Date or the Additional Closing Date, as the case may be, this Agreement may be terminated by you with respect to, in the case of the Closing Date, the Shares and, in the case of the Additional Closing Date, the Option Shares, upon notice in writing or by telecopy to the Company without liability or obligation on the part of the Company or any Purchaser, except as set forth in Section 14 hereof.

10. *Conditions of the Obligations of the Company.* The obligations of the Company to sell and deliver the Firm Shares on the Closing Date or the Option Shares on the Additional Closing Date are subject to the following condition precedent:

(a) No stop order suspending the effectiveness of the Registration Statement shall have been issued and no proceedings for that purpose shall have been instituted or, to the knowledge of the Company or you, shall be threatened by the Commission.

If any such condition shall not have been satisfied on or prior to the Closing Date or the Additional Closing Date, as the case may be, then the Company shall be entitled, by notice in writing or by telecopy to you, to terminate this Agreement with respect to, in the case of the Closing Date, the Shares and, in the case of the Additional Closing Date, the Option Shares without any liability or obligation on the part of the Company or any Purchaser, except as set forth in Section 14 hereof.

11. *Indemnification.*

(a) The Company will indemnify and hold harmless each Purchaser, its affiliates (as such term is defined in Rule 501(b) under the Securities Act (each, an “Affiliate”)), each of its directors and officers and each person, if any, who controls any Purchaser within the meaning of the Securities Act or the Exchange Act against any losses, claims, damages or liabilities, joint or several, to which such Purchaser, Affiliate or such controlling person may become subject, under the Securities Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in the Registration Statement, the Time of Sale Prospectus, the Prospectus, any issuer “free writing prospectus” or any Written Testing-the-Waters Communication (or any amendment or supplement thereto), or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading; and will reimburse each Purchaser, Affiliate and each such controlling person for any legal or other expenses reasonably incurred by such Purchaser, Affiliate or such controlling person in connection with investigating or defending any such loss, claim, damage, liability or action; *provided, however*, that the Company will not be liable to such Purchaser, Affiliate or controlling person in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in any such

documents in reliance upon and in conformity with written information furnished to the Company by such Purchaser specifically for use therein, it being understood and agreed that the only such information furnished by any Purchaser consists of the information described as such in Section 11(b) hereof. This indemnity agreement will be in addition to any liability which the Company may otherwise have.

(b) Each Purchaser agrees, severally and not jointly, to indemnify and hold harmless the Company, each of its directors and officers and each person, if any, who controls the Company within the meaning of the Securities Act or the Exchange Act, against any losses, claims, damages or liabilities to which the Company or any such director, officer or controlling person may become subject, under the Securities Act, or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact contained in the Registration Statement, the Time of Sale Prospectus, the Prospectus, any issuer "free writing prospectus" as defined in Rule 433(h) under the Act, any Written Testing-the-Waters Communication, any Company information that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Act or the Prospectus (or any amendment or supplement thereto) or arise out of or are based upon the omission or the alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information furnished to the Company by such Purchaser specifically for use therein, it being understood and agreed upon that the only such information furnished by any Purchaser consists of the following information in the Prospectus: the concession figure appearing in the sixth paragraph under the caption "Underwriting" and the information contained in the thirteenth, fourteenth and fifteenth paragraphs under the caption "Underwriting"; and will reimburse any legal or other expenses reasonably incurred by the Company or any such director, officer or controlling person in connection with investigating or defending any such loss, claim, damage, liability or action as such expenses are incurred. This indemnity agreement will be in addition to any liability which such Purchaser may otherwise have.

(c) Promptly after receipt by an indemnified party under this Section of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under (a) and (b) above, notify the indemnifying party of the commencement thereof; but the omission so to notify the indemnifying party will not relieve it from any liability which it may have to any indemnified party otherwise than under this Section, except to the extent the indemnifying party has been materially prejudiced by such omission. In case any such action is brought against any indemnified party, and it notifies the indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate therein and, to the extent that it may wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel satisfactory to such indemnified party (who may, with the consent of the indemnified party, be counsel to the indemnifying party) and who shall not be counsel to any other indemnified party who may have interests conflicting with those of such indemnified party, and after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party will not be liable to such indemnified party under this Section for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. The indemnifying party shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify each indemnified party from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested that an indemnifying party reimburse the indemnified party for fees and expenses of counsel as contemplated by this paragraph, the indemnifying party shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 30 days after receipt by the indemnifying party of such request and (ii) the indemnifying party shall not have reimbursed the indemnified party in accordance with such request prior to the date of such settlement unless the request is being disputed in good faith. No indemnifying party shall, without the written consent of the indemnified party, effect any settlement of any pending or threatened proceeding in respect of which any indemnified party is or could have been a party and indemnification could have been sought hereunder by such indemnified party, unless such settlement (x) includes an unconditional release of such indemnified party, in form and substance reasonably satisfactory to such indemnified party, from all liability on claims that are the subject matter of such proceeding and (y) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(d) If recovery is not available under the foregoing indemnification provisions of this Section, for any reason other than as specified therein, the parties entitled to indemnification by the terms thereof shall be entitled to contribution to liabilities and expenses, except to the extent that contribution is not permitted under Section 11(f) of the Securities Act. In determining the amount of contribution to which the respective parties are entitled, there shall be considered the relative benefits received by each party from the offering of the Shares (taking into account the portion of the proceeds of the offering realized by each), the parties' relative knowledge and access to information concerning the matter with respect to which the claim was asserted, the opportunity to correct and prevent any statement or omission, and any other equitable considerations appropriate under the circumstances. The relative benefits received by the Company on the one hand and the Purchasers on the other shall be deemed to be in the same respective proportions as the net proceeds (before deducting expenses) received by the Company from the sale of the Shares and the total underwriting discounts and commissions received by the Purchasers in connection therewith, in each case as set forth in the table on the cover of the Prospectus, bear to the aggregate offering price of the Shares. The Company and the Purchasers and such controlling persons agree that it would not be equitable if the amount of such contribution were determined by pro rata or per capita allocation (even if the Purchasers and such controlling persons were treated as one entity for such purpose). Notwithstanding the provisions of this subsection (d), no Purchaser or controlling person shall be required to make contribution hereunder which in the aggregate exceeds the underwriting discounts and commissions received by such Purchaser under this Agreement, less the aggregate amount of any damages which such Purchaser or such controlling person has otherwise been required to pay in respect of the same claim or any substantially similar claim. The Purchasers' obligations to contribute are several in proportion to their respective underwriting obligations and not joint.

12. *Default of Purchasers.* If, on the Closing Date or the Additional Closing Date, as the case may be, any Purchaser or Purchasers default in their obligations to purchase the Shares that it has agreed to purchase hereunder on such date and the aggregate principal amount of the Shares which such defaulting Purchaser or Purchasers agreed but failed to purchase is 10% or less of the aggregate number Shares to be purchased by all Purchasers on such date, the non-defaulting Purchasers may make arrangements satisfactory to the Company for the purchase of such Shares by other persons, including any of the Purchasers, but if no such arrangements are made by the Closing Date or the Additional Closing Date, as the case may be, the non-defaulting Purchasers shall be obligated severally, in proportion to their respective commitments hereunder, to purchase the Shares which such defaulting Purchasers agreed but failed to purchase on such date. If any Purchaser or Purchasers so default and the aggregate number of Shares with respect to which such default or defaults occur is more than the above percentage and arrangements reasonably satisfactory to you and the Company for the purchase of such Shares by other persons are not made within seventy-two hours after such default, this Agreement or, with respect to any Additional Closing Date, the obligation of the Purchasers to purchase Shares on the Additional Closing Date, as the case may be, will terminate without liability on the part of any non-defaulting Purchaser or the Company, except as provided in Section 14. In the event that any Purchaser or Purchasers default in their obligation to purchase Shares hereunder, the Company may, by prompt written notice to the non-defaulting Purchasers, postpone the Closing Date or the Additional Closing Date, as the case may be, for a period of not more than seven full business days in order to effect whatever changes may thereby be made necessary in the Registration Statement or the Prospectus or in any other documents, and the Company will promptly file any amendments to the Registration Statement or supplements to the Time of Sale Prospectus or the Prospectus which may thereby be made necessary. As used in this Agreement, the term "Purchaser" includes any person substituted for a Purchaser under this Section. Nothing herein will relieve a defaulting Purchaser from liability for its default.

13. *Termination.* This Agreement may be terminated, by notice to the Company, if after the execution and delivery of this Agreement and prior to the Closing Date or, in the case of the Option Shares, prior to the Additional Closing Date, (i) trading generally shall have been suspended or materially limited on the New York Stock Exchange; (ii) trading of any securities issued or guaranteed by the Company shall have been suspended on any exchange; (iii) a general moratorium on commercial banking activities shall have been declared by federal or New York State authorities or a material disruption in commercial banking or securities settlement clearance

services in the United States; or (iv) there shall have occurred any outbreak or escalation of hostilities or any change in financial markets or any calamity or crisis, either within or outside the United States, that, in each case in the reasonable judgment of the Purchasers, is material and adverse and makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the Shares on the Closing Date or the Additional Closing Date, as the case may be, on the terms and in the manner contemplated by this Agreement, the Time of Sale Prospectus and the Prospectus.

14. *Survival of Certain Representations and Obligations.* The respective indemnities, agreements, representations, warranties, and other statements of the Company or its officers and of the several Purchasers set forth in or made pursuant to this Agreement will remain in full force and effect, regardless of any investigation, or statement as to the results thereof, made by or on behalf of any Purchaser or the Company or any of its officers or directors or any controlling person, and will survive delivery of and payment for the Shares. If this Agreement is terminated pursuant to Section 9, 10, 12 or 13 or if for any reason the purchase of the Shares by the Purchasers is not consummated, the Company shall remain responsible for the expenses to be paid or reimbursed by it pursuant to Section 7(h). In addition, in such event, the respective obligations of the Company and the Purchasers pursuant to Section 11 shall remain in effect; *provided, however*, that each Purchaser will use its best efforts to promptly notify each other Purchaser and each dealer and prospective customer to whom such Purchaser has delivered a Prospectus for the Shares by telephone or telegraph, confirmed by letter in either case, of such termination or failure to consummate, including in such notice instructions regarding the continued use of the Registration Statement, the Time of Sale Prospectus, the Prospectus, or any amendment or supplement thereto.

15. *Notices.* All communications hereunder will be in writing, and, if sent to the Purchasers will be delivered or telecopied and confirmed to Goldman Sachs & Co. LLC, 200 West Street, New York, New York 10282, Attention: Registration Department, fax: (212) 902-9316; BofA Securities, Inc., One Bryant Park, New York, New York 10036, Attention: Syndicate Department, with a copy to: Attention: ECM Legal; Citigroup Global Markets Inc., 388 Greenwich Street, New York NY 10013, Attention: General Counsel, fax: (646) 291-1469; and J.P. Morgan Securities LLC, 383 Madison Avenue, New York, New York 10179, Attention Equity Syndicate Desk, fax: (212) 622-8358; or, if sent to the Company, will be delivered and confirmed to it, attention of Treasurer at 929 Long Bridge Drive, Arlington, Virginia 22202, with a copy to Corporate Secretary at the same address.

16. *Successors.* This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors and the officers and directors and controlling persons referred to in Section 11, and no other person will have any right or obligation hereunder.

17. WAIVER OF JURY TRIAL. EACH OF THE COMPANY AND THE PURCHASERS HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

18. *Entire Agreement.* This Agreement, together with any contemporaneous written agreements and any prior written agreements (to the extent not superseded by this Agreement) that relate to the offering of the Shares, represents the entire agreement between the Company and the Purchasers with respect to the preparation of the Time of Sale Prospectus and the Prospectus, the conduct of the offering, and the purchase and sale of the Shares.

19. *Relationship.* The Company acknowledges that in connection with the offering of the Shares, (i) the Purchasers have acted at arm's-length, are not agents of, and owe no fiduciary duties to, the Company or any other person, (ii) the Purchasers owe the Company only those duties and obligations set forth in this Agreement and prior written agreements to the extent not superseded by this Agreement, if any, and (iii) the Purchasers may have interests that differ from those of the Company. The Company waives to the full extent permitted by applicable law any claims it may have against the Purchasers arising from an alleged breach of fiduciary duty in connection with the offering of the Shares.

20. *Construction.* This Agreement shall be governed by and construed in accordance with the laws of the State of New York without giving effect to any conflicts of law provisions that would apply the laws of another jurisdiction.

21. *Counterparts.* This Agreement may be executed in one or more counterparts and it is not necessary that the signatures of all parties appear on the same counterpart, but such counterparts together shall constitute but one and the same agreement. Counterparts may be delivered via facsimile, electronic mail (including any electronic signature covered by the U.S. federal E-SIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

22. *Amendments or Waivers.* No amendment or waiver of any provision of this Agreement, nor any consent or approval to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by the parties hereto.

23. *Recognition of the U.S. Special Resolution Regimes.*

(a) In the event that any Purchaser that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Purchaser of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any interest and obligation in or under this Agreement, were governed by the laws of the United States or a state of the United States.

(b) In the event that any Purchaser that is a Covered Entity or a BHC Act Affiliate of such Purchaser becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against such Purchaser are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

(c) As used in this Section 23:

“BHC Act Affiliate” has the meaning assigned to the term “affiliate” in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k).

“Covered Entity” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“U.S. Special Resolution Regime” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

24. *Other Liabilities Governed by Non-EEA Law/Non-UK Law.*

(a) Notwithstanding and to the exclusion of any other term of this Agreement or any other agreements, arrangements, or understanding between the Company and the Purchasers, the Company acknowledges and accepts that a BRRD Liability arising under this Agreement may be subject to the exercise of Bail-in Powers by the Relevant Resolution Authority, and acknowledges, accepts, and agrees to be bound by: (i) the effect of the exercise of Bail-in Powers by the Relevant Resolution Authority in relation to any BRRD Liability of the Purchasers to the Company under this Agreement, that (without limitation) may include and result in any of the following, or some combination thereof: (A) the reduction of all, or a portion, of the BRRD Liability or outstanding amounts due thereon; (B) the conversion of all, or a portion, of the BRRD Liability into shares, other securities or other obligations of the Purchasers or another person, and the issue to or conferral on the Company of such shares, securities or obligations; (C) the cancellation of the BRRD Liability; or (D) the amendment or alteration of any interest, if applicable, thereon, the maturity or the dates on which any payments are due, including by suspending payment for a temporary period; and (ii) the terms of this Agreement may be varied, as deemed necessary by the Relevant Resolution Authority, to give effect to the exercise of Bail-in Powers by the Relevant Resolution Authority.

(b) For purposes of this Section 24, the following definitions shall apply:

“Bail-in Legislation” means in relation to the UK and a member state of the European Economic Area which has implemented, or which at any time implements, the BRRD, the relevant implementing law, regulation, rule or requirement as described in the EU Bail-in Legislation Schedule from time to time.

“Bail-in Powers” means any Write-down and Conversion Powers as defined in the EU Bail-in Legislation Schedule, in relation to the relevant Bail-in Legislation.

“BRRD” means Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

“BRRD Liability” means a liability in respect of which the relevant Write Down and Conversion Powers in the applicable Bail-in Legislation may be exercised.

“EU Bail-in Legislation Schedule” means the document described as such, then in effect, and published by the Loan Market Association (or any successor person) from time to time at <http://www.lma.eu.com/pages.aspx?p=499>.

“Relevant Resolution Authority” means the resolution authority with the ability to exercise any Bail-in Powers in relation to the Purchasers.

[Signature page follows]

If the foregoing is in accordance with your understanding, please indicate your acceptance of this Agreement by signing in the space provided below.

The Boeing Company

By: /s/ David R. Whitehouse

Name: David R. Whitehouse

Title: Senior Vice President and Treasurer

Accepted as of the date first written above for themselves and on behalf of the several Purchasers listed in Schedule A hereto.

Goldman Sachs & Co. LLC

By: /s/ Mike Voris

Name: Mike Voris

Title: Managing Director

BofA Securities, Inc.

By: /s/ Jay Johnston

Name: Jay Johnston

Title: Managing Director

Citigroup Global Markets Inc.

By: /s/ Stephen Edelman

Name: Stephen Edelman

Title: Managing Director

J.P. Morgan Securities LLC

By: /s/ Manoj Vemula

Name: Manoj Vemula

Title: Executive Director

Schedule A

<u>Purchaser</u>	<u>Number of Firm Shares</u>
Goldman Sachs & Co. LLC	19,461,539
BofA Securities, Inc.	19,461,539
Citigroup Global Markets Inc.	19,461,539
J.P. Morgan Securities LLC	19,461,539
Wells Fargo Securities, LLC	6,461,539
BNP Paribas Securities Corp.	2,076,922
Deutsche Bank Securities Inc.	2,076,922
Mizuho Securities USA LLC	2,076,922
Morgan Stanley & Co. LLC	2,076,922
RBC Capital Markets, LLC	2,076,922
SMBC Nikko Securities America, Inc.	2,076,922
Credit Agricole Securities (USA) Inc.	923,076
MUFG Securities Americas Inc.	923,076
Commerz Markets LLC	461,539
Santander US Capital Markets LLC	461,539
Academy Securities, Inc.	129,231
Loop Capital Markets LLC	83,078
Raymond James & Associates, Inc.	83,078
Siebert Williams Shank & Co., LLC	83,078
U.S. Bancorp Investments, Inc.	83,078
Total	<u>100,000,000</u>

TERM SHEET

[Attached]

The Boeing Company
Concurrent Offerings of
112,500,000 Shares of Common Stock, par value \$5.00 per Share (the “Common Stock”)
(the “Common Stock Offering”)
and
100,000,000 Depositary Shares (the “Depositary Shares”)
Each Representing a 1/20th Interest in a Share of
6.00% Series A Mandatory Convertible Preferred Stock
(the “Depositary Shares Offering”)

The information in this pricing term sheet relates only to the Common Stock Offering and the Depositary Shares Offering and should be read together with (i) the preliminary prospectus supplement dated October 28, 2024 relating to the Common Stock Offering (the “Common Stock Preliminary Prospectus Supplement”), including the documents incorporated by reference therein, (ii) the preliminary prospectus supplement dated October 28, 2024 relating to the Depositary Shares Offering (the “Depositary Shares Preliminary Prospectus Supplement”), including the documents incorporated by reference therein and (iii) the related base prospectus dated October 22, 2024, each filed pursuant to Rule 424(b) under the Securities Act of 1933, as amended, Registration No. 333-282628. Neither the Common Stock Offering nor the Depositary Shares Offering is contingent on the successful completion of the other offering. Terms not defined in this pricing term sheet have the meanings given to such terms in the Common Stock Preliminary Prospectus Supplement or the Depositary Shares Preliminary Prospectus Supplement, as applicable. All references to dollar amounts are references to U.S. dollars. The Boeing Company has increased the size of the Common Stock Offering to 112,500,000 shares of Common Stock (or 129,375,000 shares of Common Stock if the underwriters in the Common Stock Offering exercise in full their option to purchase additional Common Stock). The final prospectus supplement relating to the Common Stock Offering will reflect conforming changes relating to such increase in the size of the Common Stock Offering.

Issuer:	The Boeing Company
Ticker / Exchange for the Common Stock:	BA / New York Stock Exchange (“NYSE”)
Pricing Date:	October 28, 2024.
Trade Date:	October 29, 2024 (“T”).
Settlement Date for the Common Stock Offering:	October 30, 2024 (T+1).
Settlement Date for the Depositary Shares Offering:	October 31, 2024 (T+2), which is the second business day following the trade date for the Depositary Shares (such settlement cycle being referred to as “T+2”). Under Rule 15c6-1 under the Securities Exchange Act of 1934, as amended, trades in the secondary market generally are required to settle in one business day, unless the parties

to any such trade expressly agree otherwise. Accordingly, purchasers who wish to trade the Depositary Shares prior to the business day preceding the settlement date will be required, by virtue of the fact that the Depositary Shares initially will settle T+2, to specify an alternative settlement cycle at the time of any such trade to prevent a failed settlement. Purchasers of the Depositary Shares who wish to trade the Depositary Shares prior to the business day preceding the settlement date should consult their own advisors.

Use of Proceeds:

The Issuer expects the net proceeds from (i) the Common Stock Offering to be approximately \$15.81 billion (or approximately \$18.18 billion if the underwriters of the Common Stock Offering exercise in full their option to purchase additional common stock) and (ii) the Depositary Shares Offering to be approximately \$4.91 billion (or approximately \$5.65 billion if the underwriters of the Depositary Shares Offering exercise in full their over-allotment option to purchase additional Depositary Shares), in each case, after deducting the applicable underwriting discounts and the Issuer's estimated offering expenses totaling approximately \$20.0 million. The Issuer intends to use the net proceeds from the Common Stock Offering and the Depositary Shares Offering for general corporate purposes, which may include, among other things, repayment of debt, additions to working capital, capital expenditures, and funding and investments in the Issuer's subsidiaries. Net proceeds may be temporarily invested prior to use. See "Use of Proceeds" in the Common Stock Preliminary Prospectus Supplement and the Depositary Shares Preliminary Prospectus Supplement.

The closing of the Common Stock Offering and the closing of the Depositary Shares Offering are not contingent upon each other.

Common Stock Offering

Common Stock Offered:	112,500,000 shares of Common Stock
Option for Underwriters to Purchase Additional Shares of Common Stock:	16,875,000 additional shares of Common Stock
Public Offering Price of the Common Stock:	\$143.00 per share of Common Stock
NYSE Last Reported Sale Price of the Common Stock on October 28, 2024:	\$150.69 per share of Common Stock
CUSIP / ISIN for the Common Stock:	097023 105 / US0970231058
Joint Book-Running Managers:	Goldman Sachs & Co. LLC BofA Securities, Inc. Citigroup Global Markets Inc. J.P. Morgan Securities LLC Wells Fargo Securities, LLC BNP Paribas Securities Corp.

Deutsche Bank Securities Inc.
Mizuho Securities USA LLC
Morgan Stanley & Co. LLC
RBC Capital Markets, LLC
SMBC Nikko Securities America, Inc.

Co-Managers:

Credit Agricole Securities (USA) Inc.
MUFG Securities Americas Inc.
Commerz Markets LLC
Santander US Capital Markets LLC
Academy Securities, Inc.
BTIG, LLC
Loop Capital Markets LLC
Raymond James & Associates, Inc.
Siebert Williams Shank & Co., LLC

Depositary Shares Offering

Depositary Shares Offered:

100,000,000 Depositary Shares, each of which represents a 1/20th interest in a share of the Issuer's 6.00% Series A Mandatory Convertible Preferred Stock (the "**Mandatory Convertible Preferred Stock**"). At settlement of the Depositary Shares Offering, the Issuer will issue 5,000,000 shares of Mandatory Convertible Preferred Stock, subject to the underwriters' over-allotment option.

Over-allotment Option for Underwriters to Purchase Additional Depositary Shares:

15,000,000 additional Depositary Shares (corresponding to 750,000 additional shares of the Mandatory Convertible Preferred Stock), solely to cover over-allotments.

Public Offering Price of the Depositary Shares:

\$50.00 per Depositary Share.

Dividends:

6.00% of the liquidation preference of \$1,000 per share of the Mandatory Convertible Preferred Stock per year. Dividends will accumulate from the Settlement Date for the Depositary Shares and, to the extent that the Issuer is legally permitted to pay dividends and its board of directors, or an authorized committee thereof, declares a dividend payable with respect to the Mandatory Convertible Preferred Stock, the Issuer will pay such dividends in cash or, subject to certain limitations, by delivery of shares of Common Stock or through any combination of cash and shares of Common Stock, as determined by the Issuer's board of directors in its sole discretion; *provided* that any unpaid dividends will continue to accumulate.

The expected dividend payable on the first Dividend Payment Date is \$12.50 per share of Mandatory Convertible Preferred Stock (equivalent to \$0.625 per Depositary Share). Each subsequent dividend is expected to be \$15.00 per share of Mandatory Convertible Preferred Stock (equivalent to \$0.75 per Depositary Share).

Dividend Record Dates:

The January 1, April 1, July 1 and October 1 immediately preceding the relevant Dividend Payment Date.

Dividend Payment Dates:

January 15, April 15, July 15 and October 15 of each year, commencing on, and including, January 15, 2025 and ending on, and including, October 15, 2027.

Mandatory Conversion Date:	The second business day immediately following the last trading day of the 20 consecutive trading day period beginning on, and including, the 21st scheduled trading day immediately preceding October 15, 2027.
Initial Price:	Equal to \$1,000, <i>divided by</i> the Maximum Conversion Rate, rounded to the nearest \$0.0001, which initially is \$142.9797.
Threshold Appreciation Price:	Equal to \$1,000, <i>divided by</i> the Minimum Conversion Rate, rounded to the nearest \$0.0001, which initially is \$171.5854 and represents a premium of approximately 20% over the Initial Price.
Floor Price:	\$50.04 (approximately 35% of the Initial Price), subject to adjustment as described in the Depositary Shares Preliminary Prospectus Supplement.
Conversion Rate per Share of Mandatory Convertible Preferred Stock:	The conversion rate for each share of Mandatory Convertible Preferred Stock will not be more than 6.9940 shares of Common Stock and not less than 5.8280 shares of Common Stock (respectively, the “ Maximum Conversion Rate ” and “ Minimum Conversion Rate ”), depending on the applicable market value (as defined in the Depositary Shares Preliminary Prospectus Supplement) of the Common Stock, as described below and subject to certain anti-dilution adjustments. Correspondingly, the conversion rate per Depositary Share will be not more than 0.3497 shares of Common Stock and not less than 0.2914 shares of Common Stock. The following table illustrates the conversion rate per share of the Mandatory Convertible Preferred Stock, subject to certain anti-dilution adjustments described in the Depositary Shares Preliminary Prospectus Supplement, based on the applicable market value of the Common Stock:

Applicable Market Value of the Common Stock	Conversion Rate per Share of Mandatory Convertible Preferred Stock
Greater than the Threshold Appreciation Price	5.8280 shares of Common Stock
Equal to or less than the Threshold Appreciation Price but greater than or equal to the Initial Price	Between 5.8280 and 6.9940 shares of Common Stock, determined by dividing \$1,000 by the applicable market value
Less than the Initial Price	6.9940 shares of Common Stock

The following table illustrates the conversion rate per Depositary Share, subject to certain anti-dilution adjustments described in the Depositary Shares Preliminary Prospectus Supplement, based on the applicable market value of the Common Stock:

Applicable Market Value of the Common Stock	Conversion Rate per Depositary Share
Greater than the Threshold Appreciation Price	0.2914 shares of Common Stock
Equal to or less than the Threshold Appreciation Price but greater than or equal to the Initial Price	Between 0.2914 and 0.3497 shares of Common Stock, determined by dividing \$50 by the applicable market value
Less than the Initial Price	0.3497 shares of Common Stock

Optional Conversion:

Other than during a fundamental change conversion period (as defined in the Depositary Shares Preliminary Prospectus Supplement), at any time prior to October 15, 2027, a holder of Mandatory Convertible Preferred Stock may elect to convert such holder's shares of Mandatory Convertible Preferred Stock, in whole or in part, at the Minimum Conversion Rate of 5.8280 shares of Common Stock per share of Mandatory Convertible Preferred Stock (equivalent to 0.2914 shares of Common Stock per Depositary Share), subject to adjustment as described in the Depositary Shares Preliminary Prospectus Supplement. Because each Depositary Share represents a 1/20th fractional interest in a share of Mandatory Convertible Preferred Stock, a holder of Depositary Shares may convert its Depositary Shares only in lots of 20 Depositary Shares.

Fundamental Change:

If a fundamental change (as defined in the Depositary Shares Preliminary Prospectus Supplement) occurs on or prior to October 15, 2027, holders of the Mandatory Convertible Preferred Stock will have the right to convert their shares of Mandatory Convertible Preferred Stock, in whole or in part, into shares of Common Stock at the fundamental change conversion rate (as defined in the Depositary Shares Preliminary Prospectus Supplement) during the period beginning on, and including, the effective date (as defined in the Depositary Shares Preliminary Prospectus Supplement) of such fundamental change and ending on, and including, the earlier of (a) the date that is 20 calendar days after such effective date (or, if later, the date that is 20 calendar days after holders receive notice of such fundamental change) and (b) October 15, 2027. For the avoidance of doubt, the period described in the immediately preceding sentence may not end on a date that is later than October 15, 2027.

The following table sets forth the fundamental change conversion rate per share of Mandatory Convertible Preferred Stock based on the effective date of the fundamental change and the stock price (as defined in the Depositary Shares Preliminary Prospectus Supplement) in the fundamental change:

Effective Date	Stock Price											
	\$100.00	\$110.00	\$120.00	\$130.00	\$142.98	\$150.00	\$160.00	\$171.59	\$180.00	\$190.00	\$200.00	\$210.00
October 31, 2024	6.3600	6.2860	6.2200	6.1600	6.0940	6.0620	6.0200	5.9800	5.9540	5.9280	5.9040	5.8840
October 15, 2025	6.5120	6.4260	6.3460	6.2720	6.1860	6.1440	6.0920	6.0380	6.0060	5.9720	5.9420	5.9160
October 15, 2026	6.7420	6.6480	6.5480	6.4460	6.3220	6.2600	6.1800	6.1000	6.0520	6.0020	5.9620	5.9280
October 15, 2027	6.9940	6.9940	6.9940	6.9940	6.9940	6.6660	6.2500	5.8280	5.8280	5.8280	5.8280	5.8280

The exact stock price and effective date may not be set forth on the table, in which case:

- if the stock price is between two stock prices on the table or the effective date is between two effective dates on the table, the fundamental change conversion rate per share of Mandatory Convertible Preferred Stock will be determined by straight-line interpolation between the fundamental change conversion rates per share of Mandatory Convertible Preferred Stock set forth for the higher and lower stock prices and the earlier and later effective dates, as applicable, based on a 365-day or 366-day year, as applicable;
- if the stock price is in excess of \$210.00 per share (subject to adjustment in the same manner as the stock prices in the column headings of the table above as described in the Depositary Shares Preliminary Prospectus Supplement), then the fundamental change conversion rate per share of Mandatory Convertible Preferred Stock will be the Minimum Conversion Rate; and
- if the stock price is less than \$100.00 per share (subject to adjustment in the same manner as the stock prices in the column headings of the table above as described in the Depositary Shares Preliminary Prospectus Supplement), then the fundamental change conversion rate per share of Mandatory Convertible Preferred Stock will be the Maximum Conversion Rate.

The following table sets forth the fundamental change conversion rate per Depositary Share based on the effective date of the fundamental change and the stock price in the fundamental change:

Effective Date	Stock Price											
	\$100.00	\$110.00	\$120.00	\$130.00	\$142.98	\$150.00	\$160.00	\$171.59	\$180.00	\$190.00	\$200.00	\$210.00
October 31, 2024	0.3180	0.3143	0.3110	0.3080	0.3047	0.3031	0.3010	0.2990	0.2977	0.2964	0.2952	0.2942
October 15, 2025	0.3256	0.3213	0.3173	0.3136	0.3093	0.3072	0.3046	0.3019	0.3003	0.2986	0.2971	0.2958
October 15, 2026	0.3371	0.3324	0.3274	0.3223	0.3161	0.3130	0.3090	0.3050	0.3026	0.3001	0.2981	0.2964
October 15, 2027	0.3497	0.3497	0.3497	0.3497	0.3497	0.3333	0.3125	0.2914	0.2914	0.2914	0.2914	0.2914

The exact stock price and effective date may not be set forth on the table, in which case:

- if the stock price is between two stock prices on the table or the effective date is between two effective dates on the table, the fundamental change conversion rate per Depositary Share will be determined by straight-line interpolation between the fundamental change conversion rates per Depositary Share set forth for the higher and lower stock prices and the earlier and later effective dates, as applicable, based on a 365-day or 366-day year, as applicable;
- if the stock price is in excess of \$210.00 per share (subject to adjustment in the same manner as the stock prices in the column headings of the table above as described in the Depositary Shares Preliminary Prospectus Supplement), then the fundamental change conversion rate per Depositary Share will be the Minimum Conversion Rate, *divided by 20*; and
- if the stock price is less than \$100.00 per share (subject to adjustment in the same manner as the stock prices in the column headings of the table above as described in the Depositary Shares Preliminary Prospectus Supplement), then the fundamental change conversion rate per Depositary Share will be the Maximum Conversion Rate, *divided by 20*.

Because each Depositary Share represents a 1/20th fractional interest in a share of Mandatory Convertible Preferred Stock, a holder of Depositary Shares may convert its Depositary Shares upon the occurrence of a fundamental change only in lots of 20 Depositary Shares.

Discount Rate for Purposes of Fundamental Change Dividend Make-Whole Amount:	The discount rate for purposes of determining the fundamental change dividend make-whole amount (as defined in the Depositary Shares Preliminary Prospectus Supplement) is 5.75% per annum.
Listing:	The Issuer intends to apply to list the Depositary Shares on the New York Stock Exchange under the symbol "BA-PRA." No assurance can be given that the Depositary Shares will be listed or that any such application for listing will be approved.
CUSIP / ISIN for the Depositary Shares:	097023 204 / US0970232049
CUSIP / ISIN for the Mandatory Convertible Preferred Stock:	097023 303 / US0970233039
Joint Book-Running Managers:	Goldman Sachs & Co. LLC BofA Securities, Inc. Citigroup Global Markets Inc. J.P. Morgan Securities LLC Wells Fargo Securities, LLC BNP Paribas Securities Corp. Deutsche Bank Securities Inc. Mizuho Securities USA LLC Morgan Stanley & Co. LLC RBC Capital Markets, LLC SMBC Nikko Securities America, Inc.
Co-Managers:	Credit Agricole Securities (USA) Inc. MUFG Securities Americas Inc. Commerz Markets LLC Santander US Capital Markets LLC Academy Securities, Inc. Loop Capital Markets LLC Raymond James & Associates, Inc. Siebert Williams Shank & Co., LLC U.S. Bancorp Investments, Inc.

The Issuer has filed a registration statement (including a prospectus and related preliminary prospectus supplements for the offerings) with the U.S. Securities and Exchange Commission (the "SEC") for the offerings to which this communication relates. Before you invest, you should read the Common Stock Preliminary Prospectus Supplement or the Depositary Shares Preliminary Prospectus Supplement, as the case may be, the related base prospectus in that registration statement and the other documents the Issuer has filed with the SEC for more complete information about the Issuer and the Common Stock Offering and the Depositary Shares Offering. You may get these documents for free by visiting EDGAR on the SEC's website at

<http://www.sec.gov>. Alternatively, copies may be obtained from (i) Goldman Sachs & Co. LLC, Attention: Prospectus Department, 200 West Street, New York, New York 10282, telephone: 1-866-471-2526, facsimile: 212-902-9316 or by emailing prospectus-ny@ny.email.gs.com, (ii) BofA Securities, Attn: Prospectus Department, NC1-022-02-25, 201 North Tryon Street, Charlotte, NC 28255-0001, email: dg.prospectus_requests@bofa.com, telephone: 1-800-294-1322, (iii) Citigroup, c/o Broadridge Financial Solutions, 1155 Long Island Avenue, Edgewood, NY 11717 or by telephone at 1-800-831-9146, or (iv) J.P. Morgan Securities LLC, c/o Broadridge Financial Solutions, 1155 Long Island Avenue, Edgewood, NY 11717 or by email at prospectus-eq_fi@jpmchase.com and postsalemanualrequests@broadridge.com.

This communication should be read in conjunction with the Common Stock Preliminary Prospectus Supplement or the Depositary Shares Preliminary Prospectus Supplement, as the case may be, and the related base prospectus. The information in this communication supersedes the information in the Common Stock Preliminary Prospectus Supplement or the Depositary Shares Preliminary Prospectus Supplement, as the case may be, and the related base prospectus to the extent it is inconsistent with the information in such preliminary prospectus supplement or the related base prospectus.

ANY DISCLAIMERS OR OTHER NOTICES THAT MAY APPEAR BELOW ARE NOT APPLICABLE TO THIS COMMUNICATION AND SHOULD BE DISREGARDED. SUCH DISCLAIMERS OR OTHER NOTICES WERE AUTOMATICALLY GENERATED AS A RESULT OF THIS COMMUNICATION BEING SENT VIA BLOOMBERG OR ANOTHER EMAIL SYSTEM.

THE BOEING COMPANY

Lock-Up Agreement

_____, 2024

Goldman Sachs & Co. LLC
BofA Securities, Inc.
Citigroup Global Markets Inc.
J.P. Morgan Securities LLC
As Representatives of the several purchasers
named in Schedule A to the Underwriting Agreement

c/o Goldman Sachs & Co. LLC
200 West Street
New York, New York 10282

BofA Securities, Inc.
One Bryant Park
New York, New York 10036

Citigroup Global Markets Inc.
388 Greenwich Street
New York, New York 10013

J.P. Morgan Securities LLC
383 Madison Avenue
New York, New York 10179

Re: The Boeing Company - Lock-Up Agreement

Ladies and Gentlemen:

The undersigned understands that you, as representatives (the "Representatives"), propose to enter into an underwriting agreement (the "Underwriting Agreement") on behalf of the several purchasers named in Schedule A to such agreement (collectively, the "Purchasers"), with The Boeing Company, a Delaware corporation (the "Company"), providing for a public offering (the "Public Offering") of common stock, par value \$5.00 per share ("Common Stock"), or other equity securities of the Company (such Common Stock or other equity securities, the "Securities") pursuant to a Registration Statement on Form S-3 (the "Registration Statement") filed with the Securities and Exchange Commission (the "SEC").

In consideration of the agreement by the Purchasers to offer and sell the Securities, and of other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the undersigned agrees that, during the period beginning from the date of this Lock-Up Agreement and continuing to and including the date 90 days after the date of the final prospectus relating to the Public Offering (the "Prospectus") (such period, the "Lock-Up Period"), the undersigned shall not, and shall not cause or direct any of its affiliates to, (i) offer, sell, contract to sell, pledge, grant any option, right or warrant to purchase, purchase any option or contract to sell, lend or otherwise transfer or dispose of any shares of Common Stock, or any options or warrants to purchase any shares of Common Stock, or any securities convertible into, exchangeable for or that represent the right to receive shares of Common Stock (such shares of Common Stock, options, rights, warrants or other securities, collectively, "Lock-Up Securities"), including without limitation any such Lock-Up Securities now owned or hereafter acquired by the undersigned, (ii) engage in any hedging or other transaction or arrangement (including, without limitation, any short sale or the purchase or sale of, or entry into, any put or call option, or combination thereof, forward, swap or any other derivative transaction or instrument, however described or defined) which is designed to or which reasonably could be expected to lead to or result in a sale, loan, pledge or other disposition (whether by the undersigned or someone other than the undersigned),

or transfer of any of the economic consequences of ownership, in whole or in part, directly or indirectly, of any Lock-Up Securities, whether any such transaction or arrangement (or instrument provided for thereunder) would be settled by delivery of Common Stock or other securities, in cash or otherwise (any such sale, loan, pledge or other disposition, or transfer of economic consequences, a "Transfer"), (iii) make any demand for or exercise any right with respect to the registration of any Lock-Up Securities or (iv) otherwise publicly announce any intention to engage in or cause any action, activity, transaction or arrangement described in clause (i), (ii) or (iii) above. The undersigned represents and warrants that the undersigned is not, and has not caused or directed any of its affiliates to be or become, currently a party to any agreement or arrangement that provides for, is designed to or reasonably could be expected to lead to or result in any Transfer during the Lock-Up Period.

Notwithstanding the foregoing, the undersigned may:

(a) transfer the undersigned's Lock-Up Securities:

- (i) as one or more *bona fide* gifts or charitable contributions, or for *bona fide* estate planning purposes,
- (ii) upon death by will, testamentary document or intestate succession,
- (iii) to any member of the undersigned's immediate family (for purposes of this Lock-Up Agreement, "immediate family," shall mean any relationship by blood, current or former marriage, domestic partnership or adoption, not more remote than first cousin) or to any trust for the direct or indirect benefit of the undersigned or the immediate family of the undersigned or, if the undersigned is a trust, to a trustor or beneficiary of the trust or the estate of a beneficiary of such trust,
- (iv) to a partnership, limited liability company or other entity of which the undersigned and the immediate family of the undersigned are the legal and beneficial owner of all of the outstanding equity securities or similar interests,
- (v) to a nominee or custodian of a person or entity to whom a disposition or transfer would be permissible under clauses (a)(i) through (iv) above,
- (vi) [reserved],
- (vii) by operation of law, such as pursuant to a qualified domestic order, divorce settlement, divorce decree or separation agreement,
- (viii) to the Company upon death, disability or termination of employment, in each case, of the undersigned,
- (ix) in connection with a sale of the undersigned's Securities acquired in open market transactions after the closing date of the Public Offering,
- (x) to the Company in connection with the vesting, settlement or exercise of restricted stock units, options, warrants or other rights to purchase shares of Common Stock (including, in each case, by way of "net" or "cashless" exercise) that are scheduled to expire or automatically vest during the Lock-Up Period, including any transfer to the Company for the payment of tax withholdings or remittance payments due as a result of the vesting, settlement or exercise of such restricted stock units, options, warrants or other rights, or in connection with the conversion of convertible securities, in all such cases pursuant to equity awards granted under a stock incentive plan or other equity award plan, or pursuant to the terms of convertible securities, each as described in the Registration Statement, the preliminary prospectus relating to the Securities included in the Registration Statement immediately prior to the time the Underwriting Agreement is executed and the Prospectus, *provided* that any securities received upon such vesting, settlement, exercise or conversion shall be subject to the terms of this Lock-Up Agreement,

- (xi) pursuant to the provisions of any of the Company's policies with respect to the recoupment of incentive-based compensation, or
- (xii) with the prior written consent of Goldman Sachs & Co. LLC on behalf of the Purchasers;

provided that (A) in the case of clauses (a)(i), (ii), (iii), (iv) and (v) above, (x) such transfer or distribution shall not involve a disposition for value and (y) it shall be a condition to the transfer or distribution that the donee, devisee, transferee or distributee, as the case may be, shall sign and deliver a lock-up agreement in the form of this Lock-Up Agreement, and (C) in the case of clauses (a)(i), (ii), (iii), (iv), (v), (vii), (viii), (ix), (x) and (xi) above, no filing by any party (including, without limitation, any donor, donee, devisee, transferor, transferee, distributor or distributee) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or other public filing, report or announcement shall be voluntarily made during the Lock-Up Period and, if any such filing, report or announcement shall be legally required during the Lock-Up Period, such filing, report or announcement shall clearly indicate in the footnotes thereto (A) the circumstances of such transfer or distribution and (B) in the case of a transfer or distribution pursuant to clauses (a)(i), (ii), (iii), (iv), (v) and (vii) above, that the donee, devisee, transferee or distributee has agreed to be bound by a lock-up agreement in the form of this Lock-Up Agreement;

- (b) enter into a written plan meeting the requirements of Rule 10b5-1 under the Exchange Act relating to the transfer, sale or other disposition of the undersigned's Lock-Up Securities, if then permitted by the Company, *provided* that none of the securities subject to such plan may be transferred, sold or otherwise disposed of until after the expiration of the Lock-Up Period, no public announcement, report or filing under the Exchange Act, or any other public filing, report or announcement, shall be voluntarily made regarding the establishment of such plan during the Lock-Up Period and, if any such filing, report or announcement shall be legally required during the Lock-Up Period, such filing, report or announcement shall include a statement to the effect that no transfer of any Lock-Up Securities may be made under such plan during the Lock-Up Period;
- (c) transfer the undersigned's Lock-Up Securities pursuant to a bona fide third-party tender offer, merger, consolidation or other similar transaction that is approved by the Board of Directors of the Company and made to all holders of the Company's capital stock involving a Change of Control of the Company (for purposes hereof, "Change of Control" shall mean the transfer (whether by tender offer, merger, consolidation or other similar transaction), in one transaction or a series of related transactions, to a person or group of affiliated persons, of shares of capital stock if, after such transfer, such person or group of affiliated persons would hold at least a majority of the outstanding voting securities of the Company (or the surviving entity)); *provided* that in the event that such tender offer, merger, consolidation or other similar transaction is not completed, the undersigned's Lock-Up Securities shall remain subject to the provisions of this Lock-Up Agreement.

The undersigned now has, and, except as contemplated by clauses (a) and (c) of the third paragraph of this Lock-Up Agreement, for the duration of this Lock-Up Agreement will have, good and marketable title to the undersigned's Lock-Up Securities, free and clear of all liens, encumbrances and claims whatsoever. The undersigned also agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of the undersigned's Lock-Up Securities except in compliance with the foregoing restrictions.

The undersigned acknowledges and agrees that none of the Purchasers has made any recommendation or provided any investment or other advice to the undersigned with respect to this Lock-Up Agreement or the subject matter hereof, and the undersigned has consulted its own legal, accounting, financial, regulatory, tax and other advisors with respect to this Lock-Up Agreement and the subject matter hereof to the extent the undersigned has deemed appropriate. The undersigned further acknowledges and agrees that, although the Purchasers may have provided or hereafter provide to the undersigned in connection with the Public Offering a Form CRS and/or certain other disclosures as contemplated by Regulation Best Interest, the Purchasers have not made and are not making a recommendation to the undersigned to enter into this Lock-Up Agreement or to transfer, sell or dispose of, or to refrain from transferring, selling or disposing of, any Lock-Up Securities, and nothing set forth in such disclosures or herein is intended to suggest that any Purchaser is making such a recommendation.

This Lock-Up Agreement shall automatically terminate and the undersigned shall be released from all of his, her or its obligations hereunder upon the earlier of (i) the date on which for any reason the Underwriting Agreement is terminated (other than the provisions thereof that survive termination) prior to payment for and delivery of the Securities to be sold thereunder (other than pursuant to the Purchasers' option thereunder to purchase additional Securities), (ii) the date on which the Company notifies the Representatives, in writing and prior to the execution of the Underwriting Agreement, that it does not intend to proceed with the Public Offering and (iii) November 29, 2024, in the event that the Underwriting Agreement has not been executed by such date (*provided, however*, that the Company may, by written notice to the undersigned prior to such date, extend such date by a period of up to an additional 90 days).

The undersigned understands that the Company and the Purchasers are relying upon this Lock-Up Agreement in proceeding toward consummation of the Public Offering. The undersigned further understands that this Lock-Up Agreement is irrevocable and shall be binding upon the undersigned's heirs, legal representatives, successors and assigns. The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this Lock-Up Agreement. This Lock-Up Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to principles of conflict of laws that would result in the application of any law other than the laws of the State of New York. This Lock-Up Agreement may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com or www.echosign.com) or other transmission method, and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

Investor Presentation, dated October 2024

**Certificate of Designations of
6.00% Series A Mandatory Convertible Preferred Stock of
The Boeing Company**

The Boeing Company, a Delaware corporation (the “**Corporation**”), hereby certifies that, pursuant to the provisions of Sections 103, 141 and 151 of the General Corporation Law of the State of Delaware, (a) on October 27, 2024 the board of directors of the Corporation (the “**Board of Directors**”) appointed a special committee consisting of the Corporation’s Chief Financial Officer and Treasurer (the “**Preferred Pricing Committee**”) and authorized the Preferred Pricing Committee to determine the voting powers (if any), designations, preferences, and relative, participating, optional or other special rights, if any, and the qualifications, limitations or restrictions and all other terms of the issuance of a series of preferred stock; and (b) on October 28, 2024, the Preferred Pricing Committee adopted the resolution shown immediately below, which resolution is now, and at all times since its date of adoption has been, in full force and effect.

RESOLVED, that pursuant to the provisions of the Amended and Restated Certificate of Incorporation of the Corporation (as such may be further amended, modified or restated from time to time, the “**Certificate of Incorporation**”) (which authorizes 20,000,000 shares of Preferred Stock, par value \$1.00 per share (the “**Preferred Stock**”), and the authority vested in the Board of Directors and as delegated to the Preferred Pricing Committee, a series of Preferred Stock be, and it hereby is, created, and that the designation and number of shares of such series, and the voting powers (if any), designations, preferences, and relative, participating, optional or other special rights, if any, and the qualifications, limitations or restrictions thereof are as set forth in the Certificate of Incorporation and this Certificate of Designations, as it may be amended from time to time (this “**Certificate of Designations**”) as follows:

Part 1. *Designation and Number of Shares.* Pursuant to the Certificate of Incorporation, there is hereby created out of the authorized and unissued shares of Preferred Stock of the Corporation a series of Preferred Stock consisting of 5,750,000 shares of the Preferred Stock of the Corporation designated as the “6.00% Series A Mandatory Convertible Preferred Stock” (the “**Mandatory Convertible Preferred Stock**”). Such number of shares may be decreased by resolution of the Board of Directors or any duly authorized committee thereof, subject to the terms and conditions hereof; *provided* that no decrease shall reduce the number of shares of the Mandatory Convertible Preferred Stock to a number less than the number of shares then outstanding.

Part 2. *Standard Provisions.* The Standard Provisions contained in Annex A attached hereto are incorporated herein by reference in their entirety and shall be deemed to be a part of this Certificate of Designations to the same extent as if such provisions had been set forth in full herein.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Designations to be signed by Robert K. Ortberg, its President and Chief Executive Officer, this 31st day of October, 2024.

THE BOEING COMPANY

By: /s/ Robert K. Ortberg

Name: Robert K. Ortberg

Title: President and Chief Executive Officer

[Signature Page to Certificate of Designations of Mandatory Convertible Preferred Stock]

STANDARD PROVISIONS

SECTION 1. *General Matters; Ranking.* Each share of the Mandatory Convertible Preferred Stock shall be identical in all respects to every other share of the Mandatory Convertible Preferred Stock. The Mandatory Convertible Preferred Stock, with respect to dividend rights and/or rights upon the liquidation, winding-up or dissolution of the Corporation, as applicable, shall rank (i) senior to all Junior Stock, (ii) on a parity with all Parity Stock and (iii) junior to all Senior Stock and the Corporation's existing and future indebtedness.

SECTION 2. *Standard Definitions.* As used herein with respect to the Mandatory Convertible Preferred Stock:

“**Accumulated Dividend Amount**” means, with respect to any Fundamental Change Conversion, the aggregate amount of accumulated and unpaid dividends, if any, for any Dividend Periods prior to the Effective Date of the relevant Fundamental Change, including for the partial Dividend Period, if any, from, and including, the Dividend Payment Date immediately preceding such Effective Date to, but excluding, such Effective Date.

“**ADRs**” shall have the meaning set forth in Section 13(e).

“**Applicable Market Value**” means the Average VWAP per share of Common Stock over the Final Averaging Period.

“**Average VWAP**” per share over a certain period means the arithmetic average of the VWAP per share for each Trading Day in such period.

“**Board of Directors**” shall have the meaning set forth in the recitals.

“**Business Day**” means any day other than a Saturday or Sunday or other day on which commercial banks in New York City are authorized or required by law or executive order to close.

“**Bylaws**” means the bylaws of the Corporation, as amended and restated, as they may be further amended from time to time.

“**Certificate of Designations**” shall have the meaning set forth in the recitals.

“**Certificate of Incorporation**” shall have the meaning set forth in the recitals.

“**Clause I Distribution**” shall have the meaning set forth in Section 13(a)(iv).

“**Clause II Distribution**” shall have the meaning set forth in Section 13(a)(iv).

“**Clause IV Distribution**” shall have the meaning set forth in Section 13(a)(iv).

“**close of business**” means 5:00 p.m., New York City time.

“**Common Stock**” means the common stock, par value \$5.00 per share, of the Corporation, subject to Section 13(e).

“**Conversion and Dividend Disbursing Agent**” means Computershare Trust Company, N.A., the Corporation’s duly appointed conversion and dividend disbursing agent for the Mandatory Convertible Preferred Stock, and any successor appointed under Section 14.

“**Conversion Date**” shall have the meaning set forth in Section 3(a).

“**Corporation**” shall have the meaning set forth in the recitals.

“**Current Market Price**” per share of Common Stock (or, in the case of clause (ii) below, per share of Common Stock, capital stock or similar equity interest, as applicable) means, for the purposes of determining an adjustment to the Fixed Conversion Rates:

(i) for purposes of any adjustment pursuant to Section 13(a)(ii), Section 13(a)(iv)(A) or Section 13(a)(v), the Average VWAP per share of Common Stock over the ten consecutive Trading Day period ending on, and including, (x) for purposes of Section 13(a)(ii), the Trading Day immediately preceding the announcement date of the relevant issuance and (y) for purposes of Section 13(a)(iv)(A) or Section 13(a)(v), the Trading Day immediately preceding the Ex-Date of the relevant distribution;

(ii) for purposes of any adjustment pursuant to Section 13(a)(iv)(B), the Average VWAP per share of Common Stock, capital stock or similar equity interest, as applicable (in the case of any capital stock or similar equity interest, determined by reference to the definition of “VWAP” as if references therein to Common Stock were to such capital stock or similar equity interest), over the first ten consecutive Trading Days commencing on, and including, the Ex-Date of such distribution; and

(iii) for purposes of any adjustment pursuant to Section 13(a)(vi), the Average VWAP per share of Common Stock over the ten consecutive Trading Day period commencing on, and including, the Trading Day immediately following the Expiration Date of the relevant tender offer or exchange offer.

“**Depositary Shares**” means the depositary shares representing fractional interests in the Mandatory Convertible Preferred Stock.

“**Distributed Property**” shall have the meaning set forth in Section 13(a)(iv)(A).

“**Dividend Amount**” shall have the meaning set forth in Section 3(a).

“**Dividend Payment Date**” means January 15, April 15, July 15 and October 15 of each year commencing on, and including, January 15, 2025 to, and including, October 15, 2027.

“**Dividend Period**” means the period from, and including, a Dividend Payment Date to, but excluding, the next Dividend Payment Date, except that the initial Dividend Period shall commence on, and include, the Initial Issue Date and shall end on, but exclude, January 15, 2025.

“**DTC**” means The Depository Trust Company.

“**Early Conversion**” shall have the meaning set forth in Section 8(a).

“**Early Conversion Additional Conversion Amount**” shall have the meaning set forth in Section 8(b).

“**Early Conversion Average Price**” shall have the meaning set forth in Section 8(b).

“**Early Conversion Date**” shall have the meaning set forth in Section 10(b).

“**Effective Date**” shall have the meaning set forth in Section 9(a), except that, as used in Section 13(a)(iii) and Section 13(c)(ii), “**Effective Date**” means the first date on which shares of the Common Stock trade on the applicable exchange or in the applicable market, regular way, reflecting the relevant share subdivision or combination, as applicable.

“**Ex-Date**” when used with respect to any issuance, dividend or distribution, means the first date on which the shares of Common Stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive the issuance, dividend or distribution in question, from the Corporation or, if applicable, from the seller of the Common Stock on such exchange or market (in the form of due bills or otherwise) as determined by such exchange or market.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder.

“**Exchange Property**” shall have the meaning set forth in Section 13(e).

“**Expiration Date**” shall have the meaning set forth in Section 13(a)(vi).

“**Fair Market Value**” means the fair market value as determined in good faith by the Board of Directors (or an authorized committee thereof), whose determination shall be conclusive and set forth in a resolution of the Board of Directors (or such authorized committee).

“**Final Averaging Period**” means the 20 consecutive Trading Day period beginning on, and including, the 21st Scheduled Trading Day immediately preceding October 15, 2027.

“**Five-Day Average Price**” shall have the meaning set forth in Section 3(c)(iii).

“**Fixed Conversion Rates**” means the Maximum Conversion Rate and the Minimum Conversion Rate.

“**Floor Price**” shall have the meaning set forth in Section 3(e).

A “**Fundamental Change**” shall be deemed to have occurred at the time any of the following occurs after the Initial Issue Date:

(a) a “person” or “group” within the meaning of Section 13(d) of the Exchange Act, other than the Corporation, its Wholly Owned Subsidiaries and the employee benefit or incentive plans of the Corporation and its Wholly Owned Subsidiaries, files a Schedule TO or any schedule, form or report under the Exchange Act disclosing that such “person” or “group” has become the direct or indirect “beneficial owner,” as defined in Rule 13d-3 under the Exchange Act, of the Common Stock representing more than 50% of the voting power of the Common Stock or the Corporation otherwise becomes aware of such beneficial ownership;

(b) the consummation of (A) any recapitalization, reclassification or change of the Common Stock (other than a change only in par value or changes resulting from a subdivision or combination) as a result of which the Common Stock would be converted into, or exchanged for, or would represent solely the right to receive stock, other securities, other property or assets (including cash); (B) any share exchange, consolidation or merger of the Corporation pursuant to which the Common Stock will be converted into, will be exchanged for, or will represent solely the right to receive, stock, other securities, other property or assets (including cash); or (C) 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 Corporation and its Subsidiaries, taken as a whole, to any Person other than one of the Corporation’s Wholly Owned Subsidiaries; or

(c) the Common Stock (or other common stock comprising all or part of the Exchange Property) ceases to be listed on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or any of their respective successors);

provided, however, that a transaction or transactions described in clause (a) or clause (b) above shall not constitute a Fundamental Change if at least 90% of the consideration received or to be received by all common shareholders of the Corporation (excluding cash payments for fractional shares or pursuant to dissenters’ appraisal rights) in connection with such transaction or transactions consists of shares of common stock that are listed on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or any of their respective successors) or will be so listed when issued or exchanged in connection with such transaction or transactions and as a result of such transaction or transactions the Mandatory Convertible Preferred Stock becomes convertible into or exchangeable for such consideration, excluding cash payments for fractional shares or pursuant to dissenters’ appraisal rights.

If any transaction in which the Common Stock is replaced by securities of another entity pursuant to Section 13(e) occurs, following completion of any related Fundamental Change Conversion Period (or, if none, the Effective Date of such transaction), references to the Corporation in this definition of “**Fundamental Change**” shall instead be references to such other entity.

“**Fundamental Change Conversion**” shall have the meaning set forth in Section 9(a).

“**Fundamental Change Conversion Date**” shall have the meaning set forth in Section 10(c).

“**Fundamental Change Conversion Period**” shall have the meaning set forth in Section 9(a).

“**Fundamental Change Conversion Rate**” means, for any Fundamental Change Conversion, the conversion rate set forth in the table below for the Effective Date and the Stock Price applicable to such Fundamental Change:

Effective Date	Stock Price											
	<u>\$100.00</u>	<u>\$110.00</u>	<u>\$120.00</u>	<u>\$130.00</u>	<u>\$142.98</u>	<u>\$150.00</u>	<u>\$160.00</u>	<u>\$171.59</u>	<u>\$180.00</u>	<u>\$190.00</u>	<u>\$200.00</u>	<u>\$210.00</u>
October 31, 2024	6.3600	6.2860	6.2200	6.1600	6.0940	6.0620	6.0200	5.9800	5.9540	5.9280	5.9040	5.8840
October 15, 2025	6.5120	6.4260	6.3460	6.2720	6.1860	6.1440	6.0920	6.0380	6.0060	5.9720	5.9420	5.9160
October 15, 2026	6.7420	6.6480	6.5480	6.4460	6.3220	6.2600	6.1800	6.1000	6.0520	6.0020	5.9620	5.9280
October 15, 2027	6.9940	6.9940	6.9940	6.9940	6.9940	6.6660	6.2500	5.8280	5.8280	5.8280	5.8280	5.8280

The exact Stock Price and Effective Date may not be set forth in the table, in which case:

(x) If the Stock Price is between two Stock Prices set forth in the table above, or if the Effective Date is between two Effective Dates set forth in the table above, the Fundamental Change Conversion Rate shall be determined by straight-line interpolation between the Fundamental Change Conversion Rates set forth for the higher and lower Stock Prices and the earlier and later Effective Dates, as applicable, based on a 365-day or 366-day year, as applicable.

(y) If the Stock Price is in excess of \$210.00 per share (subject to adjustment in the same manner as adjustments are made to the Stock Prices in the column headings in the table above in accordance with the provisions of Section 13(c)(iv)), then the Fundamental Change Conversion Rate shall be the Minimum Conversion Rate.

(z) If the Stock Price is less than \$100.00 per share (subject to adjustment in the same manner as adjustments are made to the Stock Prices in the column headings in the table above in accordance with the provisions of Section 13(c)(iv)), then the Fundamental Change Conversion Rate shall be the Maximum Conversion Rate.

The Stock Prices in the column headings in the table above are subject to adjustment in accordance with the provisions of Section 13(c)(iv). The Fundamental Change Conversion Rates set forth in the table above are each subject to adjustment in the same manner and at the same time as each Fixed Conversion Rate as set forth in Section 13.

“**Fundamental Change Dividend Make-whole Amount**” shall have the meaning set forth in Section 9(a).

“**Fundamental Change Early Conversion Right**” shall have the meaning set forth in Section 9(a).

“**Fundamental Change Notice**” shall have the meaning set forth in Section 9(b).

“**Holder**” means each person in whose name shares of the Mandatory Convertible Preferred Stock are registered, who shall be treated by the Corporation and the Registrar as the absolute owner of those shares of Mandatory Convertible Preferred Stock for the purpose of making payment and settling conversions and for all other purposes.

“**Initial Issue Date**” means October 31, 2024.

“**Initial Price**” means \$1,000, *divided by* the Maximum Conversion Rate, rounded to the nearest \$0.0001, which is initially equal to \$142.9797.

“**Junior Stock**” means (i) the Common Stock and (ii) each other class or series of capital stock of the Corporation issued after the Initial Issue Date, the terms of which do not expressly provide that such capital stock shall rank either (x) senior to the Mandatory Convertible Preferred Stock as to dividend rights or rights upon the Corporation’s liquidation, winding-up or dissolution or (y) on a parity with the Mandatory Convertible Preferred Stock as to dividend rights and rights upon the Corporation’s liquidation, winding-up or dissolution.

“**Liquidation Dividend Amount**” shall have the meaning set forth in Section 4(a).

“**Liquidation Preference**” means, as to the Mandatory Convertible Preferred Stock, \$1,000 per share.

“**Make-whole Dividend Amount**” shall have the meaning set forth in Section 9(a).

“**Mandatory Conversion**” shall have the meaning set forth in Section 7(a).

“**Mandatory Conversion Additional Conversion Amount**” shall have the meaning set forth in Section 7(c).

“**Mandatory Conversion Date**” means the second Business Day immediately following the last Trading Day of the Final Averaging Period.

“**Mandatory Conversion Rate**” shall have the meaning set forth in Section 7(b).

“**Mandatory Convertible Preferred Stock**” shall have the meaning set forth in Part 1 of this Certificate of Designations.

“**Market Disruption Event**” means (a) a failure by the primary U.S. national or regional securities exchange or market on which the Common Stock is listed or admitted for trading to open for trading during its regular trading session or (b) the occurrence or existence prior to 1:00 p.m., New York City time, on any Scheduled Trading Day for the Common Stock for more than one half-hour period in the aggregate during regular trading hours of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in the Common Stock or in any options contracts or futures contracts relating to the Common Stock.

“**Maximum Conversion Rate**” shall have the meaning set forth in Section 7(b)(iii).

“**Minimum Conversion Rate**” shall have the meaning set forth in Section 7(b)(i).

“**Nonpayment**” shall have the meaning set forth in Section 6(b)(i).

“**Nonpayment Remedy**” shall have the meaning set forth in Section 6(b)(iii).

“**Officer**” means the Chief Executive Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer or the Secretary of the Corporation.

“**Officer’s Certificate**” means a certificate of the Corporation, signed by any duly authorized Officer of the Corporation.

“**open of business**” means 9:00 a.m., New York City time.

“**Parity Stock**” means any class or series of capital stock of the Corporation issued after the Initial Issue Date, the terms of which expressly provide that such capital stock shall rank on a parity with the Mandatory Convertible Preferred Stock as to dividend rights and rights upon the Corporation’s liquidation, winding-up or dissolution.

“**Person**” means an individual, a corporation, a limited liability company, an association, a partnership, a joint venture, a joint stock company, a trust, an unincorporated organization or a government or an agency or a political subdivision thereof.

“**Preferred Pricing Committee**” shall have the meaning set forth in the recitals.

“**Preferred Stock**” shall have the meaning set forth in the recitals.

“**Preferred Stock Directors**” shall have the meaning set forth in Section 6(b)(i).

“**Prospectus**” means the prospectus dated October 22, 2024, file number 333-282628, relating to securities, including the Mandatory Convertible Preferred Stock and the Depositary Shares, to be issued from time to time by the Corporation.

“**Prospectus Supplement**” means the preliminary prospectus supplement dated October 28, 2024, as supplemented by the related pricing term sheet dated October 28, 2024, relating to the offering and sale of the Mandatory Convertible Preferred Stock and the Depositary Shares.

“**Record Date**” means, with respect to any Dividend Payment Date, the January 1, April 1, July 1 or October 1, as the case may be, immediately preceding the relevant January 15, April 15, July 15 or October 15 Dividend Payment Date, respectively. These Record Dates shall apply regardless of whether a particular Record Date is a Business Day.

“**Record Holder**” means, with respect to any Dividend Payment Date, a Holder of record of the Mandatory Convertible Preferred Stock as such Holder appears on the stock register of the Corporation at the close of business on the related Record Date.

“**Registrar**” means, initially, Computershare Trust Company, N.A., as the Corporation’s duly appointed registrar for the Mandatory Convertible Preferred Stock, and any successor appointed under Section 14.

“**Reorganization Event**” shall have the meaning set forth in Section 13(e).

“**Scheduled Trading Day**” means any day that is scheduled to be a Trading Day.

“**Securities Act**” means the Securities Act of 1933, as amended, and the rules and regulations thereunder.

“**Senior Stock**” means each class or series of capital stock of the Corporation issued after the Initial Issue Date, the terms of which expressly provide that such capital stock shall rank senior to the Mandatory Convertible Preferred Stock as to dividend rights or rights upon the Corporation’s liquidation, winding-up or dissolution.

“**Shelf Registration Statement**” means a shelf registration statement filed with the Securities and Exchange Commission in connection with the issuance of or resales of shares of Common Stock issued as payment of a dividend on shares of the Mandatory Convertible Preferred Stock, including dividends paid in connection with a conversion thereof.

“**Spin-Off**” means a distribution by the Corporation to all or substantially all holders of Common Stock consisting of capital stock of, or similar equity interests in, or relating to a Subsidiary or other business unit of the Corporation, that are, or, when issued, will be, listed or admitted for trading on a U.S. national securities exchange.

“**Stock Price**” means, for any Fundamental Change, (i) if all holders of Common Stock receive only cash in exchange for their Common Stock in such Fundamental Change, the amount of cash paid in such Fundamental Change per share of Common Stock, and (ii) in all other cases, the Average VWAP per share of Common Stock over the five consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Effective Date of such Fundamental Change.

“**Subsidiary**” means, with respect to any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of capital stock or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, general partners or trustees thereof is at the time owned or controlled, directly or indirectly, by (i) such Person; (ii) such Person and one or more Subsidiaries of such Person; or (iii) one or more Subsidiaries of such Person.

“**Threshold Appreciation Price**” means \$1,000, *divided by* the Minimum Conversion Rate, rounded to the nearest \$0.0001, which is initially equal to \$171.5854.

“**Trading Day**” means a day on which (x) there is no Market Disruption Event and (y) 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 listed or admitted for trading. If the Common Stock is not so listed or admitted for trading, “**Trading Day**” means a Business Day.

“**Transfer Agent**” initially means Computershare Trust Company, N.A., as the Corporation’s duly appointed transfer agent for the Mandatory Convertible Preferred Stock, and any successor appointed under Section 14.

“**Trigger Event**” shall have the meaning set forth in Section 13(a)(iv).

“**Unit of Exchange Property**” shall have the meaning set forth in Section 13(e).

“**Voting Preferred Stock**” means any class or series of Parity Stock upon which voting rights like those set forth in Section 6(b) have been conferred and are exercisable.

“**VWAP**” per share of Common Stock on any Trading Day means the per share volume-weighted average price as displayed on Bloomberg page “BA <Equity> AQR” (or its equivalent successor if such page is not available) in respect of the period from 9:30 a.m. to 4:00 p.m., New York City time (or, if the scheduled close of trading of the primary session for the primary U.S. national or regional securities exchange or market on which Common Stock is listed or admitted for trading on such Trading Day is earlier, such earlier scheduled close of trading), on such Trading Day; or, if such price is not available, “**VWAP**” means the market value per share of Common Stock on such Trading Day as determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained by the Corporation for this purpose.

“**Wholly Owned Subsidiary**” means, with respect to any Person, any Subsidiary of such Person, except that, solely for purposes of this definition, the reference to “more than 50%” in the definition of “Subsidiary” shall be deemed replaced by a reference to “100%”.

SECTION 3. *Dividends.* (a) *Rate.* Subject to the rights of holders of any class of capital stock of the Corporation ranking senior to the Mandatory Convertible Preferred Stock with respect to dividends, Holders shall be entitled to receive, when, as and if declared by the Board of Directors (or an authorized committee thereof) out of funds of the Corporation legally available therefor, cumulative dividends at the rate per annum of 6.00% on the Liquidation Preference per share of Mandatory Convertible Preferred Stock (equivalent to \$60.00 per annum per share (the “**Dividend Amount**”)), payable in cash, by delivery of shares of Common Stock or through any combination of cash and shares of Common Stock, as determined by the Board of Directors (or an authorized committee thereof) in its sole discretion (subject to the limitations described below). Declared dividends on the Mandatory Convertible Preferred Stock shall be payable quarterly on each Dividend Payment Date at such annual rate, and dividends shall accumulate from the most recent date as to which dividends shall have been paid or, if no dividends have been paid, from the Initial Issue Date, whether or not in any Dividend Period or Dividend Periods there have been funds legally available for the payment of such dividends. Declared dividends shall be payable on the relevant Dividend Payment Date to Record Holders at the close of business on the immediately preceding Record Date, whether or not such Record Holders convert their shares of Mandatory Convertible Preferred Stock, or such shares are automatically converted, after such Record Date and on or prior to the immediately succeeding Dividend Payment Date. If a Dividend Payment Date is not a Business Day, payment shall be made on the next succeeding Business Day, without any interest or other payment in lieu of interest accruing with respect to this delay.

The amount of dividends payable on each share of Mandatory Convertible Preferred Stock for each full Dividend Period (after the initial Dividend Period) shall be computed by dividing the annual dividend rate by four. Dividends payable on the Mandatory Convertible Preferred Stock for the initial Dividend Period and any partial Dividend Period shall be computed based upon the actual number of days elapsed during such period over a 360-day year (consisting of twelve 30-day months). Accumulated dividends shall not bear interest if they are paid subsequent to the applicable Dividend Payment Date.

No dividend shall be declared or paid upon, or any sum or number of shares of Common Stock set apart for the payment of dividends upon, any outstanding share of Mandatory Convertible Preferred Stock with respect to any Dividend Period unless all dividends for all preceding Dividend Periods have been declared and paid upon, or a sufficient sum or number of shares of Common Stock have been set apart for the payment of such dividends upon, all outstanding shares of Mandatory Convertible Preferred Stock.

Holders shall not be entitled to any dividends on the Mandatory Convertible Preferred Stock, whether payable in cash, shares of Common Stock or other property, in excess of full cumulative dividends, calculated as set forth above.

Except as described in this Section 3(a), dividends on any share of Mandatory Convertible Preferred Stock converted to Common Stock shall cease to accumulate on the Mandatory Conversion Date, the Fundamental Change Conversion Date or the Early Conversion Date (each, a “**Conversion Date**”), as applicable.

(b) *Priority of Dividends.* So long as any share of the Mandatory Convertible Preferred Stock remains outstanding, no dividend or distribution shall be declared or paid on Common Stock or any other shares of Junior Stock, and no Common Stock or other Junior Stock or Parity Stock shall be, directly or indirectly, purchased, redeemed or otherwise acquired for consideration by the Corporation or any of its Subsidiaries unless all accumulated and unpaid dividends for all preceding Dividend Periods have been declared and paid upon, or a sufficient sum or number of shares of Common Stock have been set apart for the payment of such dividends upon, all outstanding shares of Mandatory Convertible Preferred Stock. The foregoing limitation shall not apply to (i) a dividend payable on any Common Stock or other Junior Stock in shares of any Common Stock or other Junior Stock; (ii) the acquisition of shares of any Common Stock or other Junior Stock in exchange for, or a purchase, redemption or other acquisition for value of shares of any Common Stock or other Junior Stock with the proceeds of a substantially concurrent sale of, shares of any Common Stock or other Junior Stock and the payment of cash in lieu of any fractional share of Common Stock or other Junior Stock; (iii) purchases of fractional interests in shares of any Common Stock or other Junior Stock pursuant to the conversion or exchange provisions of such shares of other Junior Stock or any securities exchangeable for or convertible into such shares of Common Stock or other Junior Stock; (iv) redemptions, purchases or other acquisitions of shares of Common Stock or other Junior Stock in connection with any employment contract, benefit plan or other similar arrangement with or for the benefit of any one or more of the Corporation's or its Subsidiaries' employees, officers, directors, consultants or independent contractors, including, without limitation, the forfeiture of unvested shares of restricted stock or share withholdings upon exercise, delivery or vesting of equity awards and the payment of cash in lieu of any fractional share of Common Stock or other Junior Stock; (v) any dividends or distributions of rights or Common Stock or other Junior Stock in connection with a shareholders' rights plan or any redemption or repurchase of rights pursuant to any shareholders' rights plan, and the payment of cash in lieu of any fractional share of Common Stock or other Junior Stock; (vi) purchases of Junior Stock pursuant to a binding contract (including a stock repurchase plan) to make such purchases, if such contract was in effect before the Initial Issue Date; (vii) the acquisition by the Corporation or any of its Subsidiaries of record ownership in Common Stock or other Junior Stock or Parity Stock on behalf of any other Persons (other than the Corporation or any of its Subsidiaries) that is a beneficial owner thereof, including as trustees or custodians; (viii) the exchange or conversion or reclassification of Junior Stock for or into other Junior Stock or of Parity Stock for or into other Parity Stock (with the same or lesser aggregate liquidation preference) and the payment of cash in lieu of any fractional share of other Junior Stock or other Parity Stock, as the case may be; or (ix) the settlement of any convertible note hedge transactions or capped call transactions entered into in connection with the issuance, by the Corporation or any of its Subsidiaries, of any debt securities that are convertible into, or exchangeable for, Common Stock (or into or for any combination of cash and Common Stock based on the value of the Common Stock), provided such convertible note hedge transactions or capped call transactions, as applicable, are on customary terms and were entered into either (x) before the Initial Issue Date or (y) in compliance with the foregoing provision.

When dividends on shares of Mandatory Convertible Preferred Stock have not been paid in full on any Dividend Payment Date or declared and a sum or number of shares of Common Stock sufficient for payment thereof set aside for the benefit of the Holders thereof on the applicable Record Date, no dividends may be declared or paid on any Parity Stock unless dividends are declared on the Mandatory Convertible Preferred Stock such that the respective amounts of such dividends declared on the Mandatory Convertible Preferred Stock and each such other class or series of Parity Stock shall bear the same ratio to each other as all accumulated and unpaid dividends per share on the shares of the Mandatory Convertible Preferred Stock and such class or series of Parity Stock (which dollar amount will, if dividends on such class or series of Parity Stock are not cumulative, be the full amount of dividends per share thereof in respect of the most recent dividend period thereof) (subject to their having been declared by the Board of Directors (or an authorized committee thereof) out of legally available funds) bear to each other immediately prior to the payment of such dividends, in proportion to their respective liquidation preferences; *provided* that any unpaid dividends on the Mandatory Convertible Preferred Stock will continue to accumulate.

For the avoidance of doubt, the provisions set forth in this Section 3(b) shall not prohibit or restrict the payment or other acquisition for value of any debt securities that are convertible into, or exchangeable for, any Junior Stock.

Subject to the foregoing, and not otherwise, such dividends (payable in cash, securities or other property) as may be determined by the Board of Directors (or an authorized committee thereof) may be declared and paid on any securities, including Common Stock and other Junior Stock, from time to time out of any funds legally available for such payment, and Holders shall not be entitled to participate in any such dividends.

If the Corporation (or an applicable withholding agent) is required to withhold on distributions of Common Stock to a Holder and pay the applicable withholding taxes, the Corporation may, at its option, or an applicable withholding agent may, withhold such taxes from payments of cash or shares of Common Stock payable to such Holder.

(c) *Method of Payment of Dividends.* (i) Subject to the limitations described below, the Corporation may pay any declared dividend (or any portion of any declared dividend) on the Mandatory Convertible Preferred Stock, whether or not for a current Dividend Period or any prior Dividend Period, as determined by the Board of Directors (or an authorized committee thereof) in its sole discretion:

(A) by paying cash;

(B) by delivering shares of Common Stock; or

(C) through any combination of paying cash and delivering shares of Common Stock.

(ii) Each payment of a declared dividend on the Mandatory Convertible Preferred Stock shall be made in cash, except to the extent the Corporation timely elects to make all or any portion of such payment in shares of Common Stock. The Corporation shall give notice to Holders of any such election, and the portion of such payment that will be made in cash and the portion of such payment that will be made in Common Stock, on the earlier of the date the Corporation declares such dividend and the tenth Scheduled Trading Day immediately preceding the Dividend Payment Date for such dividend.

(iii) Any shares of Common Stock issued in payment or partial payment of a declared dividend shall be valued for such purpose at the Average VWAP per share of Common Stock over the five consecutive Trading Day period ending on, and including, the second Trading Day immediately preceding the applicable Dividend Payment Date (the “**Five-Day Average Price**”), *multiplied by 97%*.

(d) No fractional shares of Common Stock shall be delivered by the Corporation to Holders in payment or partial payment of a dividend. A cash adjustment shall instead be paid by the Corporation to each Holder that would otherwise be entitled to receive a fraction of a share of Common Stock based on the Five-Day Average Price.

(e) Notwithstanding the foregoing, in no event shall the number of shares of Common Stock delivered in connection with any declared dividend exceed a number equal to the amount of such declared dividend as to which the Corporation has elected to deliver shares of Common Stock in lieu of paying cash *divided by* \$50.04, subject to adjustment in a manner inversely proportional to any anti-dilution adjustment to each Fixed Conversion Rate as set forth in Section 13 (such dollar amount, as adjusted from time to time, the “**Floor Price**”). To the extent that the amount of any declared dividend as to which the Corporation has elected to deliver shares of Common Stock in lieu of paying cash exceeds the product of the number of shares of Common Stock delivered in connection with such declared dividend and 97% of the Five-Day Average Price, the Corporation shall, if it is legally able to do so, notwithstanding any notice by the Corporation to the contrary, pay such excess amount in cash.

(f) To the extent that the Corporation, in its reasonable judgment, determines that a Shelf Registration Statement is required in connection with the issuance of, or for resales of, Common Stock issued as payment of a dividend, including dividends paid in connection with a conversion, the Corporation shall, to the extent such a Shelf Registration Statement is not currently filed and effective, use its commercially reasonable efforts to file and maintain the effectiveness of such a Shelf Registration Statement until the earlier of such time as all such shares of Common Stock have been resold thereunder and such time as all such shares are freely tradable without registration by Holders thereof that are not, and have not been within the three months preceding, “affiliates” of the Corporation for purposes of the Securities Act. To the

extent applicable, the Corporation shall also use its commercially reasonable efforts to have such shares of Common Stock qualified or registered under applicable state securities laws, if required, and approved for listing 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).

SECTION 4. *Liquidation, Winding-Up or Dissolution.* (a) In the event of any voluntary or involuntary liquidation, winding-up or dissolution of the Corporation, each Holder shall be entitled to receive the Liquidation Preference per share of Mandatory Convertible Preferred Stock, *plus* an amount (the “**Liquidation Dividend Amount**”) equal to accumulated and unpaid dividends on such shares to, but excluding, the date fixed for liquidation, winding-up or dissolution to be paid out of the assets of the Corporation available for distribution to its shareholders, after satisfaction of liabilities owed to the Corporation’s creditors and holders of any Senior Stock, and before any payment or distribution is made to holders of any Junior Stock, including, without limitation, Common Stock.

(b) Neither the sale of all or substantially all of the assets or business of the Corporation (other than in connection with the liquidation, winding-up or dissolution of the Corporation), nor the merger or consolidation of the Corporation into or with any other Person, shall be deemed to be a voluntary or involuntary liquidation, winding-up or dissolution of the Corporation for the purposes of this Section 4.

(c) If, upon the voluntary or involuntary liquidation, winding-up or dissolution of the Corporation, the amounts payable with respect to (1) the Liquidation Preference *plus* the Liquidation Dividend Amount of the Mandatory Convertible Preferred Stock and (2) the liquidation preference of, and the amount of accumulated and unpaid dividends to, but excluding, the date fixed for liquidation, winding-up or dissolution on, all Parity Stock are not paid in full, the Holders and all holders of any Parity Stock shall share equally and ratably in any distribution of the Corporation’s assets in proportion to the respective liquidation preferences and amounts equal to the accumulated and unpaid dividends to which they are entitled.

(d) After the payment to any Holder of the full amount of the Liquidation Preference and the Liquidation Dividend Amount for each of such Holder’s shares of Mandatory Convertible Preferred Stock, such Holder as such shall have no right or claim to any of the remaining assets of the Corporation.

SECTION 5. *No Redemption; No Sinking Fund.* The Mandatory Convertible Preferred Stock shall not be subject to any redemption, sinking fund or other similar provisions.

SECTION 6. *Voting Rights.*

(a) *General.* Holders shall not have any voting rights except as set forth in this Section 6 or as otherwise from time to time specifically required by Delaware law.

(b) *Right to Elect Two Directors Upon Nonpayment.* (i) Whenever dividends on any shares of Mandatory Convertible Preferred Stock have not been declared and paid for the equivalent of six or more Dividend Periods (including, for the avoidance of doubt, the Dividend Period beginning on, and including, the Initial Issue Date and ending on, but excluding, January 15, 2025), whether or not for consecutive Dividend Periods (a “**Nonpayment**”), the Holders, voting together as a single class with holders of any and all other series of Voting Preferred Stock then outstanding, shall be entitled at the Corporation’s next special or annual meeting of shareholders to vote for the election of a total of two additional members of the Board of Directors (the “**Preferred Stock Directors**”); *provided* that the election of any such directors will not cause the Corporation to violate (x) the corporate governance requirements of the New York Stock Exchange (or any other exchange or automated quotation system on which the Corporation’s securities may be listed or quoted) that requires listed or quoted companies to have a majority of independent directors or (y) the portion of the Corporation’s Corporate Governance Principles and Director Independence Standards, each as in effect on October 28, 2024, that requires the Corporation to have at least 75% independent directors; *provided further* that the Board of Directors shall at no time include more than two Preferred Stock Directors. In the event of a Nonpayment, the number of directors then constituting the Board of Directors shall be increased by two, and the new directors shall be elected at an annual or special meeting of shareholders called by the Board of Directors, subject to its fiduciary duties, at the request of the holders of record of at least 25% of the shares of Mandatory Convertible Preferred Stock or of any other series of Voting Preferred Stock (*provided* that if such request is not received at least 90 calendar days before the date fixed for the next annual or special meeting of the shareholders, such election shall be held at such next annual or special meeting of shareholders), and at each subsequent annual meeting, so long as the Holders continue to have such voting rights. Whether a plurality, majority or other portion of the Mandatory Convertible Preferred Stock and any other Voting Preferred Stock have been voted in favor of any matter shall be determined by reference to the respective liquidation preference amounts of the Mandatory Convertible Preferred Stock and such other Voting Preferred Stock voted.

(ii) Any request to call a meeting for the initial election of the Preferred Stock Directors after a Nonpayment shall be made by written notice, signed by the requisite holders of Mandatory Convertible Preferred Stock or Voting Preferred Stock then outstanding, and delivered to the Corporation in such manner as provided for in Section 16 below, or as may otherwise be required by law.

(iii) If and when all accumulated and unpaid dividends on the Mandatory Convertible Preferred Stock have been paid in full, or declared and a sum sufficient for such payment shall have been set aside (a “**Nonpayment Remedy**”), the Holders shall immediately and, without any further action by the Corporation, be divested of the voting rights described in this Section 6(b), subject to the reversion of such rights in the event of each subsequent Nonpayment. If such voting rights for the Holders and all other holders of Voting Preferred Stock shall have terminated, the term of office of each Preferred Stock Director so elected shall terminate at such time and the number of directors on the Board of Directors shall automatically decrease by two.

(iv) Any Preferred Stock Director may be removed at any time with or without cause by the holders of record of a majority of the outstanding shares of the Mandatory Convertible Preferred Stock and any other shares of Voting Preferred Stock then outstanding (voting together as a single class) when they have the voting rights described in this Section 6(b). In the event that a Nonpayment shall have occurred and there shall not have been a Nonpayment Remedy, any vacancy in the office of a Preferred Stock Director (other than prior to the initial election of Preferred Stock Directors after a Nonpayment) may be filled by the written consent of the Preferred Stock Director remaining in office or, if none remains in office, by a vote of the holders of record of a majority of the outstanding shares of the Mandatory Convertible Preferred Stock and any other shares of Voting Preferred Stock then outstanding (voting together as a single class) when they have the voting rights described in this Section 6(b); *provided* that the filling of each vacancy will not cause the Corporation to violate (x) the corporate governance requirements of the New York Stock Exchange (or any other exchange or automated quotation system on which the Corporation's securities may be listed or quoted) that requires listed or quoted companies to have a majority of independent directors or (y) the portion of the Corporation's Corporate Governance Principles and Director Independence Standards, each as in effect on October 28, 2024, that requires the Corporation to have at least 75% independent directors. Any such vote of Holders and holders of any Voting Preferred Stock to remove, or to fill a vacancy in the office of, a Preferred Stock Director may be taken only at an annual or special meeting of shareholders of the Corporation, called as provided above for an initial election of Preferred Stock Directors after a Nonpayment (*provided* that if such request is not received at least 90 calendar days before the date fixed for the next annual or special meeting of the shareholders of the Corporation, such vote shall be taken at such next annual or special meeting of shareholders of the Corporation). Each Preferred Stock Director elected at any annual or special meeting of shareholders of the Corporation or by written consent of the other Preferred Stock Director shall hold office until the next annual meeting of the shareholders of the Corporation if such office shall not have previously terminated and such Preferred Stock Director shall not have been removed from such office, in each case as provided above.

(c) *Other Voting Rights.* So long as any shares of Mandatory Convertible Preferred Stock are outstanding, in addition to any other vote or consent of shareholders required by law or by the Certificate of Incorporation, the affirmative vote or consent of the Holders of at least two-thirds of the outstanding shares of Mandatory Convertible Preferred Stock given in person or by proxy, either in writing without a meeting or by vote at any meeting called for such purpose, shall be necessary for effecting or validating:

(i) any authorization or creation of, or any increase in the authorized amount of, any Senior Stock;

(ii) any amendment, alteration or repeal of any provision of the Certificate of Incorporation or this Certificate of Designations so as to materially and adversely affect the rights, preferences, privileges or voting powers of the Mandatory Convertible Preferred Stock; or

(iii) any consummation of a binding share exchange or reclassification involving the Mandatory Convertible Preferred Stock, or of a merger or consolidation of the Corporation with or into another Person, unless either (x) the shares of Mandatory Convertible Preferred Stock remain outstanding and have rights, preferences, privileges and voting powers, taken as a whole, that are no less favorable to the Holders thereof in any material respect than the rights, preferences, privileges and voting powers of the Mandatory Convertible Preferred Stock immediately prior to such consummation, taken as a whole, or (y) in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, the shares of Mandatory Convertible Preferred Stock are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and such preference securities have rights, preferences, privileges and voting powers, taken as a whole, that are no less favorable to the holders thereof in any material respect than the rights, preferences, privileges and voting powers of the Mandatory Convertible Preferred Stock immediately prior to such consummation, taken as a whole;

provided, however, that for all purposes of this Section 6(c), (1) any increase in the amount of the Corporation's authorized but unissued shares of Preferred Stock, (2) any increase in the amount of the Corporation's authorized or issued shares of Mandatory Convertible Preferred Stock, (3) the creation and issuance, or an increase in the authorized or issued amount, of any series of Junior Stock or any other series of Parity Stock and (4) the application of the provisions set forth in Section 13(e) shall in each case be deemed not to materially and adversely affect the rights, preferences, privileges or voting powers of the Mandatory Convertible Preferred Stock and shall not require the affirmative vote or consent of Holders.

(d) *Change for Clarification.* Without the consent of the Holders of the Mandatory Convertible Preferred Stock, the Corporation may amend, alter, supplement or repeal any terms of the Mandatory Convertible Preferred Stock by amending or supplementing the Certificate of Incorporation, this Certificate of Designations or any stock certificate representing shares of the Mandatory Convertible Preferred Stock:

(i) to cure any ambiguity, omission, inconsistency or mistake in any such agreement or instrument;

(ii) to make any provision with respect to matters or questions relating to the Mandatory Convertible Preferred Stock that is not inconsistent with the provisions of this Certificate of Designations and that does not materially and adversely affect the rights of any Holder; or

(iii) to make any other change that does not materially and adversely affect the rights of any Holder (other than any Holder that consents to such change).

In addition, without the consent of the Holders, the Corporation may amend, alter, supplement or repeal any terms of the Mandatory Convertible Preferred Stock to (x) conform the terms of the Mandatory Convertible Preferred Stock to the description thereof in the Prospectus as supplemented and/or amended by the “Description of Mandatory Convertible Preferred Stock” section of the Prospectus Supplement or (y) file a certificate of correction with respect to this Certificate of Designations to the extent permitted by Section 103(f) of the General Corporation Law of the State of Delaware.

(e) Prior to the close of business on the applicable Conversion Date, the shares of Common Stock issuable upon conversion of the Mandatory Convertible Preferred Stock shall not be deemed to be outstanding and Holders shall have no voting rights with respect to such shares of Common Stock by virtue of holding the Mandatory Convertible Preferred Stock, including the right to vote on any amendment to the Certificate of Incorporation or this Certificate of Designations that would adversely affect the rights of holders of the Common Stock.

(f) The number of votes that each share of Mandatory Convertible Preferred Stock and each share of any Voting Preferred Stock participating in the votes as described in this Section 6 shall have shall be in proportion to the liquidation preference of such share.

(g) *Procedures for Voting and Consents.* The rules and procedures for calling and conducting any meeting of the Holders (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other procedural aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors (or an authorized committee thereof), in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the Certificate of Incorporation, the Bylaws, applicable law and the rules of any national securities exchange or other trading facility on which the Mandatory Convertible Preferred Stock is listed or traded at the time.

SECTION 7. *Mandatory Conversion on the Mandatory Conversion Date.* (a) Each outstanding share of Mandatory Convertible Preferred Stock shall automatically convert (unless previously converted at the option of the Holder in accordance with Section 8 or pursuant to an exercise of a Fundamental Change Early Conversion Right pursuant to Section 9) on the Mandatory Conversion Date (“**Mandatory Conversion**”) into a number of shares of Common Stock equal to the Mandatory Conversion Rate.

(b) The “**Mandatory Conversion Rate**” shall, subject to adjustment in accordance with Section 7(c), be as follows:

(i) if the Applicable Market Value is greater than the Threshold Appreciation Price, then the Mandatory Conversion Rate shall be equal to 5.8280 shares of Common Stock per share of Mandatory Convertible Preferred Stock (the “**Minimum Conversion Rate**”);

(ii) if the Applicable Market Value is less than or equal to the Threshold Appreciation Price but equal to or greater than the Initial Price, then the Mandatory Conversion Rate per share of Mandatory Convertible Preferred Stock shall be equal to \$1,000 *divided by* the Applicable Market Value, rounded to the nearest ten-thousandth of a share of Common Stock; or

(iii) if the Applicable Market Value is less than the Initial Price, then the Mandatory Conversion Rate shall be equal to 6.9940 shares of Common Stock per share of Mandatory Convertible Preferred Stock (the “**Maximum Conversion Rate**”);

provided that the Fixed Conversion Rates and the Applicable Market Value are each subject to adjustment in accordance with the provisions of Section 13.

(c) If the Corporation declares a dividend for the Dividend Period ending on October 15, 2027, the Corporation shall pay such dividend to the Record Holders at the close of business as of October 1, 2027 as set forth in Section 3. If on or prior to October 1, 2027, the Corporation has not declared all or any portion of all accumulated and unpaid dividends on the Mandatory Convertible Preferred Stock through October 15, 2027, the Mandatory Conversion Rate shall be adjusted so that Holders receive an additional number of shares of Common Stock equal to the amount of accumulated and unpaid dividends that have not been declared (the “**Mandatory Conversion Additional Conversion Amount**”), *divided by* the greater of (i) the Floor Price and (ii) 97% of the Five-Day Average Price (calculated as if the applicable Dividend Payment Date were October 15, 2027). To the extent that the Mandatory Conversion Additional Conversion Amount exceeds the product of such number of additional shares of Common Stock and 97% of such Five-Day Average Price, the Corporation shall, if the Corporation is legally able to do so, pay such excess amount in cash pro rata to the Holders.

SECTION 8. *Early Conversion at the Option of the Holder.* (a) Other than during a Fundamental Change Conversion Period, the Holders shall have the right to convert their shares of Mandatory Convertible Preferred Stock, in whole or in part (but in no event less than one share of Mandatory Convertible Preferred Stock), at any time prior to October 15, 2027 (“**Early Conversion**”), into shares of Common Stock at the Minimum Conversion Rate, subject to adjustment as described in Section 13 and to satisfaction of the conversion procedures set forth in Section 10.

(b) If as of any Early Conversion Date relating to an Early Conversion, the Corporation has not declared all or any portion of the accumulated and unpaid dividends for all full Dividend Periods ending on or prior to the Dividend Payment Date immediately preceding such Early Conversion Date, the Minimum Conversion Rate shall be adjusted, with respect to such Early Conversion, so that the converting Holder receives an additional number of shares of Common Stock equal to the amount of accumulated and unpaid dividends that have not been declared for such full Dividend Periods (the “**Early Conversion Additional Conversion Amount**”), *divided by* the greater of (i) the Floor Price and (ii) the Average VWAP per share of the Common Stock over the 20 consecutive Trading Day period ending on, and including, the second Trading Day

immediately preceding such Early Conversion Date (such average being referred to as the “**Early Conversion Average Price**”). For the avoidance of doubt, to the extent that the Early Conversion Additional Conversion Amount exceeds the product of such number of additional shares of Common Stock and the Early Conversion Average Price, the Corporation will not have any obligation to pay the shortfall in cash. Except as described in the first sentence of this Section 8(b), upon any Early Conversion of any shares of the Mandatory Convertible Preferred Stock, the Corporation shall make no payment or allowance for unpaid dividends on such shares of the Mandatory Convertible Preferred Stock, unless the Early Conversion Date occurs after the Record Date for a declared dividend and on or prior to the immediately succeeding Dividend Payment Date, in which case the Corporation shall pay such dividend on such Dividend Payment Date to the Record Holder of the converted shares as of such Record Date, in accordance with Section 3.

SECTION 9. *Fundamental Change Conversion.* (a) If a Fundamental Change occurs on or prior to October 15, 2027, the Holders shall have the right (the “**Fundamental Change Early Conversion Right**”) to: (i) convert their shares of Mandatory Convertible Preferred Stock, in whole or in part (but in no event less than one share of Mandatory Convertible Preferred Stock) (any such conversion pursuant to this Section 9(a) being a “**Fundamental Change Conversion**”), at any time during the period (the “**Fundamental Change Conversion Period**”) that begins on, and includes, the effective date of such Fundamental Change (the “**Effective Date**”) and ends at the close of business on the date that is the earlier of (x) 20 calendar days after the Effective Date (or, if later, the date that is 20 calendar days after Holders receive notice of such Fundamental Change) and (y) October 15, 2027 (and, for the avoidance of doubt, the Fundamental Change Conversion Period may not end on a date that is later than October 15, 2027), into a number of shares of Common Stock equal to the Fundamental Change Conversion Rate per share of Mandatory Convertible Preferred Stock; (ii) with respect to such converted shares of Mandatory Convertible Preferred Stock, receive an amount equal to the present value, as of the Effective Date, calculated using a discount rate of 5.75% per annum, of all dividend payments on such shares (excluding any Accumulated Dividend Amount) for all the remaining full Dividend Periods and for the partial Dividend Period from, and including, such Effective Date to, but excluding, the next Dividend Payment Date (the “**Fundamental Change Dividend Make-whole Amount**”); and (iii) with respect to such converted shares of Mandatory Convertible Preferred Stock, to the extent that, as of such Effective Date, there is any Accumulated Dividend Amount, receive payment of the Accumulated Dividend Amount (the amounts described in clauses (ii) and (iii), collectively, the “**Make-whole Dividend Amount**”), in the case of clauses (ii) and (iii), subject to the Corporation’s right to deliver shares of Common Stock in lieu of all or part of such amounts as set forth in clause (d) below; *provided* that, if such Effective Date or the relevant Fundamental Change Conversion Date falls after the Record Date for a declared dividend and prior to the next Dividend Payment Date, the Corporation shall pay such dividend on such Dividend Payment Date to the Record Holders as of such Record Date, in accordance with Section 3, such dividend shall not be included in the Accumulated Dividend Amount, and the Fundamental Change Dividend Make-whole Amount shall not include the present value of the payment of such dividend.

(b) The Corporation shall provide written notice (a “**Fundamental Change Notice**”) to Holders of the Effective Date of a Fundamental Change no later than the second Business Day following such Effective Date. The Fundamental Change Notice shall state:

(i) the event causing the Fundamental Change;

(ii) the Effective Date;

(iii) that Holders shall have the right to effect a Fundamental Change Conversion in connection with such Fundamental Change during the Fundamental Change Conversion Period;

(iv) the Fundamental Change Conversion Period; and

(v) the instructions a Holder must follow to effect a Fundamental Change Conversion in connection with such Fundamental Change.

(c) In addition, not later than the second Business Day following the Effective Date of a Fundamental Change, the Corporation shall notify Holders of:

(i) the Fundamental Change Conversion Rate;

(ii) the Fundamental Change Dividend Make-whole Amount and whether the Corporation will pay such amount, or any portion thereof, in shares of Common Stock and, if applicable, the portion of such amount that will be paid in Common Stock; and

(iii) the Accumulated Dividend Amount and whether the Corporation will pay such amount, or any portion thereof, in shares of Common Stock and, if applicable, the portion of such amount that will be paid in Common Stock.

(d) (i) For any shares of Mandatory Convertible Preferred Stock that are converted during the Fundamental Change Conversion Period, subject to the limitations described below, the Corporation may pay the Make-whole Dividend Amount, determined in the Corporation’s sole discretion:

(A) by paying cash;

(B) by delivering shares of Common Stock; or

(C) through any combination of paying cash and delivering shares of Common Stock.

(ii) The Corporation shall pay the Make-whole Dividend Amount in cash, except to the extent the Corporation elects on or prior to the second Business Day following the Effective Date of a Fundamental Change to make all or any portion of such payments by delivering shares of Common Stock. If the Corporation elects to make any payment of the Make-whole Dividend Amount, or any portion thereof, in shares of Common Stock, such shares shall be valued for such purpose at 97% of the applicable Stock Price.

(iii) No fractional shares of Common Stock shall be delivered by the Corporation to converting Holders in respect of the Make-whole Dividend Amount. A cash adjustment shall instead be paid by the Corporation to each Holder that would otherwise be entitled to receive a fraction of a share of Common Stock based on the Average VWAP per share of Common Stock over the five consecutive Trading Day period ending on, and including, the second Trading Day immediately preceding the relevant Conversion Date.

(iv) Notwithstanding the foregoing, with respect to any Fundamental Change Conversion, in no event shall the number of shares of Common Stock that the Corporation delivers in lieu of paying all or any portion of the Make-whole Dividend Amount in cash exceed a number equal to the portion of the Make-whole Dividend Amount to be paid by the delivery of Common Stock, *divided by* the greater of (i) the Floor Price and (ii) 97% of the applicable Stock Price. To the extent that the portion of the Make-whole Dividend Amount as to which the Corporation has elected to deliver shares of Common Stock in lieu of paying cash exceeds the product of the number of shares of Common Stock delivered in respect of such portion of the Make-whole Dividend Amount and 97% of the applicable Stock Price, the Corporation shall, if the Corporation is legally able to do so, notwithstanding any notice by the Corporation to the contrary, pay such excess amount in cash.

(v) If the Corporation is prohibited from paying or delivering, as the case may be, the Make-whole Dividend Amount (whether in cash or in shares of Common Stock), in whole or in part, due to limitations of applicable Delaware law, the Fundamental Change Conversion Rate shall instead be increased by a number of shares of Common Stock equal to the cash amount of the aggregate unpaid and undelivered Make-whole Dividend Amount, *divided by* the greater of (i) the Floor Price and (ii) 97% of the applicable Stock Price. In such case, to the extent that the cash amount of the aggregate unpaid and undelivered Make-whole Dividend Amount exceeds the product of such number of additional shares of Common Stock and 97% of the applicable Stock Price, the Corporation shall not have any obligation to pay the shortfall in cash.

SECTION 10. *Conversion Procedures.* (a) Pursuant to Section 7, on the Mandatory Conversion Date, any outstanding shares of Mandatory Convertible Preferred Stock shall automatically convert into shares of Common Stock. The Person or Persons entitled to receive the shares of Common Stock issuable upon Mandatory Conversion of the Mandatory Convertible Preferred Stock shall be treated as the record holder(s) of such shares of Common Stock as of the close of business on the Mandatory Conversion Date. Except as provided under Section 13(a)(vii), Section 13(c)(iii) and Section 13(c)(v), prior to the close of business on the Mandatory Conversion Date, the shares of Common Stock issuable upon Mandatory Conversion of the

Mandatory Convertible Preferred Stock shall not be deemed to be outstanding for any purpose and Holders shall have no rights with respect to such shares of Common Stock, including voting rights, rights to respond to tender offers and rights to receive any dividends or other distributions on the Common Stock, by virtue of holding the Mandatory Convertible Preferred Stock.

(b) To effect an Early Conversion pursuant to Section 8, a Holder must:

(i) complete and manually sign the conversion notice on the back of the Mandatory Convertible Preferred Stock certificate or a facsimile of such conversion notice;

(ii) deliver the completed conversion notice and the certificated shares of Mandatory Convertible Preferred Stock to be converted to the Conversion and Dividend Disbursing Agent;

(iii) if required, furnish appropriate endorsements and transfer documents; and

(iv) if required, pay all applicable taxes or duties, if any.

Notwithstanding the foregoing, to effect an Early Conversion pursuant to Section 8 of shares of Mandatory Convertible Preferred Stock held in global form, the Holder must, in lieu of the foregoing, comply with the applicable procedures of DTC (or any other depository for the shares of Mandatory Convertible Preferred Stock held in global form appointed by the Corporation).

The Early Conversion shall be effective on the date on which a Holder has satisfied the foregoing requirements, to the extent applicable (the “**Early Conversion Date**”); *provided* that, for the avoidance of doubt, in no event may such Early Conversion Date occur after October 15, 2027. A Holder shall not be required to pay any taxes or duties relating to the issuance or delivery of Common Stock if such Holder exercises its Early Conversion rights, but such Holder shall be required to pay any tax or duty that may be payable relating to any transfer involved in the issuance or delivery of Common Stock in a name other than the name of such Holder. A certificate representing the shares of Common Stock issuable upon Early Conversion shall be issued and delivered to the converting Holder, together with delivery by the Corporation to the converting Holder of any cash to which the converting Holder is entitled, on the later of the second Business Day immediately succeeding the Early Conversion Date and the Business Day after the Holder has paid in full all applicable taxes and duties, if any.

The Person or Persons entitled to receive the shares of Common Stock issuable upon an Early Conversion shall be treated for all purposes as the record holder(s) of such shares of Common Stock as of the close of business on the applicable Early Conversion Date. Except as set forth in Section 13(a)(vii), Section 13(c)(iii) and Section 13(c)(v), prior to the close of business on the applicable Early Conversion Date, the shares of Common Stock issuable upon Early Conversion of any shares of Mandatory Convertible Preferred Stock shall not be deemed to be outstanding for any purpose, and Holders shall have no rights with respect to such shares of Common Stock (including voting rights, rights to respond to tender offers for the Common Stock and rights to receive any dividends or other distributions on the Common Stock) by virtue of holding shares of Mandatory Convertible Preferred Stock.

In the event that an Early Conversion is effected with respect to shares of Mandatory Convertible Preferred Stock representing less than all the shares of Mandatory Convertible Preferred Stock held by a Holder, upon such Early Conversion the Corporation shall execute and instruct the Registrar and Transfer Agent to countersign and deliver to the Holder thereof, at the expense of the Corporation, a certificate evidencing the shares of Mandatory Convertible Preferred Stock as to which Early Conversion was not effected.

(c) To effect a Fundamental Change Conversion pursuant to Section 9, a Holder must:

- (i) complete and manually sign the conversion notice on the back of the Mandatory Convertible Preferred Stock certificate or a facsimile of such conversion notice;
- (ii) deliver the completed conversion notice and the certificated shares of Mandatory Convertible Preferred Stock to be converted to the Conversion and Dividend Disbursing Agent;
- (iii) if required, furnish appropriate endorsements and transfer documents; and
- (iv) if required, pay all applicable taxes or duties, if any.

Notwithstanding the foregoing, to effect a Fundamental Change Conversion pursuant to Section 9 of shares of Mandatory Convertible Preferred Stock held in global form, the Holder must, in lieu of the foregoing, comply with the applicable procedures of DTC (or any other depositary for the shares of Mandatory Convertible Preferred Stock held in global form appointed by the Corporation).

The Fundamental Change Conversion shall be effective on the date on which a Holder has satisfied the foregoing requirements, to the extent applicable (the “**Fundamental Change Conversion Date**”); *provided* that, for the avoidance of doubt, in no event may such Fundamental Change Conversion Date occur after October 15, 2027. A Holder shall not be required to pay any taxes or duties relating to the issuance or delivery of Common Stock if such Holder exercises its Fundamental Change Early Conversion Right, but such Holder shall be required to pay any tax or duty that may be payable relating to any transfer involved in the issuance or delivery of Common Stock in a name other than the name of such Holder. A certificate representing the shares of Common Stock issuable upon Fundamental Change Conversion shall be issued and delivered to the converting Holder, together with delivery by the Corporation to the converting Holder of any cash to which the converting Holder is entitled, on the later of the second Business Day immediately succeeding the Fundamental Change Conversion Date and the Business Day after the Holder has paid in full all applicable taxes and duties, if any.

The Person or Persons entitled to receive the shares of Common Stock issuable upon a Fundamental Change Conversion shall be treated for all purposes as the record holder(s) of such shares of Common Stock as of the close of business on the applicable Fundamental Change Conversion Date. Except as set forth in Section 13(a)(vii), Section 13(c)(iii) and Section 13(c)(v), prior to the close of business on the applicable Fundamental Change Conversion Date, the shares of Common Stock issuable upon Fundamental Change Conversion of any shares of Mandatory Convertible Preferred Stock shall not be deemed to be outstanding for any purpose, and Holders shall have no rights with respect to such shares of Common Stock (including voting rights, rights to respond to tender offers for the Common Stock and rights to receive any dividends or other distributions on the Common Stock) by virtue of holding shares of Mandatory Convertible Preferred Stock.

In the event that a Fundamental Change Conversion is effected with respect to shares of Mandatory Convertible Preferred Stock representing less than all the shares of Mandatory Convertible Preferred Stock held by a Holder, upon such Fundamental Change Conversion the Corporation shall execute and instruct the Registrar and Transfer Agent to countersign and deliver to the Holder thereof, at the expense of the Corporation, a certificate evidencing the shares of Mandatory Convertible Preferred Stock as to which Fundamental Change Conversion was not effected.

(d) In the event that a Holder shall not by written notice designate the name in which shares of Common Stock to be issued upon conversion of such Mandatory Convertible Preferred Stock should be registered or, if applicable, the address to which the certificate or certificates representing such shares of Common Stock should be sent, the Corporation shall be entitled to register such shares, and make such payment, in the name of the Holder as shown on the records of the Corporation and, if applicable, to send the certificate or certificates representing such shares of Common Stock to the address of such Holder shown on the records of the Corporation.

(e) Shares of Mandatory Convertible Preferred Stock shall cease to be outstanding on the applicable Conversion Date, subject to the right of Holders of such shares to receive shares of Common Stock issuable upon conversion of such shares of Mandatory Convertible Preferred Stock and other amounts and shares of Common Stock, if any, to which they are entitled pursuant to Section 7, 8 or 9, as applicable and, if the applicable Conversion Date occurs after the Record Date for a declared dividend and on or prior to the immediately succeeding Dividend Payment Date, subject to the right of the Record Holders of such shares on such Record Date to receive payment of the full amount of such declared dividend on such Dividend Payment Date pursuant to Section 3.

(f) If the Corporation (or an applicable withholding agent) is required to withhold on constructive distributions to a Holder and pay the applicable withholding taxes, the Corporation may, at its option, or an applicable withholding agent may, withhold such taxes from payments of cash or shares of Common Stock payable to such Holder.

SECTION 11. *Reservation of Common Stock.* (a) The Corporation shall at all times reserve and keep available out of its authorized and unissued Common Stock or shares of Common Stock held in the treasury by the Corporation, solely for issuance upon the conversion of shares of Mandatory Convertible Preferred Stock as herein provided, free from any preemptive or other similar rights, a number of shares of Common Stock equal to the maximum number of shares of Common Stock issuable upon conversion of all shares of Mandatory Convertible Preferred Stock then outstanding (including, for the avoidance of doubt, the maximum Mandatory Conversion Additional Conversion Amount). For purposes of this Section 11(a), the number of shares of Common Stock that shall be issuable upon the conversion of all outstanding shares of Mandatory Convertible Preferred Stock shall be computed as if at the time of computation all such outstanding shares were held by a single Holder.

(b) Notwithstanding the foregoing, the Corporation shall be entitled to deliver upon conversion of shares of Mandatory Convertible Preferred Stock or as payment of any dividend on such shares of Mandatory Convertible Preferred Stock, as herein provided, shares of Common Stock reacquired and held in the treasury by the Corporation (in lieu of the issuance of authorized and unissued shares of Common Stock), so long as any such treasury shares are free and clear of all liens, charges, security interests or encumbrances (other than liens, charges, security interests and other encumbrances created by the Holders).

(c) All shares of Common Stock delivered upon conversion of, or as payment of a dividend on, the Mandatory Convertible Preferred Stock shall be duly authorized, validly issued, fully paid and non-assessable, free and clear of all liens, claims, security interests and other encumbrances (other than liens, charges, security interests and other encumbrances created by the Holders) and free of preemptive rights.

(d) Prior to the delivery of any securities that the Corporation shall be obligated to deliver upon conversion of, or as payment of a dividend on, the Mandatory Convertible Preferred Stock, the Corporation shall comply with all federal and state laws and regulations thereunder requiring the registration of such securities with, or any approval of or consent to the delivery thereof by, any governmental authority.

(e) The Corporation hereby covenants and agrees that, if at any time the Common Stock shall be listed on the New York Stock Exchange or any other national securities exchange or automated quotation system, the Corporation shall, if permitted by the rules of such exchange or automated quotation system, list and use its commercially reasonable efforts to keep listed, so long as the Common Stock shall be so listed on such exchange or automated quotation system, all Common Stock issuable upon conversion of, or issuable in respect of the payment of dividends, the Accumulated Dividend Amount or the Fundamental Change Dividend Make-whole Amount on, the Mandatory Convertible Preferred Stock; *provided, however*, that if the rules of such exchange or automated quotation system permit the Corporation to defer the listing of such Common Stock until the earlier of (x) the first conversion of Mandatory Convertible Preferred Stock into Common Stock in accordance with the provisions hereof and (y) the first payment of any dividends, any Accumulated Dividend Amount or any Fundamental Change

Dividend Make-Whole Amount on the Mandatory Convertible Preferred Stock, the Corporation covenants to list such Common Stock issuable upon the earlier of (1) the first conversion of the Mandatory Convertible Preferred Stock and (2) the first payment of any dividends, any Accumulated Dividend Amount or any Fundamental Change Dividend Make-Whole Amount on the Mandatory Convertible Preferred Stock in accordance with the requirements of such exchange or automated quotation system at such time.

SECTION 12. *Fractional Shares.* (a) No fractional shares of Common Stock shall be issued as a result of any conversion of shares of Mandatory Convertible Preferred Stock.

(b) In lieu of any fractional share of Common Stock otherwise issuable in respect of the aggregate number of shares of Mandatory Convertible Preferred Stock that are converted on the Mandatory Conversion Date pursuant to Section 7 or at the option of the Holder pursuant to Section 8 or Section 9, the Corporation shall pay an amount in cash (computed to the nearest cent) equal to the product of (i) that same fraction and (ii) the Average VWAP per share of the Common Stock over the five consecutive Trading Day period ending on, and including, the second Trading Day immediately preceding the Mandatory Conversion Date, Early Conversion Date or Fundamental Change Conversion Date, as applicable.

(c) If more than one share of the Mandatory Convertible Preferred Stock is surrendered for conversion at one time by or for the same Holder, the number of full shares of Common Stock issuable upon conversion thereof shall be computed on the basis of the aggregate number of shares of the Mandatory Convertible Preferred Stock so surrendered.

SECTION 13. *Anti-Dilution Adjustments to the Fixed Conversion Rates.* (a) Each Fixed Conversion Rate shall be subject to the following adjustments:

(i) *Stock Dividends and Distributions.* If the Corporation issues Common Stock to all or substantially all holders of Common Stock as a dividend or other distribution, each Fixed Conversion Rate in effect immediately prior to the close of business on the date fixed for determination of the holders of Common Stock entitled to receive such dividend or other distribution shall be *multiplied by* a fraction:

(A) the numerator of which is the sum of (x) the number of shares of Common Stock outstanding immediately prior to the close of business on the date fixed for such determination and (y) the total number of shares of Common Stock constituting such dividend or other distribution, and

(B) the denominator of which is the number of shares of Common Stock outstanding immediately prior to the close of business on the date fixed for such determination.

Any increase made pursuant to this clause (i) shall become effective immediately after the close of business on the date fixed for such determination. If any dividend or distribution described in this clause (i) is declared but not so paid or made, each Fixed Conversion Rate shall be decreased, effective as of the date the Board of Directors (or an authorized committee thereof) publicly announces its decision not to make such dividend or distribution, to such Fixed Conversion Rate that would be in effect if such dividend or distribution had not been declared. For the purposes of this clause (i), the number of shares of Common Stock outstanding immediately prior to the close of business on the date fixed for such determination shall not include shares held in treasury by the Corporation but shall include any shares issuable in respect of any scrip certificates issued in lieu of fractions of shares of Common Stock. The Corporation shall not pay any dividend or make any distribution on shares of Common Stock held in treasury by the Corporation.

(ii) *Issuance of Stock Purchase Rights.* If the Corporation issues to all or substantially all holders of Common Stock rights or warrants (other than rights or warrants issued pursuant to a shareholders' rights plan, customary dividend reinvestment plan, or customary share purchase plan or other similar plans) entitling such holders, for a period of up to 45 calendar days after the announcement date of such issuance, to subscribe for or purchase shares of Common Stock at a price per share less than the Current Market Price of the Common Stock, each Fixed Conversion Rate in effect immediately prior to the close of business on the date fixed for determination of the holders of Common Stock entitled to receive such rights or warrants shall be increased by multiplying such Fixed Conversion Rate by a fraction:

(A) the numerator of which is the sum of (x) the number of shares of Common Stock outstanding immediately prior to the close of business on the date fixed for such determination and (y) the number of shares of Common Stock issuable pursuant to such rights or warrants, and

(B) the denominator of which shall be the sum of (x) the number of shares of Common Stock outstanding immediately prior to the close of business on the date fixed for such determination and (y) the number of shares of Common Stock equal to the quotient of the aggregate offering price payable to exercise such rights or warrants, *divided by* the Current Market Price of the Common Stock.

Any increase made pursuant to this clause (ii) shall become effective immediately after the close of business on the date fixed for such determination. In the event that such rights or warrants described in this clause (ii) are not so issued, each Fixed Conversion Rate shall be decreased, effective as of the date the Board of Directors (or an authorized committee thereof) publicly announces its decision not to issue such rights or warrants, to such Fixed Conversion Rate that would then be in effect if such issuance had not been declared. To the extent that such rights or warrants are not exercised prior to their expiration or shares of Common Stock are otherwise not delivered pursuant to such rights or warrants upon the exercise of such rights or warrants, each Fixed Conversion Rate shall be decreased to such Fixed Conversion Rate that would then be in effect had the increase made upon the issuance of such rights or warrants been made on the basis of the delivery of only the number of shares of Common Stock actually delivered. In

determining whether any rights or warrants entitle the holders thereof to subscribe for or purchase shares of Common Stock at less than the Current Market Price of the Common Stock, and in determining the aggregate offering price payable to exercise such rights or warrants, there shall be taken into account any consideration received by the Corporation for such rights or warrants and the amount payable to the Corporation upon exercise or conversion thereof, the value of such consideration (if other than cash) to be determined by the Board of Directors (or an authorized committee thereof). For the purposes of this clause (ii), the number of shares of Common Stock at the time outstanding shall not include shares held in treasury by the Corporation but shall include any shares issuable in respect of any scrip certificates issued in lieu of fractions of shares of Common Stock. The Corporation shall not issue any such rights or warrants in respect of shares of Common Stock held in treasury by the Corporation.

(iii) *Subdivisions and Combinations of the Common Stock.* If outstanding shares of Common Stock shall be subdivided into a greater number of shares of Common Stock or combined into a lesser number of shares of Common Stock, each Fixed Conversion Rate in effect immediately prior to the open of business on the Effective Date of such subdivision or combination shall be *multiplied by* a fraction:

(A) the numerator of which is the number of shares of Common Stock that would be outstanding immediately after, and solely as a result of, such subdivision or combination, and

(B) the denominator of which is the number of shares of Common Stock outstanding immediately prior to such subdivision or combination.

Any adjustment made pursuant to this clause (iii) shall become effective immediately after the open of business on the Effective Date of such subdivision or combination.

(iv) *Debt or Asset Distribution.* (A) If the Corporation distributes to all or substantially all holders of Common Stock evidences of its indebtedness, shares of capital stock, securities, rights to acquire the Corporation's capital stock (other than rights issued pursuant to a shareholders' rights plan so long as such rights have not separated from the Common Stock), cash or other assets (excluding (1) any dividend or distribution as to which an adjustment was effected pursuant to Section 13(a)(i), (2) any rights or warrants as to which an adjustment was effected pursuant to Section 13(a)(ii), (3) any dividend or distribution as to which the provisions set forth in Section 13(a)(v) shall apply and (4) any Spin-Off as to which the provisions set forth in Section 13(a)(iv)(B) shall apply) (any such evidences of indebtedness, shares of capital stock, securities, rights to acquire the Corporation's capital stock, cash or other assets, the "**Distributed Property**"), each Fixed Conversion Rate in effect immediately prior to the close of business on the date fixed for the determination of holders of Common Stock entitled to receive such distribution shall be *multiplied by* a fraction:

(1) the numerator of which is the Current Market Price of the Common Stock, and

(2) the denominator of which is the Current Market Price of the Common Stock *minus* the Fair Market Value, on the Ex-Date of such distribution, of the portion of the Distributed Property so distributed applicable to one share of Common Stock.

Any increase made pursuant to this Section 13(a)(iv)(A) shall become effective immediately after the close of business on the date fixed for such determination. In the event that such distribution described in this Section 13(a)(iv)(A) is not so made, each Fixed Conversion Rate shall be decreased, effective as of the date the Board of Directors (or an authorized committee thereof) publicly announces its decision not to make such distribution, to such Fixed Conversion Rate that would then be in effect if such distribution had not been declared.

(B) In the case of a Spin-Off, each Fixed Conversion Rate in effect immediately prior to the open of business on the Ex-Date of such distribution shall be *multiplied by* a fraction:

(1) the numerator of which is the sum of (x) the Current Market Price of the Common Stock and (y) the Current Market Price of the portion of those shares of capital stock or similar equity interests so distributed that is applicable to one share of Common Stock, and

(2) the denominator of which is the Current Market Price of the Common Stock.

Any increase made pursuant to this Section 13(a)(iv)(B) shall be made immediately following the determination of the Current Market Price of the Common Stock, but shall become retroactively effective immediately after the open of business on the Ex-Date of such distribution. In the event that such distribution described in this Section 13(a)(iv)(B) is not so made, each Fixed Conversion Rate shall be decreased, effective as of the date the Board of Directors (or an authorized committee thereof) publicly announces its decision not to make such distribution, to such Fixed Conversion Rate that would then be in effect if such distribution had not been declared. Because the Corporation shall make any increase to each Fixed Conversion Rate pursuant to this Section 13(a)(iv)(B) with retroactive effect as described above, the Corporation shall delay the settlement of any conversion of the Mandatory Convertible Preferred Stock where any date for determining the number of shares of Common Stock issuable to a Holder upon such conversion occurs during the period set forth in clause (ii) of the definition of "Current Market Price" until the second Business Day immediately following the last Trading Day of such period.

For purposes of this clause (iv) (and subject in all respects to clause (viii)), rights or warrants distributed by the Corporation to all or substantially all holders of its Common Stock entitling them to subscribe for or purchase shares of the Corporation's capital stock, including Common Stock (either initially or under certain circumstances), which rights or warrants, until the occurrence of a specified event or events ("**Trigger Event**"): (i) are deemed to be transferred with such shares of the Common Stock; (ii) are not exercisable; and (iii) are also issued in respect of future issuances of the Common Stock, shall be deemed not to have been distributed for purposes of this clause (iv) (and no adjustment to the Fixed Conversion Rates under this clause (iv) shall be required) until the occurrence of the earliest Trigger Event, whereupon such rights or warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Fixed Conversion Rates shall be made under this clause (iv). If any such rights or warrants, including any such existing rights or warrants distributed prior to the Initial Issue Date, are subject to events, upon the occurrence of which such rights or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and the date fixed for the determination of the holders of Common Stock entitled to receive such distribution with respect to new rights or warrants with such rights (in which case the existing rights or warrants shall be deemed to terminate and expire on such date without exercise by any of the holders thereof). In addition, in the event of any distribution (or deemed distribution) of rights or warrants, or any Trigger Event or other event (of the type described in the immediately preceding sentence) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Fixed Conversion Rates under this clause (iv) was made, (1) in the case of any such rights or warrants that shall all have been redeemed or purchased without exercise by any holders thereof, upon such final redemption or purchase (x) the Fixed Conversion Rates shall be readjusted as if such rights or warrants had not been issued and (y) the Fixed Conversion Rates shall then again be readjusted to give effect to such distribution, deemed distribution, Trigger Event or other event, as the case may be, as though it were a cash distribution, equal to the per share redemption or purchase price received by a holder or holders of Common Stock with respect to such rights or warrants (assuming such holder had retained such rights or warrants), made to all holders of Common Stock as of the date of such redemption or purchase, and (2) in the case of such rights or warrants that shall have expired or been terminated without exercise by any holders thereof, the Fixed Conversion Rates shall be readjusted as if such rights and warrants had not been issued.

For purposes of clause (i), clause (ii) and this clause (iv), if any dividend or distribution to which this clause (iv) is applicable includes one or both of:

- (x) a dividend or distribution of shares of Common Stock to which clause (i) is applicable (the "**Clause I Distribution**"); or
- (y) an issuance of rights or warrants to which clause (ii) is applicable (the "**Clause II Distribution**"),

then (1) such dividend or distribution, other than the Clause I Distribution, if any, and the Clause II Distribution, if any, shall be deemed to be a dividend or distribution to which this clause (iv) is applicable (the “**Clause IV Distribution**”) and any Fixed Conversion Rate adjustment required by this clause (iv) with respect to such Clause IV Distribution shall then be made, and (2) the Clause I Distribution, if any, and Clause II Distribution, if any, shall be deemed to immediately follow the Clause IV Distribution and any Fixed Conversion Rate adjustment required by clause (i) and clause (ii) with respect thereto shall then be made, except that, if determined by the Corporation (I) the date fixed for determination of the holders of Common Stock entitled to receive any Clause I Distribution or Clause II Distribution shall be deemed to be the date fixed for the determination of holders of Common Stock entitled to receive the Clause IV Distribution and (II) any shares of Common Stock included in any Clause I Distribution or Clause II Distribution shall be deemed not to be “outstanding immediately prior to the close of business on the date fixed for such determination” within the meaning of clauses (i) and (ii).

(v) *Cash Distributions*. If the Corporation dividends or distributes an amount consisting exclusively of cash to all or substantially all holders of Common Stock (excluding (1) any cash that is distributed in exchange for the Common Stock in a Reorganization Event to which Section 13(e) applies, (2) any dividend or distribution in connection with the liquidation, dissolution or winding-up of the Corporation and (3) any consideration payable as part of a tender or exchange offer by the Corporation or any Subsidiary of the Corporation covered by Section 13(a)(vi)), each Fixed Conversion Rate in effect immediately prior to the close of business on the date fixed for determination of the holders of Common Stock entitled to receive such dividend or distribution shall be *multiplied by* a fraction:

- (1) the numerator of which is the Current Market Price of the Common Stock, and
- (2) the denominator of which is the Current Market Price of the Common Stock *minus* the amount per share of Common Stock of such dividend or distribution.

Any increase made pursuant to this clause (v) shall become effective immediately after the close of business on the date fixed for the determination of the holders of Common Stock entitled to receive such dividend or distribution. In the event that any dividend or distribution described in this clause (v) is not so made, each Fixed Conversion Rate shall be decreased, effective as of the date the Board of Directors (or an authorized committee thereof) publicly announces its decision not to make such dividend or distribution, to such Fixed Conversion Rate which would then be in effect if such dividend or distribution had not been declared.

(vi) *Self Tender Offers and Exchange Offers*. If the Corporation or any Subsidiary of the Corporation successfully completes a tender or exchange offer pursuant to a Schedule TO or registration statement on Form S-4 for the Common Stock where the cash and the value of any other consideration included in the payment per share of Common Stock exceeds the Current Market Price of the Common Stock, each Fixed Conversion Rate in effect immediately prior to the close of business on the date of expiration of the tender or exchange offer (the “**Expiration Date**”) shall be *multiplied by* a fraction:

(A) the numerator of which shall be equal to the sum of:

(1) the aggregate cash and Fair Market Value on the Expiration Date of any other consideration paid or payable for shares of Common Stock purchased in such tender or exchange offer; and

(2) the product of (x) the Current Market Price of the Common Stock and (y) the number of shares of Common Stock outstanding immediately after such tender or exchange offer expires (after giving effect to the purchase or exchange of shares of Common Stock pursuant to such tender or exchange offer); and

(B) the denominator of which shall be equal to the product of (1) the Current Market Price of the Common Stock and (2) the number of shares of Common Stock outstanding immediately prior to the time such tender or exchange offer expires (without giving effect to the purchase or exchange of shares of Common Stock pursuant to such tender or exchange offer).

Any increase made pursuant to this clause (vi) shall be made immediately following the determination of the Current Market Price of the Common Stock, but shall become retroactively effective immediately after the close of business on the Expiration Date. In the event that the Corporation or one of its Subsidiaries is obligated to purchase shares of Common Stock pursuant to any such tender offer or exchange offer, but the Corporation or such Subsidiary is permanently prevented by applicable law from effecting any such purchases, or all such purchases are rescinded, then each Fixed Conversion Rate shall be decreased to be such Fixed Conversion Rate that would then be in effect if such tender offer or exchange offer had not been made. Except as set forth in the preceding sentence, if the application of this clause (vi) to any tender offer or exchange offer would result in a decrease in each Fixed Conversion Rate, no adjustment shall be made for such tender offer or exchange offer under this clause (vi). Because the Corporation shall make any increase to each Fixed Conversion Rate pursuant to this clause (vi) with retroactive effect as described above, the Corporation shall delay the settlement of any conversion of the Mandatory Convertible Preferred Stock where any date for determining the number of shares of Common Stock issuable to Holders upon such conversion occurs during the period set forth in clause (iii) of the definition of "Current Market Price" until the second Business Day immediately following the last Trading Day of such period.

(vii) In cases where (i) the Fair Market Value of the Distributed Property distributed per share of Common Stock as to which Section 13(a)(iv)(A) applies or (ii) the amount of cash distributed per share of Common Stock as to which Section 13(a)(v) applies, in each case, equals or exceeds the Average VWAP per share of the Common Stock over the ten consecutive Trading Day period ending on, and including, the Trading

Day immediately preceding the Ex-Date of such distribution, rather than being entitled to an adjustment in each Fixed Conversion Rate, Holders shall be entitled to receive (without having to convert their Mandatory Convertible Preferred Stock), at the same time and upon the same terms as holders of Common Stock, the kind and amount of the Distributed Property or cash, as the case may be, comprising the distribution that such Holder would have received if such Holder had owned, immediately prior to the record date for determining the holders of Common Stock entitled to receive the distribution, for each share of Mandatory Convertible Preferred Stock, a number of shares of Common Stock equal to the Maximum Conversion Rate in effect on the date of such distribution.

(viii) *Rights Plans*. To the extent that the Corporation has a rights plan in effect with respect to the Common Stock on any Conversion Date, upon conversion of any shares of Mandatory Convertible Preferred Stock, converting Holders shall receive, in addition to the Common Stock, the rights under such rights plan, unless, prior to such Conversion Date, the rights have separated from the Common Stock, in which case each Fixed Conversion Rate shall be adjusted at the time of separation of such rights as if the Corporation made a distribution to all holders of the Common Stock as described in Section 13(a)(iv)(A), subject to readjustment in the event of the expiration, termination or redemption of such rights. Any distribution of rights or warrants pursuant to a rights plan that would allow Holders to receive upon conversion, in addition to any shares of Common Stock, the rights described therein (unless such rights or warrants have separated from Common Stock (in which case each Fixed Conversion Rate shall be adjusted at the time of separation as if the Corporation had made a distribution to all holders of Common Stock as described in Section 13(a)(iv)(A), subject to readjustment in the event of the expiration, termination or redemption of such rights)) shall not constitute a distribution of rights or warrants that would entitle Holders to an adjustment to the Fixed Conversion Rates.

(b) *Discretionary Adjustments*. The Corporation may make such increases in each Fixed Conversion Rate, in addition to any other increases required by this Section 13, as the Corporation deems advisable if the Board of Directors (or an authorized committee thereof) determines that such increase would be in the Corporation's best interest or in order to avoid or diminish any income tax to holders of the Common Stock resulting from any dividend or distribution of shares of Common Stock (or issuance of rights or warrants to acquire shares of Common Stock) or from any event treated as such for income tax purposes or for any other reasons; *provided* that the same proportionate adjustment must be made to each Fixed Conversion Rate.

(c) *Calculation of Adjustments; Adjustments to Floor Price and Stock Price*. (i) All adjustments to each Fixed Conversion Rate shall be calculated to the nearest 1/10,000th of a share of Common Stock. Prior to the first Trading Day of the Final Averaging Period, no adjustment to a Fixed Conversion Rate shall be required unless such adjustment would require an increase or decrease of at least one percent therein. If any adjustment by reason of this Section 13(c)(i) is not required to be made because it would not change the Fixed Conversion Rates by at

least one percent, such adjustment shall be carried forward and taken into account in any subsequent adjustment; *provided, however*, that the Corporation shall make such adjustments, regardless of whether such aggregate adjustments amount to one percent or more of the Fixed Conversion Rates, (x) on any Early Conversion Date or Fundamental Change Conversion Date; (y) on the Effective Date of any Fundamental Change; and (z) on each Trading Day of the Final Averaging Period.

(ii) If an adjustment is made to the Fixed Conversion Rates pursuant to Section 13(a) or 13(b), an inversely proportional adjustment shall also be made to the Floor Price. Such adjustment shall be made by dividing the Floor Price by a fraction, the numerator of which shall be the Minimum Conversion Rate immediately after such adjustment pursuant to Section 13(a) or 13(b) and the denominator of which shall be the Minimum Conversion Rate immediately before such adjustment. For the avoidance of doubt, if an adjustment is made to the Fixed Conversion Rates pursuant to Section 13(a) or 13(b), no separate inversely proportional adjustment shall be made to the Initial Price or the Threshold Appreciation Price because the Initial Price is equal to \$1,000 *divided by* the Maximum Conversion Rate (as adjusted in the manner described herein) and the Threshold Appreciation Price is equal to \$1,000 *divided by* the Minimum Conversion Rate (as adjusted in the manner described herein). Whenever any provision of this Certificate of Designations requires the Corporation to calculate the VWAP per share of the Common Stock over a span of multiple days, the Board of Directors (or an authorized committee thereof) shall make appropriate adjustments (including, without limitation, to the Applicable Market Value, the Early Conversion Average Price, the Stock Price and the Five-Day Average Price, as the case may be) to account for any adjustments, pursuant to Section 13(a) or 13(b), to the Fixed Conversion Rates that become effective, or any event that would require such an adjustment if the record date, Ex-Date, Effective Date or Expiration Date, as the case may be, of such event occurs, during the relevant period used to calculate such prices or values, as the case may be.

(iii) If:

(A) the record date for a dividend or distribution on Common Stock occurs after the end of the Final Averaging Period and before the Mandatory Conversion Date; and

(B) such dividend or distribution would have resulted in an adjustment of the number of shares of Common Stock issuable to the Holders had such record date occurred on or before the last Trading Day of the Final Averaging Period,

then the Corporation shall deem the Holders to be holders of record, for each share of their Mandatory Convertible Preferred Stock, of a number of shares of Common Stock equal to the Mandatory Conversion Rate for purposes of that dividend or distribution. In this case, the Holders would receive the dividend or distribution on Common Stock together with the number of shares of Common Stock issuable upon Mandatory Conversion.

(iv) If an adjustment is made to the Fixed Conversion Rates pursuant to Section 13(a) or 13(b), a proportional adjustment shall be made to each Stock Price column heading set forth in the table included in the definition of “Fundamental Change Conversion Rate” as of the day on which the Fixed Conversion Rates are so adjusted. Such adjustment shall be made by multiplying each Stock Price included in such table, applicable immediately prior to such adjustment, by a fraction, the numerator of which is the Minimum Conversion Rate immediately prior to the adjustment giving rise to such Stock Price adjustment, and the denominator of which is the Minimum Conversion Rate as so adjusted.

(v) No adjustment to the Fixed Conversion Rates shall be made if Holders may participate (other than in the case of (x) a share subdivision or share combination or (y) a tender or exchange offer), at the same time, upon the same terms and otherwise on the same basis as holders of Common Stock and solely as a result of holding Mandatory Convertible Preferred Stock, in the transaction that would otherwise give rise to an adjustment without having to convert their Mandatory Convertible Preferred Stock as if they held, for each share of Mandatory Convertible Preferred Stock, a number of shares of Common Stock equal to the Maximum Conversion Rate then in effect. In addition, the Fixed Conversion Rates shall not be adjusted except as provided in this Section 13. Without limiting the foregoing, the Fixed Conversion Rates shall not be adjusted:

(A) upon the issuance of any shares of Common Stock (or rights with respect thereto) pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Corporation’s securities and the investment of additional optional amounts in shares of Common Stock under any plan;

(B) upon the issuance of any shares of Common Stock or rights or warrants to purchase those shares pursuant to any present or future employee, director or consultant benefit or other incentive plan or program of or assumed by the Corporation or any of its Subsidiaries;

(C) 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 Initial Issue Date;

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

(E) for sales of Common Stock for cash, including the sale of shares of Common Stock for a purchase price that is less than the applicable market price per share of Common Stock or less than the Initial Price or the Threshold Appreciation Price, other than in a transaction described in Section 13(a)(ii) or Section 13(a)(iv)(A);

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- (F) for stock repurchases that are not tender or exchange offers, including pursuant to structured or derivative transactions;
 - (G) as a result of a tender offer solely to holders of fewer than 100 shares of Common Stock;
 - (H) as a result of a third-party tender or exchange offer, other than a tender or exchange offer by one of the Corporation's Subsidiaries as described in Section 13(a)(vi); or
 - (I) for accumulated and unpaid dividends on the Mandatory Convertible Preferred Stock, except as provided in Section 7, Section 8 and Section 9.

(d) *Notice of Adjustment.* Whenever the Fixed Conversion Rates and the Fundamental Change Conversion Rates set forth in the table in the definition of "Fundamental Change Conversion Rate" are to be adjusted, the Corporation shall:

(i) compute such adjusted Fixed Conversion Rates and Fundamental Change Conversion Rates and prepare and transmit to the Transfer Agent an Officer's Certificate setting forth such adjusted Fixed Conversion Rates and Fundamental Change Conversion Rates, the method of calculation thereof in reasonable detail and the facts requiring such adjustment and upon which such adjustment is based;

(ii) as soon as practicable following the occurrence of an event that requires an adjustment to the Fixed Conversion Rates and the Fundamental Change Conversion Rates, provide, or cause to be provided, a written notice to the Holders of the occurrence of such event; and

(iii) as soon as practicable following the determination of such adjusted Fixed Conversion Rates and Fundamental Change Conversion Rates provide, or cause to be provided, to the Holders, upon written request by a beneficial owner of the Depositary Shares, a statement setting forth in reasonable detail the method by which the adjustments to the Fixed Conversion Rates and Fundamental Change Conversion Rates were determined and setting forth such adjusted Fixed Conversion Rates and Fundamental Change Conversion Rates.

(e) *Reorganization Events.* In the event of:

(i) any consolidation or merger of the Corporation with or into another Person (other than a merger or consolidation in which the Corporation is the continuing corporation and in which the Common Stock outstanding immediately prior to the merger or consolidation is not exchanged for cash, securities or other property of the Corporation or another Person);

(ii) any sale, transfer, lease or conveyance to another Person of all or substantially all of the consolidated property and assets of the Corporation and its Subsidiaries;

(iii) any reclassification of Common Stock into securities, including securities other than Common Stock; or

(iv) any statutory exchange of securities of the Corporation with another Person or binding share exchange (other than in connection with a merger or consolidation),

in each case, as a result of which the Common Stock would be converted into, or exchanged for, securities, cash or property (each, a “**Reorganization Event**”), each share of Mandatory Convertible Preferred Stock outstanding immediately prior to such Reorganization Event shall, without the consent of the Holders, become convertible into the kind of securities, cash and other property that such Holder would have been entitled to receive if such Holder had converted its Mandatory Convertible Preferred Stock into Common Stock immediately prior to such Reorganization Event (such securities, cash and other property, the “**Exchange Property**,” with each “**Unit of Exchange Property**” meaning the kind and amount of such Exchange Property that a holder of one share of Common Stock is entitled to receive). For purposes of the foregoing, the type and amount of Exchange Property in the case of any Reorganization Event that causes the Common Stock to be converted into the right to receive more than a single type of consideration (determined based in part upon any form of shareholder election) shall be deemed to be the weighted average of the types and amounts of consideration actually received by the holders of Common Stock in such Reorganization Event. The Corporation shall notify Holders of such weighted average as soon as practicable after such determination is made. The number of Units of Exchange Property that the Corporation shall deliver upon conversion of each share of Mandatory Convertible Preferred Stock or as a payment of dividends on the Mandatory Convertible Preferred Stock, as applicable, following the effective date of such Reorganization Event shall be determined as if references in Section 3, Section 7, Section 8 and/or Section 9, as applicable, to shares of Common Stock were to Units of Exchange Property (without any interest thereon and without any right to dividends or distributions thereon which have a record date that is prior to the date on which Holders become holders of record of the underlying Exchange Property, except as provided in Section 13(a)(vii), Section 13(c)(iii) and Section 13(c)(v)). For the purpose of determining which of clause (i), (ii) or (iii) of Section 7(b) shall apply upon Mandatory Conversion, and for the purpose of calculating the Mandatory Conversion Rate if clause (ii) of Section 7(b) is applicable, the value of a Unit of Exchange Property shall be determined in good faith by the Board of Directors (or an authorized committee thereof), except that if a Unit of Exchange Property includes common stock or American Depositary Receipts (“**ADRs**”) that are traded on a U.S. national securities exchange, the value of such common stock or ADRs shall be the average over the Final Averaging Period of the volume-weighted average

prices for such common stock or ADRs, as displayed on the applicable Bloomberg screen (as determined in good faith by the Board of Directors (or an authorized committee thereof)), or, if such price is not available, the average market value per share of such common stock or ADRs over such period as determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained by the Corporation for this purpose.

The provisions of this Section 13(e) shall similarly apply to successive Reorganization Events and the provisions of Section 13 shall apply to any shares of capital stock or ADRs of the Corporation (or any successor thereto) received by the holders of Common Stock in any such Reorganization Event.

The Corporation (or any successor thereto) shall, as soon as reasonably practicable (but in any event within 20 calendar days) after the occurrence of any Reorganization Event, provide written notice to the Holders of such occurrence and of the kind and amount of the cash, securities or other property that constitute the Exchange Property. Failure to deliver such notice shall not affect the operation of this Section 13(e).

SECTION 14. *Transfer Agent, Registrar, and Conversion and Dividend Disbursing Agent.* The duly appointed Transfer Agent, Registrar and Conversion and Dividend Disbursing Agent for the Mandatory Convertible Preferred Stock shall be Computershare Trust Company, N.A. The Corporation may, in its sole discretion, remove the Transfer Agent, Registrar or Conversion and Dividend Disbursing Agent in accordance with the agreement between the Corporation and the Transfer Agent, Registrar or Conversion and Dividend Disbursing Agent, as the case may be; *provided* that if the Corporation removes Computershare Trust Company, N.A., the Corporation shall appoint a successor transfer agent, registrar or conversion and dividend disbursing agent, as the case may be, who shall accept such appointment prior to the effectiveness of such removal. Upon any such removal or appointment, the Corporation shall send notice thereof by first-class mail, postage prepaid, to the Holders.

SECTION 15. *Record Holders.* To the fullest extent permitted by applicable law, the Corporation and the Transfer Agent may deem and treat the Holder of any shares of Mandatory Convertible Preferred Stock as the true and lawful owner thereof for all purposes.

SECTION 16. *Notices.* All notices or communications in respect of the Mandatory Convertible Preferred Stock shall be sufficiently given if given in writing and delivered in person or by first class mail, postage prepaid, or by electronic mail or facsimile, or if given in such other manner as may be permitted in this Certificate of Designations, in the Certificate of Incorporation or the Bylaws and by applicable law. Notwithstanding the foregoing, if the shares of the Mandatory Convertible Preferred Stock are held in global form, such notices may also be given to the Holders in any manner permitted by DTC or any similar facility used for the settlement of transactions in the Mandatory Convertible Preferred Stock.

SECTION 17. *No Preemptive Rights.* The Holders shall have no preemptive or preferential rights to purchase or subscribe to any stock, obligations, warrants or other securities of the Corporation of any class.

SECTION 18. *Other Rights.* The shares of the Mandatory Convertible Preferred Stock shall not have any rights, preferences, privileges or voting powers or relative, participating, optional or other special rights, or qualifications, limitations or restrictions thereof, other than as set forth herein or in the Certificate of Incorporation or as provided by applicable law.

SECTION 19. *Stock Certificates.*

(a) Shares of Mandatory Convertible Preferred Stock shall be represented by stock certificates substantially in the form set forth as Exhibit A hereto.

(b) Stock certificates representing shares of the Mandatory Convertible Preferred Stock shall be signed by two authorized Officers of the Corporation, in accordance with the Bylaws and applicable Delaware law, by manual or facsimile signature.

(c) A stock certificate representing shares of the Mandatory Convertible Preferred Stock shall not be valid until manually countersigned by an authorized signatory of the Transfer Agent and Registrar. Each stock certificate representing shares of the Mandatory Convertible Preferred Stock shall be dated the date of its countersignature.

(d) If any Officer of the Corporation who has signed a stock certificate no longer holds that office at the time the Transfer Agent and Registrar countersigns the stock certificate, the stock certificate shall be valid nonetheless.

SECTION 20. *Replacement Certificates.*

(a) If any Mandatory Convertible Preferred Stock certificate shall be mutilated, lost, stolen or destroyed, the Corporation shall, at the expense of the Holder, issue, in exchange and in substitution for and upon cancellation of the mutilated Mandatory Convertible Preferred Stock certificate, or in lieu of and substitution for the Mandatory Convertible Preferred Stock certificate lost, stolen or destroyed, a new Mandatory Convertible Preferred Stock certificate of like tenor and representing an equivalent Liquidation Preference of shares of Mandatory Convertible Preferred Stock, but only upon receipt of evidence of such loss, theft or destruction of such Mandatory Convertible Preferred Stock certificate and indemnity, if requested, reasonably satisfactory to the Corporation and the Transfer Agent.

(b) The Corporation is not required to issue any certificate representing the Mandatory Convertible Preferred Stock on or after the Mandatory Conversion Date. In lieu of the delivery of a replacement certificate following the Mandatory Conversion Date, the Transfer Agent, upon delivery of the evidence and indemnity described above, shall deliver the shares of Common Stock issuable and any cash deliverable pursuant to the terms of the Mandatory Convertible Preferred Stock formerly evidenced by the certificate.

SECTION 21. *Titles and Headings.* The titles and headings of the sections and subsections of this Certificate of Designations have been inserted for convenience of reference only, are not to be considered a part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

SECTION 22. *Miscellaneous.* (a) The Corporation shall pay any and all stock transfer and documentary stamp taxes that may be payable in respect of any issuance or delivery of shares of Mandatory Convertible Preferred Stock or shares of Common Stock or other securities issued on account of Mandatory Convertible Preferred Stock pursuant hereto or certificates representing such shares or securities. The Corporation shall not, however, be required to pay any such tax that may be payable in respect of any transfer involved in the issuance or delivery of shares of Common Stock or other securities in a name other than that in which the shares of Mandatory Convertible Preferred Stock with respect to which such shares or other securities are issued or delivered were registered, and the Corporation shall not be required to make any such issuance or delivery unless and until the Person otherwise entitled to such issuance or delivery has paid to the Corporation the amount of any such tax or has established, to the satisfaction of the Corporation, that such tax has been paid or is not payable.

(b) The Liquidation Preference and the Dividend Amount each shall be subject to equitable adjustment whenever there shall occur a stock split, combination, reclassification or other similar event involving the Mandatory Convertible Preferred Stock. Such adjustments shall be determined in good faith by the Board of Directors (or an authorized committee thereof) and submitted by the Board of Directors (or such authorized committee thereof) to the Transfer Agent.

[FORM OF FACE OF MANDATORY CONVERTIBLE PREFERRED STOCK CERTIFICATE]

Certificate Number []

Number of Shares of Mandatory Convertible Preferred Stock []

CUSIP 097023 303
ISIN US0970233039

THE BOEING COMPANY

6.00% Series A Mandatory Convertible Preferred Stock
(par value \$1.00 per share)
(Liquidation Preference as specified below)

THE BOEING COMPANY, a Delaware corporation (the “**Corporation**”), hereby certifies that [] (the “**Holder**”), is the registered owner of [] fully paid and non-assessable shares of the Corporation’s designated 6.00% Series A Mandatory Convertible Preferred Stock, with par value \$1.00 per share and a Liquidation Preference of \$1,000.00 per share (the “**Mandatory Convertible Preferred Stock**”). The shares of Mandatory Convertible Preferred Stock are transferable on the books and records of the Registrar, in person or by a duly authorized attorney, upon surrender of this certificate duly endorsed and in proper form for transfer. The designations, rights, privileges, restrictions, preferences and other terms and provisions of the Mandatory Convertible Preferred Stock represented hereby are and shall in all respects be subject to the provisions of the Certificate of Designations of 6.00% Series A Mandatory Convertible Preferred Stock of The Boeing Company dated October 31, 2024 as the same may be amended from time to time (the “**Certificate of Designations**”). Capitalized terms used herein but not defined shall have the meaning given them in the Certificate of Designations. The Corporation will provide a copy of the Certificate of Designations to the Holder without charge upon written request to the Corporation at its principal place of business. In the case of any conflict between this Certificate and the Certificate of Designations, the provisions of the Certificate of Designations shall control and govern.

Reference is hereby made to the provisions of the Mandatory Convertible Preferred Stock set forth on the reverse hereof and in the Certificate of Designations, which provisions shall for all purposes have the same effect as if set forth at this place.

Upon receipt of this executed certificate, the Holder is bound by the Certificate of Designations and is entitled to the benefits thereunder.

Unless the Transfer Agent and Registrar have properly countersigned, these shares of Mandatory Convertible Preferred Stock shall not be entitled to any benefit under the Certificate of Designations or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, this certificate has been executed on behalf of the Corporation by two Officers of the Corporation this 31st of October, 2024.

THE BOEING COMPANY

By: _____
Name: Robert K. Ortberg
Title: President and Chief Executive Officer

By: _____
Name: John C. Demers
Title: Vice President, Assistant General Counsel and Secretary

COUNTERSIGNATURE

These are shares of Mandatory Convertible Preferred Stock referred to in the within-mentioned Certificate of Designations.

Dated: October 31, 2024

Computershare Trust Company, N.A., as Registrar and
Transfer Agent

By: _____
Name:
Title:

[FORM OF REVERSE OF CERTIFICATE FOR MANDATORY CONVERTIBLE PREFERRED STOCK]

Cumulative dividends on each share of Mandatory Convertible Preferred Stock shall be payable at the applicable rate provided in the Certificate of Designations.

The shares of Mandatory Convertible Preferred Stock shall be convertible in the manner and in accordance with the terms set forth in the Certificate of Designations.

The Corporation shall furnish without charge to each Holder who so requests a summary of the authority of the Board of Directors to determine variations for future series within a class of stock and the designations, limitations, preferences and relative, participating, optional or other special rights of each class or series of share capital issued by the Corporation and the qualifications, limitations or restrictions of such preferences and/or rights.

NOTICE OF CONVERSION

(To be Executed by the Holder
in order to Convert the Mandatory Convertible Preferred Stock)

The undersigned hereby irrevocably elects to convert (the “**Conversion**”) 6.00% Series A Mandatory Convertible Preferred Stock (the “**Mandatory Convertible Preferred Stock**”), of The Boeing Company (hereinafter called the “**Corporation**”), represented by stock certificate No(s). [] (the “**Mandatory Convertible Preferred Stock Certificates**”), into common stock, par value \$5.00 per share, of the Corporation (the “**Common Stock**”) according to the conditions of the Certificate of Designations of the Mandatory Convertible Preferred Stock (the “**Certificate of Designations**”), as of the date written below. If Common Stock is to be issued in the name of a person other than the undersigned, the undersigned shall pay all transfer taxes payable with respect thereto, if any. Each Mandatory Convertible Preferred Stock Certificate (or evidence of loss, theft or destruction thereof) is attached hereto.

Capitalized terms used but not defined herein shall have the meanings ascribed thereto in or pursuant to the Certificate of Designations.

Date of Conversion: _____

Applicable Conversion Rate: _____

Shares of Mandatory Convertible Preferred Stock to Be Converted: _____

Shares of Common Stock to Be Issued: * _____

Signature: _____

Name: _____

Address: ** _____

Fax No.: _____

* The Corporation is not required to issue Common Stock until the original Mandatory Convertible Preferred Stock Certificate(s) (or evidence of loss, theft or destruction thereof) to be converted are received by the Corporation or the Conversion and Dividend Disbursing Agent.

** Address where Common Stock and any other payments or certificates shall be sent by the Corporation.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned assigns and transfers the shares of Mandatory Convertible Preferred Stock evidenced hereby to:

(Insert assignee's social security or taxpayer identification number, if any)

(Insert address and zip code of assignee)

and irrevocably appoints:

as agent to transfer the shares of Mandatory Convertible Preferred Stock evidenced hereby on the books of the Transfer Agent. The agent may substitute another to act for him or her.

Date:

Signature:

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

Signature Guarantee:

(Signature must be guaranteed by an "eligible guarantor institution" that is a bank, stockbroker, savings and loan association or credit union meeting the requirements of the Transfer Agent, which requirements include membership or participation in the Securities Transfer Agents Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Transfer Agent in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.)

**6.00% SERIES A MANDATORY CONVERTIBLE PREFERRED STOCK OF
THE BOEING COMPANY**

DEPOSIT AGREEMENT

among

THE BOEING COMPANY,

**COMPUTERSHARE INC. and COMPUTERSHARE TRUST COMPANY, N.A.,
acting jointly as Depositary**

and

**THE HOLDERS FROM TIME TO TIME OF
THE DEPOSITARY RECEIPTS DESCRIBED HEREIN**

Dated as of October 31, 2024

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EXHIBIT

Exhibit A Form of Receipt	A-1
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THIS DEPOSIT AGREEMENT dated as of October 31, 2024 among (i) THE BOEING COMPANY, a Delaware corporation (the “**Corporation**”), (ii) COMPUTERSHARE INC., a Delaware corporation (“**Computershare**”), and its affiliate, COMPUTERSHARE TRUST COMPANY, N.A., a federally chartered trust company (the “**Trust Company**” and, together with Computershare, jointly the “**Depository**”) and (iii) the Record Holders from time to time of the Receipts described in this Agreement.

RECITALS

WHEREAS, the parties desire to provide, as set forth in this Agreement, for the deposit of shares of the Corporation’s 6.00% Series A Mandatory Convertible Preferred Stock, par value \$1.00 per share, from time to time with the Depository for the purposes set forth in this Agreement and for the issuance hereunder of Receipts (as defined herein) evidencing Depository Shares (as defined herein) in respect of the Mandatory Convertible Preferred Stock (as defined herein) so deposited; and

WHEREAS, the Receipts are to be substantially in the form of Exhibit A annexed hereto, with appropriate insertions, modifications and omissions, as hereinafter provided in this Agreement;

NOW, THEREFORE, in consideration of the premises, the parties hereto agree as follows:

ARTICLE 1 DEFINED TERMS

Section 1.01. *Definitions.* The following definitions shall for all purposes, unless otherwise indicated, apply to the respective terms (in the singular and plural forms of such terms) used in this Agreement:

“**Accumulated Dividend Amount**” shall have the meaning set forth in the Certificate of Designations.

“**Agreement**” shall mean this agreement as originally executed or, if amended or supplemented as provided herein, as so amended or supplemented.

“**Average VWAP**” shall have the meaning set forth in the Certificate of Designations.

“**Board of Directors**” shall mean the board of directors of the Corporation or a committee of such board duly authorized to act for it hereunder.

“**Capital Stock**” shall mean, for any entity, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) stock issued by that entity.

“**Certificate of Designations**” shall mean the Certificate of Designations establishing the Mandatory Convertible Preferred Stock as a series of preferred stock of the Corporation.

“**Certificate of Incorporation**” shall mean the Corporation’s Amended and Restated Certificate of Incorporation, as amended from time to time.

“**close of business**” shall have the meaning set forth in the Certificate of Designations.

“**Closing Sale Price**” of any security on any date shall mean the closing sale price per share (or if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) of such security on that date as reported in composite transactions for the principal U.S. national or regional securities exchange on which such security is traded. If such security is not listed for trading on a U.S. national or regional securities exchange on the relevant date, the “**Closing Sale Price**” shall be the last quoted bid price for such security in the over-the-counter market on the relevant date as reported by OTC Markets Group Inc. or a similar organization. If such security is not so quoted, the “**Closing Sale Price**” shall be the average of the mid-point of the last bid and ask prices for such security on the relevant date from each of at least three nationally recognized independent investment banking firms selected by the Corporation for this purpose.

“**Common Stock**” shall mean the common stock, par value \$5.00 per share, of the Corporation, subject to Section 13(e) of the Certificate of Designations.

“**Computershare**” shall have the meaning set forth in the Preamble of this Agreement.

“**Conversion Date**” shall have the meaning set forth in the Certificate of Designations.

“**Conversion Number**” shall have the meaning set forth in Section 2.11.

“**Corporation**” shall have the meaning set forth in the Preamble of this Agreement and shall include its successors and assigns.

“**Depository**” shall have the meaning set forth in the Preamble of this Agreement and, subject to the provisions of Section 5.04, shall include its successors and assigns.

“**Depository Shares**” shall mean the depository shares, each representing a 1/20th fractional interest in a share of the Mandatory Convertible Preferred Stock and evidenced by a Receipt.

“**Depository’s Agent**” shall mean an agent appointed by the Depository pursuant to Section 5.01.

“**Depository’s Office**” shall mean the office of the Depository at which at any particular time its depository receipt business shall be administered, which is currently in Canton, Massachusetts.

“**Dividend Payment Date**” shall have the meaning set forth in the Certificate of Designations.

“**DTC**” shall have the meaning set forth in Section 2.03.

“**DTC Receipt**” shall have the meaning set forth in Section 2.03.

“**Early Conversion Additional Conversion Amount**” shall have the meaning set forth in the Certificate of Designations.

“**Exchange Act**” shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“**Exchange Property**” shall have the meaning set forth in the Certificate of Designations.

“**Fundamental Change Dividend Make-whole Amount**” shall have the meaning set forth in the Certificate of Designations.

“**Funds**” shall have the meaning set forth in Section 2.13.

“**Mandatory Convertible Preferred Stock**” shall mean the shares of a series of the Corporation’s Preferred Stock designated as its 6.00% Series A Mandatory Convertible Preferred Stock, par value \$1.00 per share, having the rights, preferences, privileges and voting powers, including conversion, dividend, liquidation and voting rights, as set forth in the Certificate of Designations.

“**Moody’s**” shall have the meaning set forth in Section 2.13.

“**NYSE**” shall have the meaning set forth in Section 2.03.

“**Person**” shall mean an individual, a corporation, a limited liability company, an association, a partnership, a joint venture, a joint stock company, a trust, an unincorporated organization or a government or an agency or a political subdivision thereof.

“**Physical Receipt**” shall mean a definitive Receipt in physical form.

“**Receipt**” shall mean one of the depositary receipts issued hereunder, substantially in the form set forth as Exhibit A hereto, whether in the form of DTC Receipts or Physical Receipts.

“**Record Holder**” as applied to a Receipt shall mean the Person in whose name that Receipt is registered on the books of the Depositary maintained for such purpose.

“**Registrar**” shall mean Computershare Trust Company, N.A. or such other successor bank or trust company that shall be appointed by the Corporation (or, in accordance with Section 5.01, the Depositary) to register ownership and transfers of Receipts as herein provided, and, if a successor Registrar shall be so appointed, references herein to “the books” of or maintained by the Depositary shall be deemed, as applicable, to refer as well to the register maintained by such successor Registrar for such purpose.

“**Remaining Fractional Share**” shall have the meaning set forth in Section 4.02.

“**Remaining Fractional Share Amount**” shall have the meaning set forth in Section 4.02.

“**S&P**” shall have the meaning set forth in Section 2.13.

“**Securities Act**” shall mean the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“**Signature Guarantee**” shall have the meaning set forth in Section 2.03.

“**Subsidiary**” shall mean, with respect to any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of Capital Stock or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, general partners or trustees thereof is at the time owned or controlled, directly or indirectly, by (i) such Person; (ii) such Person and one or more Subsidiaries of such Person; or (iii) one or more Subsidiaries of such Person.

“**Trading Day**” shall have the meaning set forth in the Certificate of Designations.

“**Transfer Agent**” shall mean Computershare Trust Company, N.A. or any bank or trust company appointed to transfer the Receipts and the Mandatory Convertible Preferred Stock, as herein provided.

“**Trust Company**” shall have the meaning set forth in the Preamble of this Agreement.

“**Underwriters**” shall mean the several purchasers listed in Schedule A to the Underwriting Agreement.

“**Underwriting Agreement**” shall mean the underwriting agreement relating to the Depositary Shares, dated October 28, 2024, among the Corporation and Goldman Sachs & Co. LLC, BofA Securities, Inc., Citigroup Global Markets Inc. and J.P. Morgan Securities LLC, as representatives of the several Underwriters.

“**Unit of Exchange Property**” shall have the meaning set forth in the Certificate of Designations.

Capitalized terms used and not defined in this Agreement shall have the respective meanings assigned to such terms in the Certificate of Incorporation.

ARTICLE 2
ISSUE, DESCRIPTION, EXECUTION, DEPOSIT, REGISTRATION AND EXCHANGE OF RECEIPTS

Section 2.01. *Appointment of Depositary.* The Corporation hereby appoints the Depositary, and the Depositary hereby accepts such appointment, as depositary for the Mandatory Convertible Preferred Stock, on the express terms and conditions set forth in this Agreement (and no implied terms or conditions).

Section 2.02. *Rights, Preferences, Privileges and Voting Powers.* Subject to the terms of this Agreement, each Record Holder of a Receipt is entitled, proportionately, to all the rights, preferences, privileges and voting powers of the Mandatory Convertible Preferred Stock represented by the Depositary Shares evidenced by such Receipt (including the conversion, dividend, voting, and liquidation rights contained in the Certificate of Incorporation) and the same proportionate interest in any and all other property received by the Depositary in respect of such Mandatory Convertible Preferred Stock and held under this Agreement.

Section 2.03. *Book-Entry System; Form and Transfer of Receipts.* The Corporation and the Depositary shall make application to The Depository Trust Company (“**DTC**”) for acceptance of all of the Receipts for its book-entry settlement system. The Corporation hereby appoints the Depositary acting through any authorized officer thereof as its attorney-in-fact, with full power to delegate, for purposes of executing any agreements, certifications or other instruments or documents necessary or desirable in order to effect the acceptance of such Receipts for DTC eligibility. So long as the Receipts are eligible for book-entry settlement with DTC, unless otherwise required by law, all Depositary Shares with book-entry settlement through DTC shall be represented by a receipt or receipts (the “**DTC Receipt**”), which shall be deposited with DTC (or its designee) evidencing all such Depositary Shares and registered in the name of the nominee of DTC (initially Cede & Co.). The Depositary or such other entity as is agreed to by DTC may hold the DTC Receipt as custodian for DTC. Ownership of beneficial interests in the DTC Receipt shall be shown on, and the transfer of such ownership shall be effected through, records maintained by (a) DTC or its nominee for such DTC Receipt or (b) institutions that have accounts with DTC. The DTC Receipt shall bear such legend or legends as may be required by DTC in order for it to accept the Depositary Shares for its book-entry settlement system. The aggregate number of Depositary Shares evidenced by Receipts that may be executed and delivered under this Agreement is initially limited to 115,000,000, except for Receipts executed and delivered in respect of Depositary Shares upon registration of transfer of, or in exchange for, or in lieu of other Receipts pursuant to this Section 2.03, Section 2.06, Section 2.07, Section 2.09, Section 2.11 or Section 4.06.

The DTC Receipt shall be exchangeable for Physical Receipts only if (i) DTC notifies the Corporation that it is unwilling or unable to continue as a clearing system in connection with the Receipts or (ii) DTC ceases to be a clearing agency registered under the Exchange Act and, in each case, a successor clearing system is not appointed by the Corporation within 90 days of the Corporation receiving such notice or becoming aware that DTC is no longer so registered, as applicable. The Corporation shall provide written notice to the Depositary upon receipt of notice

of the occurrence of any event described in clause (i) or clause (ii) of the preceding sentence. Until such written notice is received by the Depository, the Depository may presume conclusively for all purposes that the events described in clause (i) and clause (ii) of the first sentence of this paragraph have not occurred. If the beneficial owners of interests in Depository Shares are entitled to exchange such interests for Physical Receipts as the result of an event described in clause (i) or clause (ii) of the first sentence of this paragraph, then without unnecessary delay, the Depository is hereby directed and shall provide written instructions to DTC to deliver the DTC Receipt to the Depository for cancellation, and, without unnecessary delay, the Corporation shall instruct the Depository in writing to deliver to the beneficial owners of the Depository Shares previously evidenced by the DTC Receipt Physical Receipts evidencing such Depository Shares.

Physical Receipts issued in exchange for all or a part of the DTC Receipt pursuant to this Section 2.03 shall be registered in such names and in such authorized denominations as DTC, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Depository. Upon execution and authentication, the Depository shall deliver such Physical Receipts to the Persons or entities in whose names such Physical Receipts are so registered.

At such time as all interests in a DTC Receipt have been converted, canceled, surrendered or transferred, such DTC Receipt shall be, upon receipt thereof, canceled by the Depository in accordance with standing procedures and existing instructions between DTC and DTC's custodian. At any time prior to such cancellation, if any interest in a DTC Receipt is exchanged for Physical Receipts, converted, canceled, surrendered or transferred to a transferee who receives Physical Receipts therefor or any Physical Receipt is exchanged or transferred for part of such DTC Receipt, the number of Depository Shares evidenced by such DTC Receipt shall, in accordance with the standing procedures and instructions existing between DTC and DTC's custodian, be appropriately reduced or increased, as the case may be, and an endorsement shall be made on such DTC Receipt, by the Depository or DTC's custodian, at the direction of the Depository, to reflect such reduction or increase.

Beneficial owners of Depository Shares through DTC shall not receive or be entitled to receive Physical Receipts or be entitled to have Depository Shares registered in their name, except as described in the third immediately preceding paragraph, in which case the provisions set forth in such paragraph and the second immediately succeeding paragraph regarding the issuance of Physical Receipts shall apply.

Receipts shall be in denominations of any number of whole Depository Shares. The Corporation shall deliver to the Depository from time to time such quantities of Receipts as the Depository may request to enable the Depository to perform its obligations under this Agreement.

The DTC Receipt and Physical Receipts, if any, shall be substantially in the form set forth in Exhibit A annexed to this Agreement and incorporated herein by reference, with appropriate insertions, modifications and omissions, as hereinafter provided and shall be engraved or otherwise prepared so as to comply with the applicable rules of The New York

Stock Exchange (the “NYSE”) or any other securities exchange on which the Depositary Shares are then listed, if applicable. In the event the DTC Receipt becomes exchangeable for Physical Receipts as provided in this Section 2.03, the Depositary, pending preparation of Physical Receipts and upon the written order of the Corporation, delivered in compliance with Section 2.04, shall execute and deliver temporary Receipts, which may be printed, lithographed or otherwise substantially of the tenor of the Physical Receipts in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the Persons executing such Receipts may determine, as evidenced by their execution of such Receipts. If temporary Receipts are issued, the Corporation and the Depositary will cause Physical Receipts to be prepared without unreasonable delay. After the preparation of Physical Receipts, the temporary Receipts shall be exchangeable by the Record Holder for Physical Receipts upon surrender of the temporary Receipts at the Depositary’s Office or such other place or places as the Depositary shall determine pursuant to the second paragraph of Section 2.04, without charge to the Record Holder. Upon surrender for cancellation of any one or more temporary Receipts, the Depositary is hereby authorized and instructed to, and shall, execute and deliver in exchange therefor Physical Receipts representing the same number of Depositary Shares as represented by the surrendered temporary Receipt or Receipts, provided that the Depositary has been provided with all necessary information that it may request in order to execute and deliver such Physical Receipt or Receipts. Such exchange shall be made at the Corporation’s expense and without any charge therefor to the Record Holder or the Depositary. Until so exchanged, the temporary Receipts shall in all respects be entitled to the same benefits under this Agreement as Physical Receipts.

Receipts shall be executed by the Depositary by the manual, electronic or facsimile signature of a duly authorized officer thereof; *provided* that if a Registrar for the Receipts (other than the Depositary) shall have been appointed then such Receipts shall be countersigned by manual, electronic or facsimile signature of a duly authorized officer of the Registrar. No Receipt shall be entitled to any benefits under this Agreement or be valid or obligatory for any purpose unless it shall have been executed as provided in the preceding sentence. The Depositary shall record on its books each Receipt so signed and delivered as hereinafter provided. Receipts bearing the manual, electronic or facsimile signature of a duly authorized signatory of the Depositary who was at any time a proper signatory of the Depositary shall bind the Depositary, notwithstanding that such signatory ceased to hold such office prior to the execution and delivery of such Receipts by the Registrar or did not hold such office on the date of issuance of such Receipts.

Receipts may be endorsed with, or have incorporated in the text thereof, such legends or recitals or changes not inconsistent with the provisions of this Agreement (but which do not affect the rights, duties, obligations or immunities of the Depositary), all as may be reasonably required by the Depositary and approved by the Corporation or which the Corporation has determined are required to comply with any applicable law or any regulation thereunder or with the rules and regulations of the NYSE or any other securities exchange upon which the Mandatory Convertible Preferred Stock, the Depositary Shares or the Receipts may be listed or to conform with any usage with respect thereto, or to indicate any special limitations or restrictions to which any particular Receipts are subject.

Title to Depositary Shares evidenced by a Receipt that is properly endorsed, or accompanied by a properly executed instrument of transfer accompanied by a guarantee of the signature thereon by a guarantor institution that is a participant in a signature guarantee program approved by the Securities Transfer Association at a guarantee level acceptable to the Transfer Agent (a “**Signature Guarantee**”) or endorsement, shall be transferable by delivery with the same effect as in the case of a negotiable instrument; *provided, however*, that until transfer of any particular Receipt shall be registered on the books of the Depositary as provided in Section 2.06, the Depositary may, notwithstanding any notice to the contrary, treat the Record Holder thereof at such time as the absolute owner thereof (x) for the purpose of determining the Person (i) entitled to distributions of dividends or other distributions of securities, cash or other property or payments with respect to the Mandatory Convertible Preferred Stock, (ii) entitled to exercise any voting or conversion rights with respect to the Mandatory Convertible Preferred Stock and (iii) entitled to receive any notice provided for in this Agreement and (y) for all other purposes.

Section 2.04. *Deposit of Mandatory Convertible Preferred Stock; Execution and Delivery of Receipts.* Subject to the terms and conditions of this Agreement, the Corporation may from time to time deposit shares of Mandatory Convertible Preferred Stock under this Agreement by delivery to the Depositary of a certificate or certificates for such shares of Mandatory Convertible Preferred Stock to be deposited, properly endorsed or accompanied, if required by the Depositary, by a duly executed instrument of transfer or endorsement, in form satisfactory to the Depositary, together with:

(a) all such certifications as may be required by the Depositary in accordance with the provisions of this Agreement, including the resolutions of the Board of Directors, as certified by the Secretary or any Assistant Secretary of the Corporation on the date thereof as being complete, accurate and in effect, relating to the issuance and sale of the Mandatory Convertible Preferred Stock;

(b) a letter of counsel to the Corporation authorizing reliance by the Depositary on such counsel’s opinions delivered to the Underwriters pursuant to the terms of the Underwriting Agreement as to (i) the existence and good standing of the Corporation, (ii) the due authorization of the Depositary Shares and the status of the Depositary Shares as validly issued, fully paid and non-assessable and (iii) the effectiveness of any registration statement under the Securities Act relating to the offering and sale of the Mandatory Convertible Preferred Stock and the offering and sale of the Depositary Shares; and

(c) a written order of the Corporation, directing the Depositary to execute and deliver to the Person or Persons stated in such order a Receipt or Receipts for the number of Depositary Shares representing such deposited Mandatory Convertible Preferred Stock.

Deposited Mandatory Convertible Preferred Stock shall be held by the Depositary at the Depositary's Office or at such other place or places as the Depositary shall determine.

Upon receipt by the Depositary of a certificate or certificates for Mandatory Convertible Preferred Stock deposited in accordance with the provisions of this Section 2.04, together with the other documents required as above specified, and upon recordation of the Mandatory Convertible Preferred Stock on the books of the Corporation (or its duly appointed transfer agent) in the name of the Depositary or its nominee, the Depositary, subject to the terms and conditions of this Agreement, shall execute and deliver to, or upon the order of, the Person or Persons named in the written order delivered to the Depositary referred to in the first paragraph of this Section 2.04, a Receipt or Receipts evidencing in the aggregate the number of Depositary Shares representing the Mandatory Convertible Preferred Stock so deposited and registered in such name or names as may be requested by such Person or Persons. The Depositary shall execute and deliver such Receipt or Receipts at the Depositary's Office or, at the request of such Person or Persons, such other offices, if any, as the Depositary may designate. Delivery at other offices shall be at the risk and expense of the Person or Persons requesting such delivery.

Section 2.05. *No Redemption of Mandatory Convertible Preferred Stock.* The Mandatory Convertible Preferred Stock shall not be subject to redemption by the Corporation.

Section 2.06. *Registration of Transfer of Receipts.* Subject to the express terms and conditions of this Agreement, the Depositary shall register on its books from time to time transfers of Receipts upon any surrender thereof by a Record Holder in person or by its duly authorized attorney, properly endorsed or accompanied by a properly executed instrument of transfer, including a Signature Guarantee and any other reasonable evidence of authority that may be required by the Transfer Agent, together with (if applicable) evidence of the payment of any taxes or charges as may be required by law. Thereupon, the Depositary shall, without unreasonable delay, execute a new Receipt or Receipts evidencing the same aggregate number of Depositary Shares as those evidenced by the Receipt or Receipts surrendered and deliver such new Receipt or Receipts to or upon the order of the Person entitled thereto.

Section 2.07. *Split-ups and Combinations of Receipts; Surrender of Receipts and Withdrawal of Mandatory Convertible Preferred Stock.* Upon surrender of a Receipt or Receipts at the Depositary's Office or at such other offices as it may designate for the purpose of effecting a split-up, adjustment or combination of such Receipt or Receipts, and the receipt by the Depositary of all other necessary information and documents, and subject to the terms and conditions of this Agreement, the Depositary shall execute a new Receipt or Receipts in the authorized denomination or denominations requested, evidencing the aggregate number of Depositary Shares evidenced by the Receipt or Receipts surrendered, and shall deliver such new Receipt or Receipts to or upon the order of the Record Holder of the Receipt or Receipts so surrendered.

Any Record Holder of a Receipt or Receipts may withdraw the number of whole shares of Mandatory Convertible Preferred Stock and all money and/or other property represented thereby by (x) in the case of Physical Receipt(s), surrendering such Receipt(s), or Depository Shares represented by the Receipts, at the Depository's Office or at such other offices as the Depository may designate for such withdrawals and (y) in the case of a DTC Receipt, by complying with the appropriate DTC procedures for such withdrawal. Thereafter, without unreasonable delay (provided that the Depository has been provided with all necessary documentation), the Depository shall deliver to such Record Holder, or to the Person or Persons designated by such Record Holder as hereinafter provided, the number of whole shares of Mandatory Convertible Preferred Stock and all money and/or other property represented by such Receipt(s), or Depository Shares represented by such Receipt(s), representing the Mandatory Convertible Preferred Stock subject to withdrawal, but Record Holders of such whole shares of Mandatory Convertible Preferred Stock shall not thereafter be entitled to deposit such Mandatory Convertible Preferred Stock hereunder or to receive a Receipt evidencing Depository Shares therefor. If a Physical Receipt delivered by the Record Holder to the Depository in connection with such withdrawal shall evidence a number of Depository Shares in excess of the number of Depository Shares representing the number of whole shares of Mandatory Convertible Preferred Stock to be withdrawn, the Depository shall at the same time, in addition to such number of whole shares of Mandatory Convertible Preferred Stock and such money and/or other property to be so withdrawn, deliver to such Record Holder, or subject to Section 2.06 upon its order, a new Physical Receipt evidencing such excess number of Depository Shares; *provided, however*, that such Physical Receipt shall only represent a whole number of Depository Shares and the Depository shall not issue any Physical Receipt evidencing a fractional Depository Share.

Delivery of the Mandatory Convertible Preferred Stock and money and/or other property being withdrawn may be made by the delivery of such certificates, documents of title and other instruments as the Depository may deem appropriate, which, if required by the Depository, shall be properly endorsed or accompanied by proper instruments of transfer including, but not limited to, a Signature Guarantee.

If the Mandatory Convertible Preferred Stock and the money and/or other property being withdrawn are to be delivered to a Person or Persons other than the Record Holder of the related Receipt or Receipts being surrendered for withdrawal of such Mandatory Convertible Preferred Stock, such Record Holder shall execute and deliver to the Depository a written order so directing the Depository, and the Depository may require that the Physical Receipt(s) surrendered by such Record Holder for withdrawal of such shares of Mandatory Convertible Preferred Stock be properly endorsed in blank or accompanied by a properly executed instrument of transfer in blank.

Delivery of the Mandatory Convertible Preferred Stock and the money and/or other property represented by Receipts surrendered for withdrawal shall be made by the Depository at the Depository's Office or at the office or offices of the Depository designated for such purpose from time to time in writing to the Corporation and all Record Holders, except that, at the request, risk and expense of the Record Holder surrendering such Receipt or Receipts and for the account of the Record Holder thereof, such delivery may be made at such other place as may be designated by such Record Holder.

A Record Holder who withdraws shares of Mandatory Convertible Preferred Stock and any such money and/or other property shall not be required to pay any taxes or duties relating to the issuance or delivery of such shares of Mandatory Convertible Preferred Stock and any such money and/or other property, except that such Record Holder shall be required to pay any tax or duty that may be payable relating to any transfer involved in the issuance or delivery of such shares of Mandatory Convertible Preferred Stock and any such money and/or other property in a name other than the name of such Record Holder.

Section 2.08. *Limitations on Execution and Delivery, Transfer, Surrender and Exchange of Receipts.* As a condition precedent to the execution and delivery, registration of transfer, split-up, adjustment, combination, surrender or exchange of any Receipt, any of the Depositary, any Depositary's Agent and the Corporation may require (a) payment to it of a sum sufficient for the payment (or, in the event that the Depositary or the Corporation shall have made such payment, the reimbursement to it) of any charges, taxes or expenses payable by the Record Holder of a Receipt pursuant to Sections 3.02 and 5.07 (including any such tax or charge with respect to the shares of Mandatory Convertible Preferred Stock being deposited or withdrawn), (b) the production of evidence satisfactory to it as to the identity and genuineness of any signature, including a Signature Guarantee, or any other reasonable evidence of authority that may be required by the Depositary, or (c) compliance with such regulations, if any, as the Depositary or the Corporation may establish consistent with the provisions of this Agreement and applicable law.

The deposit of the Mandatory Convertible Preferred Stock may be refused, the delivery of Receipts against Mandatory Convertible Preferred Stock may be suspended, the registration of transfer of Receipts may be refused and the registration of transfer, surrender or exchange of outstanding Receipts may be suspended (i) during any period when the register of stockholders of the Corporation is closed or (ii) if any such action is deemed reasonably necessary or advisable by any of the Depositary, any of the Depositary's Agents and the Corporation at any time or from time to time because of any requirement of law or of any government or governmental body or commission or under any provision of this Agreement.

Section 2.09. *Lost Receipts, etc.* In case any Receipt shall be mutilated, destroyed, lost or stolen, and absent notice to the Depositary that such Receipt has been acquired by a *bona fide* purchaser, the Depositary shall execute and deliver a Receipt of like form and tenor in exchange and substitution for such mutilated Receipt upon cancellation thereof, or in lieu of and in substitution for such destroyed, lost or stolen Receipt, upon (a) the filing by the Record Holder thereof with the Depositary of evidence satisfactory to the Depositary of such destruction or loss or theft of such Receipt, of the authenticity thereof and of his or her ownership thereof; (b) the Record Holder thereof furnishing the Depositary with indemnification reasonably satisfactory to the Depositary and the provision of an open penalty surety bond reasonably satisfactory to the Depositary and holding it and the Corporation harmless; and (c) the payment of any reasonable expense (including reasonable fees, charges and expenses of the Depositary) in connection with such execution and delivery.

Section 2.10. *Cancellation and Destruction of Surrendered Receipts.* All Receipts surrendered to the Depositary or any Depositary's Agent, including Receipts surrendered in connection with any conversion of the Mandatory Convertible Preferred Stock into Common Stock in accordance with the Certificate of Incorporation, shall be cancelled by the Depositary. Except as prohibited by applicable law or regulation, the Depositary is authorized and directed to destroy all Receipts so cancelled.

Section 2.11. *Conversion at the Option of Holders.* Subject to the terms and conditions of this Agreement, the Record Holder of any Receipt may, at any time that Mandatory Convertible Preferred Stock may be converted pursuant to Section 8 or 9 of the Certificate of Designations, by (x) in the case of a Physical Receipt, surrendering such Physical Receipt at the Depositary's Office or such other office as the Depositary may from time to time designate for such purpose together with a notice of conversion properly completed and duly executed and a proper assignment of such Receipt to the Corporation or the Transfer Agent or in blank to the Depositary or any of the Depositary's Agents, and (y) in the case of a DTC Receipt, complying with the procedures of DTC in effect at that time, in each case, thereby instructing the Depositary to cause the conversion of a specified number (the "**Conversion Number**") of whole shares of Mandatory Convertible Preferred Stock represented by the Depositary Shares evidenced by such Receipt in accordance with the Certificate of Incorporation, and specifying the name in which such Record Holder desires the Common Stock issuable upon conversion (including in respect of any Early Conversion Additional Conversion Amount, any Fundamental Change Dividend Make-whole Amount and any Accumulated Dividend Amount, in each case, in accordance with the Certificate of Incorporation) to be registered and specifying payment instructions. Depositary Shares may be converted at the option of the Record Holder of any Receipt only in lots of 20 Depositary Shares or integral multiples thereof. The Depositary shall be deemed to have no knowledge of the Conversion Number unless and until it shall have actually received written notice thereof from the Corporation, and shall have no duty or obligation to investigate or inquire as to whether any Conversion Number contained in any such written notice is accurate, or whether it complies with the Certificate of Incorporation. If specified by the Record Holder in such notice of conversion that Common Stock issuable upon conversion of the Depositary Shares shall be issued to a Person other than the Record Holder surrendering the Receipt for the Depositary Shares being converted, then the Record Holder shall pay or cause to be paid any transfer or similar taxes payable in connection with the Common Stock or other securities so issued that are not payable by the Corporation pursuant to the Certificate of Incorporation or Section 3.02. In addition, the Record Holder shall provide any other transfer forms, tax forms or other relevant documentation required and specified by the Transfer Agent for the Mandatory Convertible Preferred Stock, if necessary, to effect the conversion.

Upon fulfillment of the requirements in the foregoing paragraph, the Depositary is hereby authorized and instructed to, and shall, as promptly as practicable, (a) give written notice to the Transfer Agent of (i) the Conversion Number (as specified in writing by the Corporation), (ii) the number of shares of Common Stock to be delivered upon conversion of such Conversion Number of shares of Mandatory Convertible Preferred Stock (including in respect of any Early Conversion Additional Conversion Amount, any Fundamental Change Dividend Make-whole

Amount and any Accumulated Dividend Amount, in each case, in accordance with the Certificate of Incorporation) (as specified in writing by the Corporation), (iii) the amount of immediately available funds (as specified in writing by the Corporation), if any, to be delivered to the Record Holder of such Receipts in payment of any fractional shares of Common Stock otherwise issuable upon conversion of such Conversion Number of shares of Mandatory Convertible Preferred Stock and (iv) the amount of cash (as specified in writing by the Corporation), if any, to be delivered to the Record Holder of such Receipts in respect of any Fundamental Change Dividend Make-whole Amount and any Accumulated Dividend Amount, in each case, payable by the Corporation upon conversion of such Conversion Number of shares of Mandatory Convertible Preferred Stock pursuant to the Certificate of Incorporation, (b) cancel such Receipt or, if a Registrar for Receipts (other than the Depository) shall have been appointed, cause such Registrar to cancel such Receipt, and (c) surrender to the Transfer Agent or any other authorized agent of the Corporation for conversion, in accordance with the Certificate of Incorporation (as specified in writing by the Corporation), certificates for the Mandatory Convertible Preferred Stock represented by Depository Shares as evidenced by such Receipt, together with delivery to the Corporation or the appropriate agent of the Corporation (pursuant to written instructions from the Corporation) any other information or payment required by the Certificate of Incorporation (as specified in writing by the Corporation) for such conversion, and such certificates shall thereupon be canceled by the Transfer Agent or other authorized agent. The Depository shall have no duty or obligation to investigate or inquire as to whether the Corporation provided it with the correct number of shares of Common Stock to be delivered upon any conversion of the Mandatory Convertible Preferred Stock (including in respect of any Early Conversion Additional Conversion Amount, any Fundamental Change Dividend Make-whole Amount and any Accumulated Dividend Amount), or the correct amount of cash to be delivered in payment of any fractional shares of Common Stock otherwise issuable or in respect of any cash payable by the Corporation upon any conversion of the Mandatory Convertible Preferred Stock (including in respect of any Fundamental Change Dividend Make-whole Amount and any Accumulated Dividend Amount), and the Depository may rely conclusively on any such information provided by the Corporation.

As promptly as practicable after the Transfer Agent or other authorized agent of the Corporation has received such certificates from the Depository, (a) the Corporation shall cause to be furnished to the Depository (i) a certificate or certificates evidencing such number of shares of Common Stock to be delivered upon conversion of the Conversion Number of shares of Mandatory Convertible Preferred Stock (including in respect of any Early Conversion Additional Conversion Amount, any Fundamental Change Dividend Make-whole Amount and any Accumulated Dividend Amount, in each case, in accordance with the Certificate of Incorporation), (ii) such amount of immediately available funds, if any, to be delivered in respect of any Fundamental Change Dividend Make-whole Amount and any Accumulated Dividend Amount, in each case, payable by the Corporation upon conversion of such shares of Mandatory Convertible Preferred Stock pursuant to the Certificate of Incorporation, and (iii) such amount of immediately available funds, if any, to be delivered in lieu of receiving fractional shares of Common Stock, as specified in a written notice from the Corporation and (b) the Depository is

hereby authorized and instructed to, and shall, deliver at the Depository's Office, (i) a certificate or certificates evidencing the number of shares of Common Stock (including in respect of any Early Conversion Additional Conversion Amount, any Fundamental Change Dividend Make-whole Amount and any Accumulated Dividend Amount, in each case, in accordance with the Certificate of Incorporation) into which the Mandatory Convertible Preferred Stock represented by Depositary Shares as evidenced by such Receipt has been converted, (ii) the amount of cash payable by the Corporation upon such conversion of such Mandatory Convertible Preferred Stock in respect of any Fundamental Change Dividend Make-whole Amount and any Accumulated Dividend Amount, in each case, pursuant to the Certificate of Incorporation and (iii) the amount of cash payable by the Corporation upon such conversion of such Mandatory Convertible Preferred Stock in lieu of delivering fractional shares of Common Stock, in each case, as specified in writing by the Corporation and that has been provided by the Corporation.

In the event that a Record Holder of a surrendered Receipt elects to convert fewer than all Depositary Shares evidenced by such Receipt under this Section 2.11, upon such conversion, the Depository shall, if requested in writing and provided with all necessary information and documents, authenticate, countersign and deliver to such Record Holder thereof, at the expense of the Corporation, a new Receipt evidencing the Depositary Shares as to which such conversion was not effected.

Delivery of Common Stock following a conversion pursuant to this Section 2.11 may be made by the delivery of such certificates, documents of title and other instruments as the Depository may deem appropriate, which, if required by the Depository, shall be properly endorsed or accompanied by proper instruments of transfer. If such delivery is to be made otherwise than at the Depository's Office or at the office or offices of the Depository designated for such purpose from time to time in writing to the Corporation and all Record Holders, such delivery shall be made, as hereinafter provided, without unreasonable delay, at the risk of any Record Holder surrendering Receipts, and for the account of such Record Holder, to such place designated in writing by such Record Holder and agreed by the Depository.

For purposes of this Section 2.11 and Section 4.02, if the Common Stock has been replaced by Exchange Property as a result of any transaction as described in Section 13(e) of the Certificate of Designations, references to Common Stock will be deemed to be references to a Unit of Exchange Property that a holder of one share of Common Stock would have been entitled to receive in such transaction as determined pursuant to Section 13(e) of the Certificate of Designations.

Section 2.12. *No Pre-Release.* The Depository shall not deliver any deposited Mandatory Convertible Preferred Stock represented by Depositary Shares evidenced by Receipts prior to the receipt and cancellation of such Receipts or other similar method used with respect to Receipts held by DTC. The Depository shall not issue any Receipts prior to the receipt by the Depository of the Mandatory Convertible Preferred Stock corresponding to Depositary Shares evidenced by such Receipts. At no time will any Receipts be outstanding if such Receipts do not evidence Depositary Shares representing Mandatory Convertible Preferred Stock deposited with the Depository, subject to the rights of holders to receive distributions upon conversion of the deposited Mandatory Convertible Preferred Stock pursuant to Section 4.01 or Section 4.02.

Section 2.13. *Receipt of Funds.* All funds received by Computershare under this Agreement that are to be distributed or applied by Computershare in the performance of its services hereunder (the “**Funds**”) shall be held by Computershare as agent for the Corporation and deposited in one or more bank accounts to be maintained by Computershare in its name as agent for the Corporation. Until paid pursuant to this Agreement, Computershare may hold or invest the Funds through such accounts in: (i) obligations of, or guaranteed by, the United States of America, (ii) commercial paper obligations rated A-1 or P-1 or better by Standard & Poor’s Corporation (“**S&P**”) or Moody’s Investors Service, Inc. (“**Moody’s**”), respectively, (iii) money market funds that comply with Rule 2a-7 of the Investment Company Act of 1940, or (iv) demand deposit accounts, short term certificates of deposit, bank repurchase agreements or bankers’ acceptances, of commercial banks with Tier 1 capital exceeding \$1 billion or with an average rating above investment grade by S&P (LT Local Issuer Credit Rating), Moody’s (Long Term Rating) and Fitch Ratings, Inc. (LT Issuer Default Rating) (each as reported by Bloomberg Finance L.P.). Computershare shall not bear responsibility or liability for any diminution of the Funds that may result from any deposit or investment made by Computershare in accordance with this paragraph, including any losses resulting from a default by any bank, financial institution or other third party. For the avoidance of doubt, this Section 2.13 shall not apply to any obligations and liabilities of the Corporation under this Agreement to Record Holders of Receipts. Computershare may from time to time receive interest, dividends or other earnings in connection with such deposits or investments. Computershare shall not be obligated to pay such interest, dividends or earnings to the Corporation, any Record Holder or any other party.

ARTICLE 3
CERTAIN OBLIGATIONS OF RECORD HOLDERS OF RECEIPTS AND OF THE CORPORATION

Section 3.01. *Filing Proofs; Certificates and Other Information.* Any Record Holder of a Receipt may be required from time to time to file proof of residence, or other matters or other information, to execute certificates and to make such representations and warranties as the Depository or the Corporation may reasonably deem necessary or proper. The Depository or the Corporation may withhold the delivery, or delay the registration of transfer or exchange, of any Receipt or the withdrawal of the Mandatory Convertible Preferred Stock represented by the Depository Shares and evidenced by a Receipt or the distribution of any dividend or other distribution or the sale of any rights or of the proceeds thereof until such proof or other information is filed or such certificates are executed or such representations and warranties are made.

Section 3.02. *Payment of Taxes or Other Governmental Charges.* Record Holders of Receipts shall be obligated to make payments to the Depository of certain fees, charges and expenses, as provided in Section 5.07. Registration of transfer of any Receipt or any withdrawal of Mandatory Convertible Preferred Stock and all money and/or other property represented by the Depository Shares evidenced by such Receipt may be refused until any such payment due is made or satisfactory evidence is provided by such Record Holder to the Depository that such fees, charges and expenses have been paid, and any dividends, interest payments or other distributions may be withheld or any part of or all the Mandatory Convertible Preferred Stock represented by the Depository Shares evidenced by such Receipt and not theretofore sold may be sold for the account of the Record Holder thereof (after attempting by reasonable means to notify such Record Holder prior to such sale), and such dividends, interest payments or other distributions or the proceeds of any such sale may be applied to any payment of such charges or expenses, the Record Holder of such Receipt remaining liable for any deficiency.

Section 3.03. *Warranty as to Mandatory Convertible Preferred Stock.* The Corporation hereby represents and warrants that the Mandatory Convertible Preferred Stock, when issued, will be duly authorized, validly issued, fully paid and nonassessable. Such representation and warranty shall survive the deposit of the Mandatory Convertible Preferred Stock and the issuance of the related Receipts.

Section 3.04. *Warranty as to Receipts.* The Corporation hereby represents and warrants that the Receipts, when issued in accordance with this Agreement, will represent legal and valid interests in the Mandatory Convertible Preferred Stock. Such representation and warranty shall survive the deposit of the Mandatory Convertible Preferred Stock and the issuance of the Receipts.

Section 3.05. *Listing.* The Corporation hereby covenants and agrees that it will apply to list the Depository Shares on the NYSE. If the Depository Shares are listed on the NYSE, the Corporation covenants and agrees to use its reasonable best efforts to keep the Depository Shares listed on the NYSE (or any of its successors).

ARTICLE 4 THE DEPOSITED SECURITIES; NOTICES

Section 4.01. *Cash Distributions.* Whenever the Depository shall receive any cash dividend or other cash distribution on the Mandatory Convertible Preferred Stock, the Depository shall, subject to Sections 3.01 and 3.02 and, if received, in accordance with written instructions from the Corporation, distribute to Record Holders of Receipts on the record date fixed pursuant to Section 4.04 such amounts of such dividend or distribution as are, as nearly as practicable, in proportion to the respective number of Depository Shares evidenced by the Receipts held by such Record Holders; *provided, however,* that in case the Corporation or the Depository shall be required to withhold, and shall withhold, from any cash dividend or other cash distribution in respect of the Mandatory Convertible Preferred Stock an amount on account of taxes, the amount of cash made available for distribution or distributed in respect of Depository Shares shall be reduced accordingly, and such withheld cash shall be treated for all purposes of this Agreement as having been paid to the Record Holder of Receipts in respect of which the Corporation or the

Depository, as the case may be, made such withholding. In the event that the calculation of any such cash dividend or other cash distribution to be paid to any Record Holder on the aggregate number of Depository Shares held by such Record Holder results in an amount that is a fraction of a cent and that fraction of a cent is equal to or greater than \$0.005, the amount the Depository shall distribute to such Record Holder shall be rounded up to the next highest whole cent; otherwise, such fractional amount shall be disregarded by the Depository; *provided, however*, that the Corporation shall pay the additional amount to the Depository for distribution.

Each Record Holder of a Receipt shall provide the Depository with its certified tax identification number on a properly completed Form W-8 or W-9, as may be applicable. Each Record Holder of a Receipt acknowledges that, in the event of non-compliance with the preceding sentence, the Internal Revenue Code of 1986, as amended, may require withholding or backup withholding by the Depository of a portion of any of the distributions to be made hereunder.

Section 4.02. *Distributions Other than Cash, Rights, Options or Privileges.* Whenever the Depository shall receive any distribution other than cash, rights, options or privileges upon the Mandatory Convertible Preferred Stock, the Depository shall, at the direction of the Corporation (which the Corporation shall provide), subject to Sections 3.01 and 3.02, distribute to Record Holders of Receipts on the record date fixed pursuant to Section 4.04 such amounts of the securities or property received by it as are, as nearly as practicable, in proportion to the respective numbers of Depository Shares evidenced by such Receipts held by such Record Holders, in any manner that the Depository may deem equitable and practicable for accomplishing such distribution, including, without limitation, through book-entry transfer through DTC in the case of DTC Receipts; *provided* that, in case the Depository shall be required to withhold from any distribution in respect of the Mandatory Convertible Preferred Stock an amount on account of taxes, the amount of property or securities made available for distribution or distributed in respect of Depository Shares shall be reduced as necessary to permit any withholding, and such withheld property may be disposed of by the Depository, without any further consent or direction from the Corporation, in such manner as the Depository reasonably deems necessary and practicable to pay such taxes and shall be treated for all purposes of this Agreement as having been paid to the Record Holder of the Receipt in respect of which the Depository made such withholding. The provisions of the immediately preceding sentence shall apply to any distribution by the Depository of shares of Common Stock deliverable to the Record Holders as a result of the conversion of the Mandatory Convertible Preferred Stock into shares of Common Stock in accordance with the terms of the Certificate of Incorporation (including, without limitation, upon mandatory conversion of such Mandatory Convertible Preferred Stock); *provided* that, in such case, the distribution of shares of Common Stock shall be made to Record Holders as of the close of business on the relevant Conversion Date. If, in the opinion of the Depository, after consultation with the Corporation, such distribution cannot be made proportionately among such Record Holders in accordance with the direction of the Corporation (which the Corporation shall provide), or if for any other reason (including any requirement that the Corporation or the Depository withhold an amount on account of taxes or governmental charges) the Depository deems, after consultation with the Corporation, such distribution not to

be feasible, then the Depositary may, with the approval of the Corporation, adopt such method as it deems equitable and practicable for the purpose of effecting such distribution, including the sale (at public or private sale) of the securities or property thus received, or any part thereof, in a commercially reasonable manner. The net proceeds of any such sale shall, subject to Sections 3.01 and 3.02, be distributed or made available for distribution, as the case may be, by the Depositary to Record Holders of Receipts as provided by Section 4.01 in the case of a distribution received in cash. The Corporation shall not make any distribution of such securities or property to the Depositary, and the Depositary shall not make any distribution of such securities or property to the Record Holders of Receipts, unless the Corporation shall have provided an opinion of counsel stating that such distribution of securities or property has been registered under the Securities Act or does not need to be so registered in connection therewith.

In the event of a distribution of securities, whether upon mandatory conversion of the Mandatory Convertible Preferred Stock into Common Stock or otherwise, fractional shares of such securities shall not be distributed to the Record Holders. Instead, a Record Holder that otherwise would have been entitled to receive a fraction of a security will receive an amount in cash, rounded to the nearest cent, equal to such Record Holder's proportionate interest in the net proceeds from the sale in the open market by the Depositary, or an agent of the Depositary or other entity as so instructed in writing by the Corporation, on behalf of all such Record Holders, of the aggregate fractional shares of the securities that would otherwise have been issued, unless (i) the distribution of securities in question is the Corporation's issuance of the shares of Common Stock upon conversion of the Mandatory Convertible Preferred Stock, in which case such Record Holder will be entitled to receive an amount in cash (computed to the nearest cent) equal to the product of (x) that same fraction and (y) the Average VWAP per share of Common Stock over the five consecutive Trading Day period ending on, and including, the second Trading Day immediately preceding the relevant Conversion Date; *provided* that if more than one share of the Mandatory Convertible Preferred Stock is surrendered for, or subject to, conversion at one time by or for the same Record Holder, the number of shares of Common Stock issuable upon conversion thereof shall be computed on the basis of the aggregate number of shares of the Mandatory Convertible Preferred Stock so surrendered for, or subject to, conversion or (ii) the distribution of securities in question is the Corporation's issuance of shares of Common Stock in payment or partial payment of a dividend on the Mandatory Convertible Preferred Stock, in which case such Record Holder will be entitled to receive an amount in cash (computed to the nearest cent) equal to the product of (x) that same fraction and (y) the Average VWAP per share of Common Stock over the five consecutive Trading Day period ending on, and including, the second Trading Day immediately preceding the applicable Dividend Payment Date. The sale described in the immediately preceding sentence shall occur as soon as practicable following the distribution date for such securities. In the event that such sale of the aggregate fractional shares of the securities that otherwise would have been issued is completed and a fraction of a share of such security still remains (the "**Remaining Fractional Share**"), the Depositary shall immediately notify the Corporation in writing of the Remaining Fractional Share, which notice may be delivered via electronic mail to the address set forth in Section 7.04. Upon receipt of such notice, the Board of Directors shall determine the cash equivalent of the

Remaining Fractional Share (the “**Remaining Fractional Share Amount**”), which Remaining Fractional Share Amount shall be equal to the Remaining Fractional Share, *multiplied by* the Closing Sale Price of such securities on the Trading Day immediately preceding the date of the distribution of such securities. The determination of the Remaining Fractional Share Amount by the Board of Directors shall be binding on the parties hereto and on the Record Holders. The Corporation shall promptly transfer funds for the Remaining Fractional Share Amount to an account selected by the Depositary, and the Depositary shall add the Remaining Fractional Share Amount to the net proceeds from the sale described above for distribution to the Record Holders otherwise entitled to receive the fractional shares of the securities.

The Person or Persons entitled to receive any shares of Common Stock issuable upon any conversion of the Mandatory Convertible Preferred Stock shall be treated for all purposes as the record holder(s) of such shares of Common Stock as of the close of business on the relevant Conversion Date.

Section 4.03. *Subscription Rights, Options or Privileges.* If the Corporation shall at any time offer or cause to be offered to the Persons in whose names the Mandatory Convertible Preferred Stock is recorded on the books of the Corporation any rights, options or privileges to subscribe for or to purchase any securities or any rights, options or privileges of any other nature, the terms of such rights, options or privileges shall in each such instance be communicated promptly to the Depositary and thereafter such rights, options or privileges shall be made available by the Depositary to the Record Holders of Receipts in such manner as the Corporation shall instruct, either by the issue to such Record Holders of warrants representing such rights, options or privileges or by such other method as may be approved by the Depositary in its discretion with the approval of the Corporation; *provided, however,* that (a) if at the time of issuance or offer of any such rights, options or privileges, the Depositary determines that it is not lawful or (after consultation with the Corporation) not feasible to make such rights, options or privileges available to Record Holders of Receipts by the issue of warrants or otherwise or (b) if Record Holders of Receipts do not desire to exercise such rights, options or privileges and so instruct the Depositary, then the Depositary, in its reasonable discretion (with approval of the Corporation, in any case where the Depositary has determined that it is not feasible to make such rights, options or privileges available), may, if applicable laws or the terms of such rights, options or privileges permit such transfer, sell such rights, options or privileges at public or private sale, at such place or places and upon such terms as it may deem proper. The net proceeds of any such sale shall, subject to Sections 3.01 and 3.02, be distributed by the Depositary to the Record Holders of Receipts entitled thereto as provided by Section 4.01 in the case of a distribution received in cash.

The Corporation shall notify the Depositary whether registration under the Securities Act of the securities to which any rights, options or privileges relate is required in order for Record Holders of Receipts to be offered or sold the securities to which such rights, options or privileges relate, and the Corporation agrees with the Depositary that it will file promptly a registration statement pursuant to the Securities Act with respect to such rights, options or privileges and securities and use its commercially reasonable efforts and take all steps available to it to cause

such registration statement to become effective sufficiently in advance of the expiration of such rights, options or privileges to enable such Record Holders to exercise such rights, options or privileges in compliance with the Securities Act. In no event shall the Depositary make available to the Record Holders of Receipts any right, option or privilege to subscribe for or to purchase any securities unless and until such registration statement shall have become effective, or the Corporation shall have provided to the Depositary an opinion of counsel to the effect that the offering and sale of such securities to the Record Holders are exempt from registration under the provisions of the Securities Act.

The Corporation shall notify the Depositary whether any other action under the laws of any jurisdiction or any governmental or administrative authorization, consent or permit is required in order for such rights, options or privileges to be made available to Record Holders of Receipts, and the Corporation agrees with the Depositary that the Corporation shall use its reasonable best efforts to take such action or obtain such authorization, consent or permit sufficiently in advance of the expiration of such rights, options or privileges to enable such Record Holders to exercise such rights, options or privileges.

Section 4.04. *Notice of Dividends, etc.; Fixing Record Date for Record Holders of Receipts.* Whenever any cash dividend or other cash distribution shall become payable or any distribution other than cash shall be made, or if rights, options or privileges shall at any time be offered, with respect to the Mandatory Convertible Preferred Stock, or whenever the Depositary shall receive notice of any meeting at which holders of the Mandatory Convertible Preferred Stock are entitled to vote or of which holders of the Mandatory Convertible Preferred Stock are entitled to notice, or whenever the Depositary and the Corporation shall decide it is appropriate, the Depositary shall in each such instance fix a record date (which shall be the same date as the record date fixed by the Corporation with respect to or otherwise in accordance with the terms of the Mandatory Convertible Preferred Stock) for the determination of the Record Holders of Receipts who shall be entitled to receive such dividend, distribution, rights, options or privileges or the net proceeds of the sale thereof, or to give instructions for the exercise of voting rights at any such meeting, or who shall be entitled to notice of such meeting or for any other appropriate reasons.

Section 4.05. *Voting Rights.* Subject to the provisions of the Certificate of Incorporation, upon receipt of notice of any meeting at which the holders of the Mandatory Convertible Preferred Stock are entitled to vote, the Depositary shall, as soon as practicable thereafter, send to the Record Holders of Receipts, determined on the record date as set forth in Section 4.04, a notice prepared by the Corporation that shall contain (a) such information as is contained in such notice of meeting and (b) a statement that the Record Holders may, subject to any applicable restrictions, instruct the Depositary as to the exercise of the voting rights pertaining to the amount of Mandatory Convertible Preferred Stock represented by their respective Depositary Shares (including an express indication that instructions may be given to the Depositary to give a discretionary proxy to a Person designated by the Corporation) and a brief statement as to the manner in which such instructions may be given. Each Record Holder of Receipts on the record date (which shall be the same date as the record date fixed by the Corporation with respect to or

otherwise in accordance with the terms of the Mandatory Convertible Preferred Stock) may instruct the Depositary as to how to vote the amount of the Mandatory Convertible Preferred Stock represented by such Record Holder's Receipts in accordance with these instructions. Upon the written request of the Record Holders of Receipts on the relevant record date, the Depositary shall endeavor insofar as practicable to vote or cause to be voted, in accordance with the instructions set forth in such requests, the maximum number of whole shares of Mandatory Convertible Preferred Stock represented by the Depositary Shares evidenced by all Receipts as to which any particular voting instructions are received. The Corporation hereby agrees to take all action which may be deemed necessary by the Depositary in order to enable the Depositary to vote such Mandatory Convertible Preferred Stock or cause such Mandatory Convertible Preferred Stock to be voted. In the absence of specific instructions from Record Holders of Receipts, the Depositary shall abstain from voting the Mandatory Convertible Preferred Stock to the extent it does not receive such specific instructions from the Record Holders of Receipts.

Section 4.06. *Changes Affecting Deposited Securities and Reclassifications, Recapitalizations, Etc.* Upon any change in par or stated value, split-up, combination or any other reclassification of the Mandatory Convertible Preferred Stock, subject to the provisions of the Certificate of Incorporation, or upon any recapitalization, reorganization, merger or consolidation affecting the Corporation or to which it is a party, the Corporation shall instruct the Depositary in writing to, and the Depositary upon receipt of such written instructions setting forth any of the following adjustments from the Corporation (which the Corporation shall provide), shall, (a) make such adjustments as are certified by the Corporation in the fraction of an interest represented by one Depositary Share in one share of Mandatory Convertible Preferred Stock as may be necessary fully to reflect the effects of such change in par or stated value, split-up, combination or other reclassification of the Mandatory Convertible Preferred Stock, or of such recapitalization, reorganization, merger or consolidation and (b) treat any securities that shall be received by the Depositary in exchange for or, subject to the final sentence of this Section 4.06, upon conversion of or in respect of the Mandatory Convertible Preferred Stock as new deposited securities so received in exchange for or upon conversion or in respect of such Mandatory Convertible Preferred Stock. In any such case the Corporation may in its discretion direct the Depositary to execute and deliver additional Receipts or may call for the surrender of all outstanding Receipts to be exchanged for new Receipts specifically describing such new deposited securities. Anything to the contrary herein notwithstanding, Record Holders of Receipts shall have the right from and after the effective date of any such change in par or stated value, split-up, combination or other reclassification of the Mandatory Convertible Preferred Stock or any such recapitalization, reorganization, merger or consolidation to surrender such Receipts to the Depositary with instructions to convert, exchange or surrender the Mandatory Convertible Preferred Stock represented thereby only into or for, as the case may be, the kind and amount of shares and other securities and property and cash into which the Mandatory Convertible Preferred Stock represented by such Receipts might have been converted or for which such Mandatory Convertible Preferred Stock might have been exchanged or surrendered immediately prior to the effective date of such transaction. Notwithstanding the foregoing, the Common Stock issuable upon conversion of, or in lieu of cash dividends on, the Mandatory Convertible Preferred Stock shall not constitute new deposited securities hereunder and instead the provisions set forth in Section 4.02 shall apply.

Section 4.07. *Delivery of Reports.* The Depositary shall, at the sole expense of the Corporation, furnish to Record Holders of Receipts any reports and communications received from the Corporation that are received by the Depositary, as the holder of the Mandatory Convertible Preferred Stock, and that the Corporation is required to furnish to the holders of the Mandatory Convertible Preferred Stock.

Section 4.08. *Lists of Receipt Record Holders.* Reasonably promptly upon request from time to time by the Corporation, at the sole expense of the Corporation, the Depositary shall furnish to it a list, as of the most recent practicable date, of the names, addresses and holdings of Depositary Shares of all registered Record Holders of Receipts.

Section 4.09. *Corporation-owned Depositary Shares Disregarded.* In determining whether the Record Holders of the requisite number of Depositary Shares have concurred in any vote (including, without limitation, in respect of any direction, consent, request, amendment, alteration or supplement) referred to in this Agreement, Depositary Shares that are owned by the Corporation, by any Subsidiary thereof or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Corporation or any Subsidiary thereof shall be disregarded and deemed not to be outstanding for the purpose of any such determination.

ARTICLE 5

THE DEPOSITARY, THE DEPOSITARY'S AGENTS, THE REGISTRAR AND THE CORPORATION

Section 5.01. *Maintenance of Offices, Agencies and Transfer Books by the Depositary; Registrar; Depositary's Agents.* Upon execution of this Agreement, the Depositary shall maintain at the Depositary's Office, facilities for the execution and delivery, transfer, surrender and exchange, split-up and combination of Receipts and deposit and withdrawal of the Mandatory Convertible Preferred Stock, and at the offices of the Depositary's Agents, if any, facilities for the delivery, transfer, surrender and exchange of Receipts and deposit and withdrawal of the Mandatory Convertible Preferred Stock, all in accordance with the provisions of this Agreement.

The Registrar shall keep books at the Depositary's Office for the registration and transfer of Receipts. Upon direction by the Corporation and with reasonable notice to the Registrar, the Registrar shall open its books for inspection by the Record Holders of Receipts as directed by the Corporation; *provided* that any Record Holder shall be granted such right by the Corporation only after certifying that such inspection shall be for a proper purpose reasonably related to such Person's interest as an owner of Depositary Shares evidenced by the Receipts.

The Corporation may cause the Registrar to close such books, at any time or from time to time, when deemed expedient by it in connection with the performance of its duties hereunder.

The Depositary may, with the approval of the Corporation, appoint a Registrar for registration of the Receipts or the Depositary Shares evidenced thereby. If the Receipts or the Depositary Shares evidenced thereby or the Mandatory Convertible Preferred Stock represented by such Depositary Shares shall be listed on one or more national securities exchanges, the Depositary shall appoint a registrar (acceptable to the Corporation) for registration of the Receipts or Depositary Shares in accordance with any requirements of such exchange. Such registrar (which may be the Registrar if so permitted by the requirements of any such exchange) may be removed and a substitute registrar may be appointed by the Depositary upon the request or with the approval of the Corporation. If the Receipts, Depositary Shares or Mandatory Convertible Preferred Stock are listed on one or more other securities exchanges, the Registrar shall, at the expense and request of the Corporation, arrange such facilities for the delivery, transfer, surrender and exchange of the Receipts, Depositary Shares or Mandatory Convertible Preferred Stock as may be required by law or applicable securities exchange regulation.

The Depositary may from time to time appoint one or more Depositary's Agents to act in any respect for the Depositary for the purposes of this Agreement and may from time to time appoint additional Depositary's Agents and vary or terminate the appointment of such Depositary's Agents; *provided* that the Depositary shall notify the Corporation of any such appointment or variation or termination of such appointment.

Section 5.02. *Prevention of or Delay in Performance by the Depositary, the Depositary's Agents, the Registrar or the Transfer Agent.* None of the Depositary, any Depositary's Agent, any Registrar and any Transfer Agent shall incur any liability to the Corporation or to any Record Holder of a Receipt if by reason of any provision of any present or future law, or regulation thereunder, of the United States of America or of any other governmental authority or by reason of any provision, present or future, of the Certificate of Incorporation or by reason of any act of God, pandemics, epidemics, terrorist acts, shortage of supply, breakdowns or malfunctions, interruptions or malfunction of computer facilities, or loss of data due to power failures or mechanical difficulties with information storage or retrieval systems, labor difficulties, civil unrest, war or other circumstance beyond the control of the relevant party, the Depositary, any such Depositary's Agent, any such Registrar or any such Transfer Agent shall be prevented, delayed or forbidden from, or subjected to any penalty on account of, doing or performing any act or thing which the terms of this Agreement provide shall be done or performed. Nor shall the Depositary, any Depositary's Agent, any Registrar nor any Transfer Agent incur liability to the Corporation or to any Record Holder of a Receipt (a) by reason of any nonperformance or delay, caused as aforesaid, in the performance of any act or thing which the terms of this Agreement shall provide shall or may be done or performed or (b) by reason of any exercise of, or failure to exercise, any discretion provided for in this Agreement except, in case of any such exercise of, or failure to exercise, discretion not caused as aforesaid, if caused by the gross negligence, willful misconduct or bad faith of the party charged with such exercise or failure to exercise (which gross negligence, willful misconduct or bad faith must be determined by a final, non-appealable order, judgment, decree or ruling of a court of competent jurisdiction), or as otherwise explicitly set forth in this Agreement.

Section 5.03. *Obligations of the Depositary, the Depositary's Agents, the Registrar and the Transfer Agent.* None of the Depositary, any Depositary's Agent, any Registrar and any Transfer Agent assumes any obligation or shall be subject to any liability under this Agreement to Record Holders of Receipts, the Corporation or any other Person or entity other than for its gross negligence, willful misconduct or bad faith (which gross negligence, willful misconduct or bad faith must be determined by a final, non-appealable order, judgment, decree or ruling of a court of competent jurisdiction). Notwithstanding anything contained herein to the contrary, the aggregate liability of the Depositary, any Depositary's Agent, any Transfer Agent or any Registrar during any term of this Agreement with respect to, arising from, or arising in connection with this Agreement, or from all services provided or omitted to be provided under this Agreement, whether in contract, or in tort, or otherwise, is limited to, and shall not exceed, the amounts paid hereunder by the Corporation to the Depositary as fees and charges, but not including reimbursable expenses, during the twelve (12) months immediately preceding the event for which recovery is being sought. Notwithstanding anything to the contrary herein, the Depositary shall not be liable for any incidental, indirect, special, punitive or consequential damages of any nature whatsoever, including, but not limited to, loss of anticipated profits, occasioned by breach of any provision of this Agreement even if apprised of the possibility of such damages. For the avoidance of doubt, the limitations of liability set forth in this Section 5.03 shall not apply to any obligations and liabilities of the Corporation under this Agreement to Record Holders of Receipts.

The Depositary, any Depositary's Agent, any Transfer Agent and any Registrar hereunder may consult legal counsel satisfactory to it, and the advice or opinion of such legal counsel shall be full and complete authorization and protection in respect of, and it shall not be liable and shall be indemnified by the Corporation for, any actions taken, suffered or omitted by such party hereunder in accordance with the advice or opinion of such legal counsel.

None of the Depositary, any Depositary's Agent, any Registrar and any Transfer Agent shall be under any obligation to appear in, prosecute or defend any action, suit or other proceeding in respect of the Mandatory Convertible Preferred Stock, the Depositary Shares or the Receipts, which, in its reasonable opinion, may involve it in expense or liability, unless indemnity reasonably satisfactory to it against all expense and liability be furnished as often as may be reasonably required.

None of the Depositary, any Depositary's Agent, any Registrar and any Transfer Agent shall be liable for any action or any failure to act by it in reliance upon the written advice of legal counsel or accountants, or information from any Person presenting Mandatory Convertible Preferred Stock for deposit, any Record Holder of a Receipt or any other Person believed by it in the absence of bad faith to be competent to give such information. Each of the Depositary, any Depositary's Agent, any Registrar and any Transfer Agent may rely, and shall each be protected in acting or omitting to act, upon any written notice, request, direction or other document believed by it to be genuine and to have been signed or presented by the proper party or parties.

The Depositary shall not be responsible for any failure to carry out any instruction to vote any of the shares of Mandatory Convertible Preferred Stock or for the manner or effect of any such vote made, as long as any such action or non-action is not taken in bad faith or due to the willful misconduct or gross negligence of the Depositary (which bad faith, willful misconduct or gross negligence must be determined by a final, non-appealable order, judgment, decree or ruling of a court of competent jurisdiction). The Depositary undertakes, and any Registrar or Transfer Agent shall be required to undertake, to perform such duties and only such duties as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Depositary or any Registrar or Transfer Agent.

The Depositary, its parent, affiliates and Subsidiaries, any Depositary's Agent and any Registrar or Transfer Agent may own, buy, sell and deal in any class of securities of the Corporation and its affiliates and in Receipts or Depositary Shares or have a pecuniary interest in any transaction in which the Corporation or its affiliates may be interested or contract with or lend money to any such Person or otherwise act as fully or as freely as if it were not the Depositary, the Depositary's parent, affiliate or Subsidiary, the Depositary's Agent, the Registrar or the Transfer Agent hereunder. The Depositary may also act as trustee, transfer agent or registrar of any of the securities of the Corporation and its affiliates.

It is intended that none of the Depositary, its agents and any Registrar, acting as a Depositary's Agent or Registrar, as the case may be, shall be deemed to be an "issuer" of the securities under federal securities laws or applicable state securities laws, it being expressly understood and agreed that the Depositary, any Depositary's Agent and the Registrar are acting only in a ministerial capacity as Depositary or Registrar for the Mandatory Convertible Preferred Stock.

The Corporation agrees that it has previously or will register the offer and sale of the Mandatory Convertible Preferred Stock and the Depositary Shares in accordance with all applicable securities laws.

None of the Depositary, its officers, directors, employees or agents and the Registrar makes any representation or has any responsibility (i) as to the validity of (a) the registration statement pursuant to which the offer and sale of the Depositary Shares and Mandatory Convertible Preferred Stock are registered under the Securities Act, (b) the Certificate of Incorporation, (c) the Mandatory Convertible Preferred Stock, (d) the Depositary Shares, (e) the Receipts (except for its counter-signatures thereon) or (f) any instruments referred to in any of the foregoing or (ii) as to the correctness of any statement made in any of the foregoing.

The Depositary assumes no responsibility for the correctness of the description that appears in the Receipts. Notwithstanding any other provision herein or in the Receipts, the Depositary makes no warranties or representations as to the validity or genuineness of any Mandatory Convertible Preferred Stock at any time deposited with the Depositary hereunder or of the Depositary Shares, as to the validity or sufficiency of this Agreement, as to the value of the Depositary Shares or as to any right, title or interest of the Record Holders of Receipts in and to the Depositary Shares. The Depositary shall not be accountable for the use or application by the Corporation of the Depositary Shares or the Receipts or the proceeds thereof.

The Depositary shall not have any liability for interest on any monies at any time received by it pursuant to any of the provisions of this Agreement or of the Receipts, the Depositary Shares or the Mandatory Convertible Preferred Stock, nor shall it be obligated to segregate such monies from other monies held by it, except as required by applicable law. The Depositary shall not be responsible for advancing funds on behalf of the Corporation and shall have no duty or obligation to make any payments if it has not timely received sufficient funds to make timely payments.

In the event the Depositary, the Depositary's Agent or any Registrar or Transfer Agent believes any ambiguity or uncertainty exists hereunder or in any notice, instruction, direction, request or other communication, paper or document received by the Depositary, the Depositary's Agent or any Registrar or Transfer Agent hereunder, or in the administration of any of the provisions of this Agreement, the Depositary shall deem it necessary or desirable that a matter be proved or established prior to taking, omitting or suffering to take any action hereunder, the Depositary may, in its sole discretion upon written notice to the Corporation, refrain from taking any action and shall be fully protected and shall not be liable in any way to the Corporation, any Record Holders of Receipts or any other Person or entity for refraining from taking such action, unless the Depositary receives written instructions or a certificate signed by the Corporation that eliminates such ambiguity or uncertainty to the reasonable satisfaction of the Depositary, Depositary's Agent, Registrar or Transfer Agent or that proves or establishes the applicable matter to the reasonable satisfaction of the Depositary, Depositary's Agent, Registrar or Transfer Agent.

The Depositary undertakes not to issue any Receipt other than to evidence the Depositary Shares that have been delivered to, and are then on deposit with, the Depositary. The Depositary also undertakes not to sell, except as provided herein, pledge or lend Depositary Shares or shares of Mandatory Convertible Preferred Stock held by it as Depositary.

Whenever in the performance of its duties under this Agreement, the Depositary, any Transfer Agent or any Registrar shall deem it necessary or desirable that any fact or matter be proved or established by the Corporation prior to taking, suffering or omitting to take any action hereunder, such fact or matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively provided and established by a certificate signed by the Corporation and delivered to the Depositary, such Transfer Agent or such Registrar; and such certificate shall be full and complete authorization and protection to the Depositary, such Transfer Agent or such Registrar and the Depositary, such Transfer Agent or such Registrar shall incur no liability for or in respect of any action taken, suffered or omitted by it under the provisions of this Agreement in reliance upon such certificate.

The Depositary may rely on and be fully authorized and protected in acting or failing to act upon (a) any guaranty of signature by an “eligible guarantor institution” that is a member or participant in the Securities Transfer Agents Medallion Program or other comparable “signature guarantee program” or insurance program in addition to, or in substitution for, the foregoing; or (b) any law, act, regulation or any interpretation of the same even though such law, act, or regulation may thereafter have been altered, changed, amended or repealed.

The Depositary, any Transfer Agent, or any Registrar may execute and exercise any of the rights or powers hereby vested in it or perform any duty hereunder either itself or by or through its attorneys or agents, and the Depositary shall not be answerable or accountable for any act, omission, default, neglect or misconduct of any such attorneys or agents or for any loss to the Corporation, to the holders of the Receipts or any other Person resulting from any such act, omission, default, neglect or misconduct, absent gross negligence, willful misconduct or bad faith in the selection and continued employment thereof (which gross negligence, willful misconduct or bad faith must be determined by a final, non-appealable order, judgment, decree or ruling of a court of competent jurisdiction).

The obligations of the Corporation and the rights and benefits of the Depositary set forth in this Section 5.03 shall survive the termination of this Agreement and any replacement, removal, resignation or succession of any Depositary, Registrar, Transfer Agent or Depositary’s Agent.

Section 5.04. *Resignation and Removal of the Depositary; Appointment of Successor Depositary.* The Depositary may at any time resign as Depositary hereunder by delivering notice of its election to do so to the Corporation, such resignation to take effect 60 days after receipt of written notice by the Corporation.

The Depositary may at any time be removed by the Corporation by notice of such removal delivered to the Depositary, such removal to take effect upon the appointment of a successor Depositary hereunder and its acceptance of such appointment as hereinafter provided.

In the event the transfer agency relationship in effect between the Corporation and the Depositary terminates, the Depositary shall be deemed to have resigned automatically and be discharged from its duties under this Agreement.

In case at any time the Depositary acting hereunder shall resign or be removed, the Corporation shall, within 60 days after the delivery of the notice of resignation or removal, as the case may be, appoint a successor Depositary, which shall be a bank or trust company that (a) is not an affiliate of the Corporation, (b) has its principal office in the United States of America and (c) has a combined capital and surplus of at least \$50,000,000. If no successor Depositary shall have been so appointed and have accepted appointment within 60 days after delivery of such notice, the resigning or removed Depositary may, at the Corporation’s expense, petition any court of competent jurisdiction for the appointment of a successor Depositary. Every successor Depositary shall execute and deliver to its predecessor and to the Corporation an instrument in

writing accepting its appointment hereunder, and thereupon such successor Depositary, without any further act or deed, shall become fully vested with all the rights, powers, duties and obligations of its predecessor and for all purposes shall be the Depositary under this Agreement, and such predecessor, upon payment of all sums due it and on the written request of the Corporation, shall promptly execute and deliver an instrument transferring to such successor all rights and powers of such predecessor hereunder, shall duly assign, transfer and deliver all right, title and interest in the Mandatory Convertible Preferred Stock and any moneys, securities or other property held hereunder to such successor, and shall deliver to such successor Depositary a list of the Record Holders of all outstanding Receipts and such records, books and other information in its possession relating thereto. Any successor Depositary shall promptly send notice of its appointment to the Record Holders of Receipts.

Any entity into or with which the Depositary may be merged, consolidated or converted, or any successor Person to which all or a substantial part of the assets of the Depositary may be transferred or which succeeds to the shareholder services business of the Depositary shall be the successor of the Depositary without the execution or filing of any document or any further act, and notice thereof shall not be required hereunder. Such successor Depositary may authenticate the Receipts in the name of the predecessor Depositary or its own name as successor Depositary.

The provisions of this Section 5.04 as they apply to the Depositary apply to the Registrar and Transfer Agent, as if specifically enumerated herein.

Section 5.05. *Corporate Notices and Reports.* The Corporation agrees that it shall deliver to the Depositary, and the Depositary shall, promptly after receipt thereof, transmit to the Record Holders of Receipts, in each case at the addresses recorded in the Depositary's books, copies of all notices and reports (including, without limitation, financial statements) required by law, by the rules of the NYSE or any other national securities exchange upon which the Mandatory Convertible Preferred Stock, the Depositary Shares or the Receipts are listed or by the Certificate of Incorporation, to be furnished to the Record Holders of Receipts. Such transmission will be at the Corporation's expense and the Corporation will provide the Depositary with such number of copies of such documents as the Depositary may reasonably request. In addition, the Depositary shall transmit to the Record Holders of Receipts at the Corporation's expense, including applicable fees, such other documents as may be requested by the Corporation.

Section 5.06. *Indemnification by the Corporation.* Subject to Section 5.03, the Corporation shall indemnify the Depositary, any Depositary's Agent and any Registrar or Transfer Agent (including each of their officers, directors, agents and employees) against, and hold each of them harmless from, any loss, damage, cost, penalty, liability or expense (including the reasonable costs and expenses of defending itself) which may arise out of acts performed, suffered or omitted to be taken in connection with this Agreement and the Receipts by the Depositary, any Registrar, any Transfer Agent or any of their respective agents (including any Depositary's Agent) and any transactions or documents contemplated hereby, except for any liability arising out of gross negligence, willful misconduct or bad faith on the respective parts of any such Person or Persons (which gross negligence, willful misconduct or bad faith must be determined by a final, non-appealable order, judgment, decree or ruling of a court of competent jurisdiction).

From time to time, the Corporation may provide the Depositary with instructions concerning the services performed by the Depositary hereunder. In addition, at any time the Depositary may apply to any officer of the Corporation for instruction, and may consult with legal counsel for the Depositary or the Corporation with respect to any matter arising in connection with the services to be performed by the Depositary under this Agreement. The Depositary, any Depositary's Agent, any Registrar, any Transfer Agent and their respective agents and subcontractors, as applicable, shall not be liable and shall be indemnified by the Corporation for any action taken, suffered or omitted by them in reliance upon any Corporation instructions or upon the advice or opinion of such counsel. The Depositary shall not be held to have notice of any change of authority of any person, until receipt of written notice thereof from the Corporation. The obligations of the Corporation set forth in this Section 5.06 shall survive the termination of this Agreement and any replacement, removal, resignation or succession of any Depositary, Registrar, Transfer Agent or Depositary's Agent.

Section 5.07. *Fees, Charges and Expenses.* The Corporation agrees promptly to pay the Depositary the compensation to be agreed upon with the Corporation for all services rendered by the Depositary hereunder and to reimburse the Depositary, any Depositary's Agent, any Transfer Agent and any Registrar for its reasonable out-of-pocket expenses (including reasonable counsel fees and expenses) incurred by the Depositary, such Depositary's Agent, such Transfer Agent and such Registrar in connection with the preparation, delivery, amendment, execution and administration of this Agreement and incident to the performance of their (or any of their agent's) respective obligations hereunder. The Corporation shall pay all charges of the Depositary in connection with the initial deposit of the Mandatory Convertible Preferred Stock and the initial issuance of the Depositary Shares and any change of the Mandatory Convertible Preferred Stock in accordance with Section 4.06. The Corporation shall pay all transfer and other taxes and governmental charges arising solely from the existence of the depositary arrangements. The Record Holders shall not be required to pay any transfer and other taxes and governmental charges relating to the Mandatory Convertible Preferred Stock, the Receipts or the Depositary Shares; *provided* that a Record Holder shall be required to pay any tax or duty that may be payable relating to any issuance or delivery of shares of Mandatory Convertible Preferred Stock or Common Stock or transfers or exchanges of Depositary Shares or Receipts, in each case, in a name other than the name of such Record Holder. If, at the request of a Record Holder of Receipts, the Depositary incurs charges or expenses for which the Corporation is not otherwise liable hereunder, then such Record Holder shall be liable for such charges and expenses; *provided, however*, that the Depositary may, at its sole option, request that the Corporation direct a Record Holder of a Receipt to prepay the Depositary any charge or expense the Depositary has been asked to incur at the request of such Record Holder of Receipts. The Depositary shall not be liable for any failure to act or delay in acting for such Person's failure to prepay any such charge or expense. The Depositary shall present its statement for charges and expenses to the Corporation at such intervals as the Corporation and the Depositary may agree.

Section 5.08. *Tax Compliance.* The Depositary, on its own behalf and on behalf of the Corporation, will comply with all applicable certification, information reporting and withholding (including “backup” withholding) requirements imposed by applicable tax laws, regulations or administrative practice with respect to (a) any payments made with respect to the Depositary Shares and Mandatory Convertible Preferred Stock or (b) the issuance, delivery, holding, transfer or exercise of rights under the Receipts or the Depositary Shares. Such compliance shall include, without limitation, the preparation and timely filing of required returns and the timely payment of all amounts required to be withheld to the appropriate taxing authority or its designated agent. The Corporation will provide withholding and reporting instructions in writing to the Depositary from time to time as relevant, and upon reasonable request of the Depositary. The Depositary shall have no responsibilities with respect to tax withholding, reporting or payment except as specifically instructed by the Corporation or as required by applicable law.

The Depositary shall comply with any lawful direction received from the Corporation with respect to the application of such requirements to particular payments or holders or in other particular circumstances, and may for purposes of this Agreement rely on any such direction in accordance with the provisions of Section 5.03 hereof.

The Depositary shall maintain all appropriate records documenting compliance with such requirements in accordance with its retention policies, and shall make such records available on request to the Corporation or to its authorized representatives during the term of this Agreement.

ARTICLE 6 AMENDMENT AND TERMINATION

Section 6.01. *Amendment Without Consent of Record Holders.* Without the consent of the Record Holders of Receipts, the Receipts and any provisions of this Agreement may at any time and from time to time be amended, altered or supplemented by agreement between the Corporation and the Depositary for the following purposes:

- (a) to cure any ambiguity, omission, inconsistency or mistake in this Agreement or the Receipts;
- (b) to make any provision with respect to matters or questions relating to the Depositary Shares that is not inconsistent with the provisions of this Agreement and that does not materially and adversely affect the rights, preferences, privileges or voting powers of any Record Holder of Receipts;
- (c) to make any change reasonably necessary, in the Corporation’s reasonable determination, to reflect each Depositary Share’s representation of 1/20th of a share of the Mandatory Convertible Preferred Stock;

(d) to make any change reasonably necessary, in the Corporation's reasonable determination, to comply with the procedures of the Depositary and that does not materially and adversely affect the rights, preferences, privileges or voting powers of any Record Holder of Receipts; or

(e) to make any other change that does not materially and adversely affect the rights, preferences, privileges or voting powers of any Record Holder of Receipts (other than any Record Holder that consents to such change).

In addition, without the consent of the Record Holders of Receipts, the Receipts and any provisions of this Agreement may at any time and from time to time be amended, altered, supplemented or repealed to conform such provisions to the description thereof in the prospectus for the Depositary Shares, as supplemented and/or amended by the "Description of Depositary Shares" and the "Description of Mandatory Convertible Preferred Stock" sections of the preliminary prospectus supplement for the Mandatory Convertible Preferred Stock and the Depositary Shares, as further supplemented and/or amended by the pricing term sheet related thereto. Every Record Holder of an outstanding Receipt at the time any such action takes effect shall be deemed, by continuing to hold such Receipt, to consent and agree to such action and to be bound by this Agreement.

As a condition precedent to the Depositary's execution of any amendment pursuant to this Section 6.01 or Section 6.02, the Corporation shall deliver to the Depositary a certificate from a duly authorized officer of the Corporation that states that the proposed amendment is in compliance with the terms of this Section 6.01 or of Section 6.02, as applicable. No supplement or amendment to the form of Receipts or this Agreement shall be effective unless duly executed by the Depositary and the Corporation. Notwithstanding anything in this Agreement to the contrary, the Depositary may, but shall not be obligated to, enter into any supplement or amendment that adversely affects the Depositary's own rights, duties, immunities or obligations under this Agreement.

Section 6.02. *Amendment With Consent of Record Holders.* With the consent of the Record Holders of at least a majority of the aggregate number of Receipts then outstanding (determined in accordance with Section 4.09), the Receipts and any provisions of this Agreement may at any time and from time to time be amended, altered or supplemented by agreement between the Corporation and the Depositary; *provided, however,* that, without the consent of each Record Holder of an outstanding Receipt affected, no such amendment, alteration or supplement shall:

(a) reduce the number of Receipts the Record Holders of which must consent to an amendment, alteration or supplement of the Receipts or this Agreement;

(b) reduce the amount payable or deliverable in respect of the Receipts or extend the stated time for such payment or delivery;

(c) impair the right, subject to the provisions of Section 2.07, Section 2.08 and Article 3, of any owner of Depositary Shares to surrender any Receipt evidencing such Depositary Shares to the Depositary with instructions to deliver to the Record Holder the Mandatory Convertible Preferred Stock and all money and/or other property represented thereby;

(d) change the currency in which payments in respect of the Depositary Shares or any Receipt evidencing such Depositary Shares is made;

(e) impair the right of any Record Holder of Receipts to receive payments or deliveries on such Record Holder's Receipts on or after the due dates therefor or to institute suit for the enforcement of any such payment or delivery;

(f) make any change that materially and adversely affects the conversion rights of any Record Holder of Receipts; or

(g) make any change that materially and adversely affects the voting rights of any Record Holder of Receipts.

Section 6.03. *Termination.* This Agreement may be terminated by the Corporation or the Depositary only if (a) all outstanding Depositary Shares issued hereunder have been cancelled, upon conversion of the Mandatory Convertible Preferred Stock into Common Stock in accordance with the Certificate of Incorporation or otherwise, or (b) there shall have been made a final distribution in respect of the Mandatory Convertible Preferred Stock in connection with any liquidation, dissolution or winding up of the Corporation and such distribution shall have been distributed to the Record Holders of Receipts representing Depositary Shares pursuant to Section 4.01 or 4.02, as applicable.

Upon the termination of this Agreement, the Corporation shall be discharged from all obligations under this Agreement except for its obligations to the Depositary, any Depositary's Agent, any Transfer Agent and any Registrar under Sections 5.03, 5.06 and 5.07, provided, further, that Sections 5.02, 5.03, 5.06 and 5.07 shall survive the termination of this Agreement.

ARTICLE 7 MISCELLANEOUS

Section 7.01. *Counterparts.* This Agreement may be executed in any number of counterparts, and by each of the parties hereto on separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed an original, but all such counterparts taken together shall constitute one and the same instrument. A signature to this Agreement transmitted electronically shall have the same authority, effect, and enforceability as an original signature.

Section 7.02. *Record Holders of Receipts Are Parties; Exclusive Benefit of Parties.* The Record Holders of Receipts from time to time shall be parties to this Agreement and shall be bound by all of the terms and conditions hereof and of the Receipts. This Agreement is for the exclusive benefit of the parties hereto, and their respective assigns and successors hereunder, and shall not be deemed to give any legal or equitable right, remedy or claim to any other entity or Person whatsoever.

Section 7.03. *Invalidity of Provisions.* In case any one or more of the provisions contained in this Agreement or in the Receipts should be or become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein or therein shall in no way be affected, prejudiced or disturbed thereby; *provided, however,* that if any such provision adversely affects the rights, duties, liabilities or obligations of the Depository, the Depository shall be entitled to resign immediately.

Section 7.04. *Notices.* Any and all notices to be given to the Corporation hereunder or under the Receipts shall be in writing and shall be deemed to have been duly given if personally delivered or sent by mail, or by facsimile transmission or electronic mail, confirmed by letter, addressed to the Corporation at:

The Boeing Company
929 Long Bridge Drive
Arlington, VA 22202
Attention: David R. Whitehouse,
Senior Vice President and Treasurer
Email: david.whitehouse@boeing.com

With a copy to (which alone shall not constitute notice):

Kirkland & Ellis LLP
333 West Wolf Point Plaza
Chicago, IL 60654
Attention: Robert M. Hayward, P.C.
Email: rhayward@kirkland.com

or at any other addresses of which the Corporation shall have notified the Depository in writing.

Any and all notices to be given to the Depository hereunder or under the Receipts shall be in writing and shall be deemed to have been duly given if personally delivered or sent by mail, overnight courier service, or, if sent by facsimile transmission confirmed by letter, addressed to the Depository at the Depository's Office at:

Computershare Inc.
Computershare Trust Company, N.A.
150 Royall Street
Canton, MA 02021
Attention: Client Services

or at any other address of which the Depository shall have notified the Corporation in writing.

Subject to the immediately succeeding sentence, the Depository shall give any and all notices directed to be given by the Corporation to any Record Holder of a Receipt in writing, and such notices shall be deemed to have been duly given if personally delivered or sent by mail or facsimile transmission or confirmed by letter, addressed to such Record Holder at the address of such Record Holder as it appears on the books of the Depository. Notwithstanding the foregoing, if Depository Shares are issued in book-entry form through DTC or any similar facility, such notices may be given to Record Holders in any manner permitted by DTC or such facility, as the case may be.

Delivery of a notice sent by mail or by facsimile transmission shall be deemed to be effected at the time when a duly addressed letter containing the same (or a confirmation thereof in the case of a facsimile transmission) is deposited, postage prepaid, in a post office letter box. However, the Depository or the Corporation may act upon any facsimile transmission received by it from the other, notwithstanding that such facsimile transmission shall not subsequently be confirmed by letter or as aforesaid.

Section 7.05. *Appointment of Registrar and Transfer Agent.* Unless otherwise set forth on a certificate duly executed by an authorized officer of the Corporation, the Corporation hereby appoints Computershare Trust Company, N.A. as Registrar and Transfer Agent in respect of the Mandatory Convertible Preferred Stock deposited with the Depository hereunder, and Computershare Trust Company, N.A. hereby accepts such appointment. Computershare Trust Company, N.A., in such capacity under such appointment, shall be entitled to the same rights, indemnities, immunities and benefits as the Depository hereunder as if explicitly named in each such provision.

Section 7.06. *Governing Law.* This Agreement and the Receipts and all rights hereunder and thereunder and provisions hereof and thereof, including without limitation any claim, controversy or dispute arising under or related to this Agreement or the Receipts, shall be governed by, and construed in accordance with, the laws of the State of New York without giving effect to applicable conflicts of law principles.

Section 7.07. *Inspection of Deposit Agreement and Certificate.* Copies of this Agreement and the Certificate of Incorporation shall be filed with the Depository and any of the Depository's Agents and shall be open to inspection upon reasonable notice during business hours at the Depository's Office by any Record Holder of any Receipt.

Section 7.08. *Headings*. The headings of articles and sections in this Agreement and in the form of the Receipt set forth in Exhibit A hereto have been inserted for convenience only and are not to be regarded as a part of this Agreement or the Receipts or to have any bearing upon the meaning or interpretation of any provision contained herein or in the Receipts.

Section 7.09. *Further Assurances*. Each of the Corporation and the Depositary, respectively, agrees that it will perform, acknowledge, and deliver or cause to be performed, acknowledged or delivered, all such further and other acts, documents, instruments and assurances as the Depositary or the Corporation, respectively, may reasonably require in connection with the performance of this Agreement.

Section 7.10. *Confidentiality*. The Depositary and the Corporation agree that all books, records, information and data pertaining to the business of the other party, including, inter alia, personal, non-public Record Holder information, and the fees for services to be performed hereunder, which are exchanged or received pursuant to the negotiation or the carrying out of this Agreement, shall remain confidential, and shall not be voluntarily disclosed to any other Person, except as may be required by law or legal process. Notwithstanding anything contained herein, each party may disclose relevant aspects of the other party's confidential information to its officers, affiliates, agents, subcontractors and employees to the extent reasonably necessary to perform its duties and obligations under this Agreement and such disclosure is not prohibited by applicable law.

[Signatures on following page]

IN WITNESS WHEREOF, the Corporation and the Depository have duly executed this Agreement as of the day and year first above set forth.

THE BOEING COMPANY

By: /s/ David R. Whitehouse
Name: David R. Whitehouse
Title: Senior Vice President and Treasurer

COMPUTERSHARE INC. and
COMPUTERSHARE TRUST COMPANY, N.A.,
as Depository

By: /s/ Shirley Nessralla
Name: Shirley Nessralla
Title: Vice President, Manager

[Deposit Agreement Signature Page]

[FORM OF FACE OF RECEIPT]

THE DEPOSITARY SHARES REPRESENTED BY THIS RECEIPT ARE NOT SAVINGS ACCOUNTS, DEPOSITS OR OTHER OBLIGATIONS OF A BANK AND ARE NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENT AGENCY.

[UNLESS THIS RECEIPT IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“**DTC**”), TO COMPUTERSHARE TRUST COMPANY, N.A. OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY RECEIPT ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREUNDER IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.]¹

¹ Insert for a DTC Receipt.

**DEPOSITARY RECEIPT FOR DEPOSITARY SHARES,
EACH REPRESENTING ONE ONE-TWENTIETH OF ONE SHARE OF
6.00% SERIES A MANDATORY CONVERTIBLE PREFERRED STOCK, OF
THE BOEING COMPANY**

Incorporated under the laws of the State of Delaware
(See reverse for certain definitions.)

COMPUTERSHARE INC., a Delaware corporation, and its affiliate, COMPUTERSHARE TRUST COMPANY, N.A., a federally chartered trust company, jointly as depositary (the “**Depositary**”), hereby certifies that _____³ is the registered owner of [_____] (_____) [⁴the number shown on Schedule I hereto of]⁵ DEPOSITARY SHARES (“**Depositary Shares**”), each Depositary Share representing a one one-twentieth interest in one share of the 6.00% Series A Mandatory Convertible Preferred Stock, par value \$1.00 per share (the “**Mandatory Convertible Preferred Stock**”), of THE BOEING COMPANY, a Delaware corporation (the “**Corporation**”), on deposit with the Depositary, subject to the terms and entitled to the benefits of the Deposit Agreement dated as of October 31, 2024 (the “**Deposit Agreement**”), among the Corporation, the Depositary and the Record Holders from time to time of the Depositary Receipts. The rights, preferences, privileges and voting powers of the Mandatory Convertible Preferred Stock are set forth in a Certificate of Designations filed with the Secretary of State of the State of Delaware. The aggregate number of Depositary Shares evidenced by Receipts that may be executed and delivered under the Deposit Agreement is initially limited to 115,000,000.

This Receipt and all rights hereunder and provisions hereof, including without limitation any claim, controversy or dispute arising under or related to this Receipt, shall be governed by, and construed in accordance with, the laws of the State of New York without giving effect to applicable conflicts of law principles.

In the case of any conflict between this Receipt and the Deposit Agreement, the provisions of the Deposit Agreement shall control and govern.

² Insert for a DTC Receipt.

³ Insert “CEDE & CO.” for a DTC Receipt.

⁴ Insert for Physical Receipt.

⁵ Insert for DTC Receipt.

This Depositary Receipt is issuable to _____⁶ as the registered owner of the Depositary Shares represented hereby. By accepting this Depositary Receipt, the Record Holder hereof becomes a party to and agrees to be bound by all the terms and conditions of the Deposit Agreement.

This Depositary Receipt shall not be valid or obligatory for any purpose or entitled to any benefits under the Deposit Agreement unless it shall have been executed by the Depositary by the manual, electronic or facsimile signature of a duly authorized officer and, if a Registrar in respect of the Depositary Receipts (other than the Depositary) shall have been appointed, by the manual, electronic or facsimile signature of a duly authorized officer of such Registrar.

[Signatures on following page]

⁶ Insert "CEDE & CO." for a DTC Receipt.

IN WITNESS WHEREOF, the Depositary, Transfer Agent and Registrar have duly executed this Depositary Receipt as of the day and year set below.

Dated: _____

Computershare Inc. and Computershare Trust Company, N.A., as
Depositary

By: _____
Authorized Signatory

Countersigned and Registered:

Computershare Trust Company, N.A., as
Transfer Agent and Registrar

By: _____
Authorized Signatory

THE BOEING COMPANY

UPON REQUEST, THE BOEING COMPANY (THE “**CORPORATION**”) WILL FURNISH WITHOUT CHARGE TO EACH HOLDER OF A DEPOSITARY RECEIPT WHO SO REQUESTS A COPY OF THE DEPOSIT AGREEMENT AND/OR A COPY OF THE CORPORATION’S AMENDED AND RESTATED CERTIFICATE OF INCORPORATION, AS AMENDED (INCLUDING THE CERTIFICATE OF DESIGNATIONS ESTABLISHING THE TERMS OF THE CORPORATION’S 6.00% SERIES A MANDATORY CONVERTIBLE PREFERRED STOCK). ANY SUCH REQUEST IS TO BE ADDRESSED TO THE DEPOSITARY NAMED ON THE FACE OF THIS RECEIPT.

The Corporation will furnish without charge to each Record Holder of a Receipt who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof of the Corporation, and the qualifications, limitations or restrictions of such preferences or rights. Such request may be made to the Corporation or to the Registrar.

KEEP THIS RECEIPT IN A SAFE PLACE. IF IT IS LOST, STOLEN OR DESTROYED THE CORPORATION WILL REQUIRE A BOND OF INDEMNITY AS A CONDITION TO THE ISSUANCE OF A REPLACEMENT RECEIPT.

ABBREVIATIONS

The following abbreviations, when used in the inscription of the face of this Receipt, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM = as tenants in common

UNIF GIFT MIN ACT = Uniform Gifts to Minors Act

CUST = Custodian

TEN ENT = as tenants by the entirety

JT TEN = joint tenants with right of survivorship and not as tenants in common

Additional abbreviations may also be used though not in the above list.

[FORM OF ASSIGNMENT AND TRANSFER]

For value received, _____ hereby sell(s), assign(s) and transfer(s) unto _____
(Please insert social security or other identifying number of assignee, together with such assignee's name and address, including zip code)
_____ Depository Shares represented by the within receipt, and hereby irrevocably constitute(s) and appoint(s) _____ attorney
to transfer the Depository Shares on the books of the within named Depository, with full power of substitution in the premises.

Dated: _____

Signature(s)

Signature Guarantee

NOTICE: THE SIGNATURE TO THIS ASSIGNMENT MUST
CORRESPOND WITH THE NAME AS WRITTEN UPON THE
FACE OF THE RECEIPT IN EVERY PARTICULAR, WITHOUT
ALTERATION OR ENLARGEMENT OR ANY CHANGE
WHATEVER.

SIGNATURE(S) GUARANTEED: THE SIGNATURE(S) MUST BE GUARANTEED BY AN
ELIGIBLE GUARANTOR INSTITUTION (BANKS,
STOCKBROKERS, SAVINGS AND LOAN ASSOCIATIONS
AND CREDIT UNIONS) WITH MEMBERSHIP IN AN
APPROVED SIGNATURE GUARANTEE MEDALLION
PROGRAM PURSUANT TO SECURITIES AND EXCHANGE
COMMISSION RULE 17Ad-15.

KIRKLAND & ELLIS LLP

333 West Wolf Point Plaza
Chicago, IL 60654
United States

+1 312 862 2000

www.kirkland.com

Facsimile:
+1 312 862 2200

October 31, 2024

The Boeing Company
929 Long Bridge Drive
Arlington, Virginia 22202

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

We are issuing this opinion letter in our capacity as legal counsel to The Boeing Company, a Delaware corporation (the "Company"), in connection with the preparation and filing with the Securities and Exchange Commission (the "Commission"), pursuant to Rule 424(b) under the Securities Act of 1933, as amended (the "Securities Act"), of a prospectus supplement, dated October 28, 2024 (the "Prospectus Supplement") to the prospectus, dated October 22, 2024, included as part of a registration statement on Form S-3 (File No. 333-282628), as amended or supplemented (the "Registration Statement"), relating to the sale by the Company of 100,000,000 depository shares ("Initial Depository Shares"), each representing a 1/20th interest in a share of the Company's 6.00% Series A Mandatory Convertible Preferred Stock, par value \$1.00 per share (the "Preferred Stock"), and, at the option of the Purchasers, 15,000,000 additional depository shares (together with the Initial Depository Shares, the "Depository Shares"). The Preferred Stock is convertible into shares of common stock of the Company, par value \$5.00 per share (the "Common Stock"), pursuant to the certificate of designations (the "Certificate of Designations") establishing the terms of the Preferred Stock filed with the Secretary of State of the State of Delaware on the date hereof.

In that connection, we have examined originals, or copies certified or otherwise identified to our satisfaction, of such documents, corporate records and other instruments as we have deemed necessary for the purposes of this opinion, including (i) the certificate of incorporation and by-laws of the Company; (ii) the Registration Statement to which this letter is an exhibit; (iii) the Prospectus Supplement, including any documents incorporated by reference therein; (iv) the Underwriting Agreement, dated October 28, 2024, among the Company and Goldman Sachs & Co. LLC, BofA Securities, Inc., Citigroup Global Markets Inc. and J.P. Morgan Securities LLC, as representatives of the several underwriters named in Schedule A thereto; (v) the Deposit Agreement, dated October 31, 2024 (the "Deposit Agreement"), among the Company and Computershare Inc. and Computershare Trust Company, N.A., as joint depository of the Preferred Stock; (vi) the Certificate of Designations; and (vii) resolutions of the board of directors of the Company.

Austin Bay Area Beijing Boston Brussels Dallas Frankfurt Hong Kong Houston London Los Angeles Miami Munich New York Paris Riyadh Salt Lake City Shanghai Washington, D.C.

KIRKLAND & ELLIS LLP

The Boeing Company
October 31, 2024
Page 2

For purposes of this opinion, we have assumed the authenticity of all documents submitted to us as originals, the conformity to the originals of all documents submitted to us as copies and the authenticity of the originals of all documents submitted to us as copies. We have also assumed the legal capacity of all natural persons, the genuineness of the signatures of persons signing all documents in connection with which this opinion is rendered, the authority of such persons signing on behalf of the parties thereto other than the Company and the due authorization, execution and delivery of all documents by the parties thereto other than the Company. We have not independently established or verified any facts relevant to the opinion expressed herein, but have relied upon statements and representations of officers and other representatives of the Company and others.

Based upon and subject to the foregoing qualifications, assumptions and limitations and the further limitations set forth below, we are of the opinion that:

1. The Depositary Shares have been duly authorized and, when issued and delivered in accordance with the Deposit Agreement, will be validly issued, fully paid and nonassessable and will entitle the holders thereof to the rights specified in the Deposit Agreement and the depositary receipts evidencing ownership of such Depositary Shares.
2. The Preferred Stock has been duly authorized for issuance and deposit and, when issued and deposited against issuance of the Depositary Shares, and upon the filing and effectiveness of the Certificate of Designations, will be validly issued, fully paid and nonassessable.
3. The shares of Common Stock issuable upon conversion of, or declaration and payment of a dividend on, the Preferred Stock, in accordance with the Certificate of Designations, when issued and delivered by the Company, will be validly issued, fully paid and non-assessable.

For purposes of rendering our opinion expressed above, we have assumed that at the time of the issuance and delivery of each share of Preferred Stock and the issuance and delivery of each share of Common Stock to be issued upon conversion of, or declaration and payment of a dividend on, the Preferred Stock (x) there will not have occurred any change in law affecting the validity or legally binding character of such share of Preferred Stock or Common Stock, as applicable, and (y) the issuance and delivery of such share of Preferred Stock or the issuance and delivery of such share of Common Stock, the terms of such share of Preferred Stock or Common Stock, as applicable, and compliance by the Company with the terms of such share of Preferred Stock or Common Stock, as applicable, will not violate any applicable law, any agreement or instrument then binding upon the Company or any restriction imposed by any court or governmental body having jurisdiction over the Company.

We hereby consent to the filing of this opinion with the Commission as Exhibit 5.1 to the Company's Current Report on Form 8-K and to its incorporation into the Registration Statement. We also consent to the reference to our firm under the heading "Legal Matters" in the Prospectus Supplement constituting part of the Registration Statement. In giving this consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission.

We do not find it necessary for the purposes of this opinion, and accordingly we do not purport to cover herein, the application of the securities or "blue sky" laws of the various states to the sale of the Depositary Shares, the Preferred Stock or the Common Stock.

KIRKLAND & ELLIS LLP

The Boeing Company
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This opinion is limited to the specific issues addressed herein, and no opinion may be inferred or implied beyond that expressly stated herein. This opinion is limited to the laws, including the rules and regulations, as in effect on the date hereof, which laws are subject to change with possible retroactive effect. We assume no obligation to revise or supplement this opinion should the present laws of the State of New York or the General Corporation Law of the State of Delaware be changed by legislative action, judicial decision or otherwise.

This opinion is furnished to you in connection with the filing of the Company's Current Report on Form 8-K, which is incorporated into the Registration Statement, and in accordance with the requirements of Item 601(b)(5) of Regulation S-K promulgated under the Securities Act, and is not to be used, circulated, quoted or otherwise relied upon for any other purpose.

Yours very truly,

/s/ Kirkland & Ellis LLP

Kirkland & Ellis LLP