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): November 8, 2019

SunPower Corporation
(Exact name of registrant as specified in its charter)

001-34166		
(Commission File Number)		
Delaware		**94-3008969**
(State or other jurisdiction of incorporation)		**(I.R.S. Employer Identification No.)**

51 Rio Robles, San Jose, California 95134
(Address of principal executive offices, with zip code)

(408) 240-5500
(Registrant's telephone number, including area code)

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

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

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

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

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

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

Title of each class	Trading Symbol	Name of exchange on which registered
Common Stock	**SPWR**	**NASDAQ**

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 November 8, 2019, SunPower Corporation (the "Company" or "SunPower") entered into the following agreements:

- an Investment Agreement dated November 8, 2019 (the "Investment Agreement") with Maxeon Solar Technologies, Pte. Ltd., a company incorporated under the Laws of Singapore and a wholly owned subsidiary of the Company ("Maxeon Solar"), Tianjin Zhonghuan Semiconductor Co., Ltd., a PRC joint stock limited company ("TZS"), and for the limited purposes set forth therein, Total Solar INTL SAS, a French société par actions simplifiée ("Total"); and
- a Separation and Distribution Agreement dated November 8, 2019 (the "Separation and Distribution Agreement") with Maxeon Solar.

Pursuant to the Separation and Distribution Agreement and the Investment Agreement (and subject to the terms and conditions thereof): (1) the Company will contribute certain non-U.S. operations and assets of its SunPower Technologies business unit to Maxeon Solar (the "Separation"), (2) the Company will then spin-off Maxeon Solar through a pro rata distribution to the Company's stockholders of 100% of the Company's interest in Maxeon Solar (the "Distribution" and together with the Separation, the "Spin-Off"), and (3) immediately after the Distribution, TZS will purchase from Maxeon Solar (the "Investment," and together with the Spin-Off, the "Transactions") ordinary shares that will, in the aggregate, represent approximately 28.848% of the outstanding ordinary shares of Maxeon Solar after giving effect to the Transactions for $298 million. The Spin-Off is intended to be tax-free to SunPower's stockholders.

In connection with the Transactions and concurrently with the Distribution, the Company and Maxeon Solar will also enter into certain ancillary agreements, that will govern relationships between the Company and Maxeon Solar following the Distribution, including the following: a Tax Matters Agreement, an Employee Matters Agreement, a Transition Services Agreement, a Brand Framework Agreement, a Cross License Agreement, a Collaboration Agreement and a Supply Agreement (collectively, the "Ancillary Agreements"). In addition, at the closing of the Investment, TZS, Total and Maxeon Solar will enter into a Shareholders Agreement (the "Shareholders Agreement").

Separation and Distribution Agreement

The Separation and Distribution Agreement governs the principal corporate transactions required to effect the Separation and the Distribution, and provides for the allocation between the Company and Maxeon Solar of the assets, liabilities, and obligations of the respective companies attributable to periods prior to the Separation. In addition, the Separation and Distribution Agreement, together with the Ancillary Agreements, provide a framework for the relationship between the Company and Maxeon Solar subsequent to the completion of the Spin-Off.

Pursuant to the Separation and Distribution Agreement, consummation of the Distribution is subject to certain conditions being satisfied or waived by the Company or Maxeon Solar, including, among other things: (1) completion of the transactions to complete the Separation; (2) obtaining all necessary corporate approvals; (3) completion of all necessary filings under the U.S. securities laws; (4) receipt by the Company's board of directors of one or more opinions from an independent valuation firm confirming the solvency and financial viability of each of the Company and Maxeon Solar immediately after the consummation of the Distribution in a form acceptable to the Company; (5) receipt of an opinion regarding the qualification of the Distribution as a transaction that is generally tax-free for U.S. federal income tax purposes under Section 355 of the U.S. Internal Revenue Code of 1986, as amended, to SunPower's stockholders; (6) if applicable, the receipt of a waiver from the Singapore Securities Industry Council from the applicability of the Singapore Code on Take-overs and Mergers to the Distribution; (7) the absence of any legal impediments prohibiting the Distribution; and (8) the satisfaction or waiver of certain conditions precedent to the Investment set forth in the Investment Agreement (as further described below).

Investment Agreement

Under the terms of the Investment Agreement, immediately after the completion of the Distribution, TZS will pay Maxeon Solar $298 million for newly issued ordinary shares of Maxeon Solar, which shares will represent approximately 28.848% of the outstanding ordinary shares of Maxeon Solar on a fully diluted basis after giving effect to the Transactions.

Pursuant to the Investment Agreement, the Company, Maxeon Solar, TZS and, with respect to certain provisions, Total have agreed to certain customary representations, warranties and covenants, including certain representations and warranties as to the financial statements, contracts, liabilities, and other attributes of Maxeon Solar, certain business conduct restrictions and covenants requiring efforts to complete the Transactions.

Pursuant to the Investment Agreement, consummation of the Investment is subject to certain conditions being satisfied or waived by the Company or Maxeon Solar, on the one hand, and TZS, on the other hand, including, among other things: (1) the completion of the Separation and the Distribution in accordance with the Separation and Distribution Agreement; (2) Maxeon Solar entering into definitive agreements for a term loan facility in an amount not less than $325 million; (3) Maxeon Solar obtaining certain additional financing in the form of a revolving credit facility of not less than $100 million or, alternatively, making certain working capital adjustment arrangements; (4) Maxeon Solar having no more than $138 million in debt and no less than $50 million in Cash (as defined in the Investment Agreement) immediately prior to the Investment; (5) execution of the Ancillary Agreements and the Shareholders Agreement; (6) receipt of required governmental approvals; (7) completion of all necessary filings under the U.S. securities laws; (8) receipt by the Company's board of directors of one or more opinions from an independent valuation firm confirming the solvency and financial viability of each of the Company and Maxeon Solar immediately after the consummation of the Distribution in a form acceptable to the Company; (9) if applicable, the receipt of a waiver from the Singapore Securities Industry Council from the applicability of the Singapore Code on Take-overs and Mergers to the Distribution and the Investment; and (10) the absence of any legal impediments prohibiting the Investment. Moreover, the obligations of the Company and Maxeon Solar, on the one hand, and TZS, on the other hand, to consummate the Investment are subject to certain other conditions, including, among other things, (A) the accuracy of the other party's representations and warranties (subject to certain materiality qualifiers) and (B) the other party's performance of its agreements and covenants contained in the Investment Agreement in all material respects. In addition, the obligation of TZS to consummate the Investment is subject to the absence of any Material Adverse Effect (as defined in the Investment Agreement) on Maxeon Solar occurring from the date of the Investment Agreement through the closing of the Investment, subject, in each case, to certain exclusions set forth in the Investment Agreement.

The Investment Agreement provides certain termination rights for each of the Company and TZS, and further provides that, if the Investment Agreement is terminated, a termination fee may be payable under specified circumstances, including: (1) if the Company terminates to accept a superior proposal (as described in the Investment Agreement), a fee of $80 million payable by the Company to TZS; (2) if the Company's board of directors recommends an alternative transaction that would constitute a sale of the Company and TZS terminates the Investment Agreement, a fee of $80 million payable by the Company to TZS; (3) if, as a result of an intentional breach by the Company or Maxeon Solar of their respective representations, warranties or covenants and, as a result, either (a) the Transactions are not capable of being satisfied by August 8, 2020 (or such other extended date as contemplated under the Investment Agreement) (the "Outside Date"), (b) any final, non-appealable government order prohibiting the Transactions has been issued, or (c) the closing conditions related to representations, warranties and covenants of the Company and Maxeon Solar are not capable of being satisfied, then a fee of $20 million payable by the Company to TZS; (4) if certain approvals by the Chinese government are not obtained, then a fee of $35 million payable by TZS to the Company; or (5) if, as a result of an intentional breach by TZS of its representations, warranties or covenants and, as a result, either (a) the Transactions are not capable of being satisfied by the Outside Date, (b) any final, non-appealable government order prohibiting the Transactions has been issued, or (c) the closing conditions related to representations, warranties and covenants of TZS are not capable of being satisfied, then a fee of $35 million payable by TZS to the Company. In addition, under the Investment Agreement, in the event that, within seven months after termination of the Investment Agreement because the Investment could not be completed by the Outside Date, (1) the Company enters into an agreement for or consummates an alternative transaction that would constitute a sale of the Company and prior to the termination of the Investment Agreement a third party had submitted a proposal for a transaction that would constitute a sale of the Company, then the Company is obligated to pay TZS a fee of $80 million, or (2) the Company (a) enters into an agreement for or consummates an alternative transaction that constitutes a sale of (i) 50% or more of Maxeon Solar's equity or assets or (ii) 50% or more of the business being contributed to Maxeon Solar in the Separation and (b) prior to the termination of the Investment Agreement a third party had submitted a proposal for an alternative transaction that constitutes a sale of (i) 50% or more of Maxeon Solar's equity or assets or (ii) 50% or more of the business being contributed to Maxeon Solar in the Separation, then the Company is obligated to pay TZS a fee of $20 million.

Ancillary Agreements

In connection with the Transactions and concurrently with the Distribution, the Company and Maxeon Solar will also enter into the following Ancillary Agreements:

- *Tax Matters Agreement.* Under the Tax Matters Agreement, the Company and Maxeon Solar, respectively, will each be obligated to pay any taxes shown on any return required to be filed by any member of its post-spin group. Each party to the Tax Matters Agreement will also prepare those tax returns that are required to be prepared by members of its respective post-spin group. Both parties will indemnify each other under this agreement

for any action or inaction that causes the Distribution to fail to qualify as tax-free to the Company's stockholders. Both parties will agree generally to cooperate in preparing and filing tax returns, and will retain and make available tax records to the other party. Contests with taxing authorities will be controlled by whichever of the Company or Maxeon Solar bears the potential liability for the contested tax; the Company will control tax contests relating to a failure of the Distribution to qualify as tax-free to the Company's stockholders. Disputes among the parties to the tax matters agreement will be referred to independent tax counsel.

- *Employee Matters Agreement.* Under the Employee Matters Agreement, the Company and Maxeon Solar will allocate liabilities and responsibilities among the Company and Maxeon Solar relating to employees, employment matters, compensation, benefit plans and other related matters in connection with the Separation and Distribution. The Employee Matters Agreement will include detailed provisions regarding the treatment of outstanding incentive equity awards, both inside and outside of the United States, and will generally provide for separation of such awards into adjusted awards on the Company's common stock for those employees staying with the Company, and conversion of such awards into awards on Maxeon Solar's ordinary shares for those employees who will remain with Maxeon Solar following the Separation and Distribution.

- *Transition Services Agreement.* Under the Transition Services Agreement, the Company and Maxeon Solar will provide and/or make available various administrative services and assets to each other, expected to be a period of one year beginning on the date of the Distribution with an option to extend for up to an additional 180 days by mutual written agreement of the Company and Maxeon Solar. Services to be provided by the Company to Maxeon Solar will include certain services related to finance, accounting, business technology, human resources information systems, human resources, facilities, document management and record retention, relationship and strategy management and module operations, technical and quality support. Services to be provided by Maxeon Solar to the Company will include certain services related to finance, accounting, information technology, human resources information systems, human resources, document management and record retention, supply chain and operational planning and module operations. In consideration for such services, the Company and Maxeon Solar will each pay fees to the other for the services provided, and those fees will generally be in amounts intended to allow the party providing services to recover all of its direct and indirect costs incurred in providing those services, plus a standard markup, and subject to a 25% increase following an extension of the initial term (unless otherwise mutually agreed to by the Company and Maxeon Solar). The personnel performing services under the Transition Services Agreement will be employees and/or independent contractors of the party providing the service and will not be under the direction or control of the party to whom the service is being provided. The Transition Services Agreement will also contain customary mutual indemnification provisions.

- *Brand Framework Agreement.* Under the Brand Framework Agreement, the Company will assign to Maxeon Solar the "MAXEON" trademarks (and corresponding domain names) and the non-U.S. "SUNPOWER" trademarks. The Company will retain ownership of its SUNPOWER trademarks in the United States. The agreement will include reciprocal licenses. The Company will exclusively license to Maxeon Solar and its affiliates, on a royalty-free basis, the right to use the SUNPOWER trademarks in U.S. territories on hardware or components needed for solar energy system installation and services using solar energy systems. Maxeon Solar will non-exclusively license to the Company and its affiliates the right to use the SUNPOWER trademarks in Canada on the same hardware, components and services. The agreement will restrict each party from selling its SUNPOWER trademarks to a third party unless otherwise agreed by the parties. The Company will be prohibited from using any SUNPOWER trademarks on solar panels not supplied by Maxeon Solar or made by SunPower for a three-year period (contemplated to be January 1, 2022 through December 31, 2024), subject to specified exceptions. If either party intends to stop using the SUNPOWER trademarks (or the MAXEON trademarks for Maxeon Solar), then the party must offer to transfer its rights under such trademarks to the other party at no charge. The agreement will continue unless the parties mutually agree to terminate it.

- *Cross License Agreement.* Under the Cross License Agreement, the Company will grant to Maxeon Solar and its affiliates non-exclusive license to the Company's existing intellectual property (and improvements created by the Company), for a number of purposes, including to operate the manufacturing facilities transferred to Maxeon Solar and selling existing Maxeon® panels and shingled panels configured for residential, commercial and utility scale applications, existing Maxeon® solar cells, certain specialty products and other solar cells or solar module products expected to be manufactured by Maxeon Solar as of the date of the agreement ("Maxeon Products"). The agreement will contain certain application-limitations that will apply to Maxeon Solar's ability to sell the Maxeon Products for two

years. The agreement will also provide that Maxeon Solar will grant the Company and its affiliates a non-exclusive license to the intellectual property (excluding trademarks) that has been transferred to Maxeon Solar by the Company for a number of purposes, including to manufacture and sell Maxeon Products in the United States and Canada, for research and development, and commencing on termination of the supply agreement between the parties, to sell outside of the United States and Canada shingled panels manufactured at the Company's Hillsboro, Oregon facility. The agreement will restrict the Company, for three years, from licensing to any third party the intellectual property the Company has licensed to Maxeon Solar for purposes of manufacturing the Maxeon Products. The agreement will continue unless the parties mutually agree to terminate it.

- *Collaboration Agreement.* The Collaboration Agreement will provide a framework for the development of Maxeon® 6 and any other products that are agreed to by the parties. Each project that will occur under the agreement will be governed by written plans that will be agreed to by the parties. These plans will include agreed-upon budgets, cost allocations and resource responsibilities of the parties and will last a maximum of two years. Both parties will have the sole right to manufacture the products developed under the agreement within the 50 states of the United States, the District of Columbia and Canada ("Collaboration Territory"). Maxeon Solar will have the exclusive right to manufacture the products outside of the Collaboration Territory. For a period that will not be longer than two years ("Exclusivity Period"), the Company will have the exclusive right to sell, and Maxeon Solar will have the exclusive right to supply, the developed products in specified markets. For one year after the Exclusivity Period, neither party will be permitted to enter into an exclusive supply relationship with a third party for the developed products within those markets. In addition, after the Exclusivity Period, if either party intends to enter into a supply agreement for any developed products, the other party has a right of first offer or refusal. Any new intellectual property arising from the agreement will be owned by Maxeon Solar, subject to a sole license to the Company within the Collaboration Territory during the Exclusivity Period, and which will become non-exclusive after the Exclusivity Period.

- *Supply Agreement.* Under the Supply Agreement, the Company will purchase from Maxeon Solar, and Maxeon Solar will sell to the Company, certain designated products for use in residential and commercial solar applications in Canada and the United States (excluding Puerto Rico, American Samoa, Guam, the Northern Mariana Islands and the U.S. Virgin Islands). The Supply Agreement will have a two-year term, starting on the distribution date. Under the Supply Agreement, the Company will be required to purchase, and Maxeon Solar will be required to supply, certain minimum volumes of products during each calendar quarter of the term. For 2020, the minimum volumes will be specifically enumerated for different types of products, and for each subsequent period, the minimum volumes will be established based on the Company's forecasted requirements. The parties will be subject to reciprocal penalties for failing to purchase or supply, as applicable, the minimum product volumes. The Supply Agreement will also include reciprocal exclusivity provisions that, subject to certain exceptions, will prohibit the Company from purchasing the products (or competing products) from anyone other than Maxeon Solar, and will prohibit Maxeon Solar from selling such products to anyone other than the Company. The exclusivity provisions only relate to products for the Canadian and United States markets (excluding Puerto Rico, American Samoa, Guam, the Northern Mariana Islands and the U.S. Virgin Islands). For products designated for installation on a residence or by a third party for the exclusive use of a specific customer, the exclusivity provisions will last for two years. For products designated for other applications, including multiple-user, community solar products, the exclusivity provisions will last for one year. The exclusivity provisions will not apply to off-grid applications, certain portable or mobile small-scale applications (including applications where solar cells are integrated into consumer products), or power plant, front-of-the-meter applications where the electricity generated is sold to a utility or other reseller. For 2020, the purchase price for each product will be fixed based on its power output (in watts), subject to certain adjustments. For subsequent periods, the purchase price will be set based on a formula and fixed for the covered period, subject to certain adjustments. Maxeon Solar must provide the products with customary warranties for quality and performance, they must conform to all specifications and legal requirements. The Supply Agreement will contain customary confidentiality, dispute resolution, and mutual indemnification provisions.

Shareholders Agreement

In addition, at the closing of the Investment, TZS, Total and Maxeon Solar will enter the Shareholders Agreement that contains provisions bearing on the governance of Maxeon Solar and the ability of Total and TZS to buy, sell or vote their shares in Maxeon Solar. Specifically:

- *Board Composition*. The board of directors of Maxeon Solar will initially consist of 10 directors, including three Total designees, three TZS designees, three independent directors and Maxeon Solar's CEO. The Shareholders Agreement includes provisions adjusting the rights of each of Total and TZS to designate a particular number of directors depending on changes in their share ownership, including a provision allowing either shareholder, if they acquire at least 50% of Maxeon Solar's ordinary shares, to designate a majority of the directors. Each of Total and TZS lose the right to designate any directors if they hold less than 10% of Maxeon Solar's outstanding ordinary shares.

- *Board Committees*. So long as Total or TZS have the right to designate at least one director to the board of Maxeon Solar, each committee of the board will contain a board designee of such shareholder. If the other shareholder also has a right to designate at least one director, then the number of appointees to each committee for each shareholder shall be equal. All committees will have at least two independent directors.

- *Shareholder Approval*. So long as Total or TZS hold at least 20% of Maxeon Solar's ordinary shares, certain matters will require the approval of a majority of the board designees of Total or TZS, as the case may be. These matters include, without limitation, changes in organizational documents, certain business combinations, acquisitions and dispositions, incurrence of debt beyond a specified limit, bankruptcy filings or the liquidation or dissolution of Maxeon Solar, and certain transactions with Total or TZS.
- *Independent Director Approval*. So long as either Total or TZS hold at least 15% of Maxeon Solar's ordinary shares, certain matters will require approval of a majority of the independent directors. These matters include, without limitation, changes in organizational documents, transactions presenting a conflict of interest between either Total or TZS on the one hand and Maxeon Solar on the other, bankruptcy filings or the liquidation or dissolution of Maxeon Solar, and amendments or waivers of the Shareholders Agreement.
- *Standstill Provisions.* The Shareholders Agreement limits the ability of Total or TZS to acquire additional shares (other than from each other, from Maxeon Solar upon exercise of the shareholder's preemptive rights, or in certain public offerings) in specified circumstances.
- *Transfer Restrictions; Right of First Offer*. For two years after the agreement becomes effective, each of Total and TZS are required, subject to certain exceptions, to not dispose of ordinary shares if they will cease to hold at least 20% of the ordinary shares of Maxeon Solar (determined on a fully diluted as converted basis). Further, Total is required to not dispose of ordinary shares during such two year period if it would cause Total to hold fewer shares than TZS (again, subject to exceptions). Each of Total and TZS has agreed that before they sell ordinary shares of Maxeon Solar to third parties in block sales or negotiated transactions they will comply with the right of first offer in favor of the other shareholder included in the Shareholders Agreement.
- *Preemptive Rights*. The Shareholders Agreement grants to Total and TZS, in connection with any issuance of shares to a third party, the right to acquire newly issued shares from Maxeon Solar, subject to certain limitations in the agreement. This right terminates with respect to either Total or TZS when they cease to hold at least 10% of Maxeon Solar's ordinary shares.

The foregoing descriptions of the Separation and Distribution Agreement and the Investment Agreement and the transactions contemplated thereby do not purport to be complete and are subject to, and qualified in their entirety by reference to, the full text of the Separation and Distribution Agreement and the Investment Agreement, copies of which are attached as Exhibit 2.1 and Exhibit 10.1, respectively, to this Current Report on Form 8-K and which are incorporated herein by reference. The Separation and Distribution Agreement and the Investment Agreement have been included to provide investors with information regarding their terms and are not intended to provide any financial or other factual information about the Company, Maxeon Solar, TZS, or Total. In particular, the representations, warranties and covenants contained in the Investment Agreement (1) were made only for the purposes of that agreement and as of specific dates indicated therein, (2) were solely for the benefit of the parties to that agreement, (3) may be subject to limitations agreed upon by the parties, including being qualified by confidential disclosures made for the purposes of allocating contractual risk between the parties instead of establishing those matters as facts, and (4) may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Moreover, information concerning the subject matter of the representations, warranties and covenants may change after the date of the Investment Agreement and the Separation and Distribution Agreement, which subsequent information may not be fully reflected in public disclosures by the Company, Maxeon Solar, TZS, or Total. Accordingly, investors should read the Separation and Distribution Agreement and the Investment Agreement not in isolation but only in conjunction with the other information about the Company, Maxeon Solar, TZS and Total and their respective subsidiaries that the respective companies include in reports, statements and other filings they make with the Securities and Exchange Commission.

Item 7.01. Regulation FD Disclosure.

On November 11, 2019, the Company held an investor call to discuss the Transactions. A copy of the investor presentation used during that investor call is attached as Exhibit 99.1 hereto and incorporated by reference herein.

The information disclosed under this Item 7.01, including Exhibit 99.1 hereto, is being furnished and shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 and shall not be deemed incorporated by reference into any filing made under the Securities Act of 1933, except as expressly set forth by specific reference in such filing.

Item 8.01. Other Events.

On November 11, 2019, the Company issued a press release describing the Transactions. A copy of the press release is attached as Exhibit 99.2 hereto and incorporated by reference herein.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

Exhibit No.	Description
2.1	Separation and Distribution Agreement, dated November 8, 2019, by and between SunPower Corporation and Maxeon Solar Technologies, Pte. Ltd.
10.1	Investment Agreement, dated November 8, 2019, among SunPower Corporation, Maxeon Solar Technologies, Pte. Ltd., Tianjin Zhonghuan Semiconductor Co., Ltd. and, for the limited purposes set forth therein, Total Solar INTL SAS.
99.1	Investor presentation dated November 11, 2019
99.2	Press release dated November 11, 2019
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.

SUNPOWER CORPORATION

By: /s/ Kenneth L. Mahaffey
Name: Kenneth L. Mahaffey
Title: Executive Vice President and General Counsel

Date: November 12, 2019

Exhibit 2.1

Execution Version

SEPARATION AND DISTRIBUTION AGREEMENT

BY AND BETWEEN

SUNPOWER CORPORATION

AND

MAXEON SOLAR TECHNOLOGIES, PTE. LTD.

DATED NOVEMBER 8, 2019

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SCHEDULES

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SEPARATION AND DISTRIBUTION AGREEMENT

This SEPARATION AND DISTRIBUTION AGREEMENT (this "Agreement"), dated November 8, 2019, is by and between SunPower Corporation, a Delaware corporation ("Parent"), and Maxeon Solar Technologies, Pte. Ltd., a company incorporated under the Laws of Singapore ("SpinCo"). Capitalized terms used herein and not otherwise defined will have the respective meanings assigned to them in Article I.

RECITALS

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

WHEREAS, in furtherance of the foregoing, the Parent Board has determined that it is appropriate and desirable to separate the SpinCo Business from the RemainCo Business (the "Separation") and, following the Separation, (i) make a distribution, on a pro rata basis and in accordance with a distribution ratio to be determined by the Parent Board, to holders of Parent Shares on the Record Date of all the outstanding SpinCo Shares owned by Parent (the "Distribution") and (ii) prior to the Distribution, change SpinCo's name to "Maxeon Solar Technologies, Ltd.";

WHEREAS, to effect the Separation, the Parties have determined that, subject to the terms and conditions herein, it would be desirable for Parent and certain of its Subsidiaries to undertake the Internal Restructuring and to contribute, assign, transfer, convey and deliver (directly or indirectly) to SpinCo or other members of the SpinCo Group, as applicable, the SpinCo Assets in exchange for (a) the assumption by SpinCo or other members of the SpinCo Group, as applicable, of the SpinCo Liabilities, (b) Parent's receipt of SpinCo Shares and (c) a note for $100,000,000 due to Parent issued by a Subsidiary of SpinCo, all as provided herein (together, the "SpinCo Transfer");

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

WHEREAS, for U.S. federal income tax purposes, the Distribution is intended to qualify as a transaction that is generally tax-free under Section 355 of the Code to Parent's stockholders (except with respect to cash received in lieu of fractional shares, if any);

WHEREAS, SpinCo and Parent have prepared or will prepare, and SpinCo has filed or will file with the SEC, the Form 20-F, which sets forth disclosure concerning SpinCo, the Separation, the Distribution and the Investment;

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

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

WHEREAS, Parent and SpinCo, have entered into an Investment Agreement, dated as of the date hereof (the "Investment Agreement"), with Tianjin Zhonghuan Semiconductor Co., Ltd., a PRC joint stock limited company ("Investor"), and, solely for the purposes of Sections 5.2, 6.1, 6.3, 6.4, 6.6, 6.8, 6.9(d), 6.10, 8.2(a) and Article IX thereof, Total Solar INTL SAS, a French *société par actions simplifiée* ("Total"), pursuant to which, immediately following the Distribution, Investor will purchase a certain number of SpinCo Shares for $298,000,000 (the "Investment"); and

WHEREAS, (a) the Parent Board has (i) determined that the Separation, the SpinCo Transfer, the Distribution, the Investment and the other transactions contemplated by this Agreement, the Investment Agreement and the Ancillary Agreements have a valid business purpose, are in furtherance of and consistent with its business strategy and are in the best interests of Parent and its stockholders and (ii) approved this Agreement, the Investment Agreement and each of the Ancillary Agreements and (b) the board of directors of SpinCo has approved this Agreement, the Investment Agreement and each of the Ancillary Agreements to which SpinCo is a party.

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

ARTICLE I
DEFINITIONS

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

"Action" means any demand, action, claim, counterclaim, dispute, suit, countersuit, arbitration, hearing, inquiry, subpoena, proceeding, examination or investigation of any nature (whether criminal, civil, legislative, administrative, arbitral, regulatory, prosecutorial, appellate, at law or in equity or otherwise) by or before any Governmental Authority or any arbitration or mediation tribunal.

"Administered Rules" has the meaning set forth in Section 7.2.

"Affiliate" means, when used with respect to a specified Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified Person. For the purpose of this definition, "control" (including with correlative meanings, "controlled by" and "under common control with"), when used with respect to any specified Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or other interests, by Contract or otherwise. It is expressly agreed that, prior to, at and after the Effective Time, for purposes of this Agreement and the Ancillary Agreements, (a) no member of the SpinCo Group will be deemed to be an Affiliate of any member of the RemainCo Group, and (b) no member of the RemainCo Group will be deemed to be an Affiliate of any member of the SpinCo Group.

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

"Agreement" has the meaning set forth in the Preamble.

"Ancillary Agreements" means all agreements (other than this Agreement) entered into by the Parties or members of their respective Groups (but as to which no Third Party is a party) in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, including the Brand Framework Agreement, the Cross License Agreement, the Employee Matters Agreement, the Intercompany Note, the Product Collaboration Agreement, the Supply Agreement, the Tax Matters Agreement, the Transition Services Agreement, the Back-to-Back Agreement and the Transfer Documents.

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

"Arbitration Request" has the meaning set forth in Section 7.2.

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

"Back-to-Back Agreement" means the agreement regarding the Hemlock Supply Agreements to be entered into between Parent and SpinCo in the form attached hereto as Exhibit I.

"Brand Framework Agreement" means the Brand Framework Agreement to be entered into between Parent and SpinCo in connection with the Separation, the Distribution and the other transactions contemplated by this Agreement, substantially in the form attached as Exhibit B.

"Certification" has the meaning set forth in Section 2.10.

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

"Contract" means any agreement, understanding, contract, obligation, indenture, instrument, lease, promise, arrangement, release, warranty, commitment or undertaking (whether written or oral and whether express or implied) that is legally binding, but excluding this Agreement and any Ancillary Agreement except as otherwise provided in this Agreement or the applicable Ancillary Agreement.

"Copyrights" has the meaning set forth in the definition of "Intellectual Property."

"Cross License Agreement" means the Cross License Agreement to be entered into between Parent and SpinCo in connection with the Separation, the Distribution and the other transactions contemplated by this Agreement, substantially in the form attached as Exhibit C.

"Current Activities" has the meaning set forth in the definition of SpinCo Business.

"Delayed RemainCo Assets" has the meaning set forth in Section 2.2(b).

"Delayed RemainCo Liabilities" has the meaning set forth in Section 2.2(b).

"Delayed SpinCo Assets" has the meaning set forth in Section 2.2(b).

"Delayed SpinCo Liabilities" has the meaning set forth in Section 2.2(b).

"Disclosure Document" mean any registration statement (including the Form 20-F) filed with the SEC by or on behalf of Parent or SpinCo and any information statement, prospectus, offering memorandum, offering circular, periodic report or similar disclosure document delivered to Parent's stockholders, whether or not filed with the SEC or any other Governmental Authority, in each case, which describes the Separation or the Distribution or the SpinCo Group and is so filed or delivered prior to the Distribution in connection with the transactions contemplated hereby.

"Dispute" has the meaning set forth in Section 7.1.

"Distribution" has the meaning set forth in the Recitals.

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

"Domestic Territory" means Canada, the fifty states of the United States of America and the District of Columbia. For the avoidance of doubt, the Domestic Territory does not include the U.S. Territories.

"Effective Time" means 11:59 p.m., New York City time, on the Distribution Date.

"Employee Matters Agreement" means the Employee Matters Agreement to be entered into between Parent and SpinCo in connection with the Separation, the Distribution and the other transactions contemplated by this Agreement, substantially in the form attached as Exhibit D.

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

"Force Majeure" means, with respect to a Party, an event beyond the reasonable control of such Party (or any Person acting on its behalf), which event (a) does not arise or result from the fault or negligence of such Party (or any Person acting on its behalf) and (b) by its nature would not reasonably have been foreseen by such Party (or such Person), or, if it would reasonably have been foreseen, was unavoidable, and includes acts of God, acts of civil or military authority, embargoes, epidemics, pandemics, war, riots, insurrections, fires, explosions, earthquakes, floods, unusually severe weather conditions, labor problems or unavailability of parts, or, in the case of computer systems, any significant and prolonged failure in electrical or air conditioning equipment. Notwithstanding the foregoing, (i) the receipt by a Party of an unsolicited takeover offer or other acquisition proposal and such Party's response thereto and (ii) any change after the date of this Agreement in any Law applicable to Parent, SpinCo, or any member of their respective Groups, in either case even if unforeseen or unavoidable, will not be deemed an event of Force Majeure.

"Form 20-F" means the registration statement on Form 20-F (or other appropriate form) filed by SpinCo with the SEC to effect the registration of SpinCo Shares pursuant to Section 12(b) of the Exchange Act in connection with the Distribution, as such registration statement may be amended or supplemented from time to time prior to the Distribution.

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

"Governmental Authority" means any nation or government, any state, provincial, municipality or other political subdivision thereof, and any entity, body, agency, commission, department, board, bureau, court, tribunal or other instrumentality, whether federal, national, state, provincial, local, domestic, foreign, supranational or multinational, exercising executive, legislative, judicial, regulatory, administrative or other similar functions of, or pertaining to, a government and any executive official thereof.

"Group" means either the SpinCo Group or the RemainCo Group, as the context requires. Reference to a Party's respective Group means (a) the RemainCo Group, in the case of Parent and (b) the SpinCo Group, in the case of SpinCo.

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

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

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

"Initial Notice" has the meaning set forth in Section 7.1.

"Insurance Proceeds" means those monies:

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

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

in any such case net of any applicable premium adjustments (including reserves and retrospectively rated premium adjustments) and net of any costs or expenses incurred in the collection thereof; provided that with respect to a captive insurance arrangement, Insurance Proceeds will only include amounts received by the captive insurer in respect of any reinsurance arrangement.

"Intellectual Property" means all intellectual property and industrial property, whether arising under the Laws of the United States or of any foreign or multinational jurisdiction, including all: (a) patents, patent applications (including patents issued thereon), patent disclosures and statutory invention registrations, including reissues, divisions, continuations, continuations in part, substitutions, renewals, extensions and reexaminations of any of the foregoing, and all rights in or to apply for any of the foregoing provided by international treaties or conventions (collectively, "Patents"), (b) trademarks, service marks, trade names, service names, trade dress, logos and other source or business identifiers, including all goodwill associated with any of the foregoing, and any and all common law rights in and to any of the foregoing, registrations and applications for registration of any of the foregoing, all rights in and to any of the foregoing provided by international treaties or conventions, and all reissues, extensions and renewals of any of the foregoing (collectively, "Marks"), (c) Internet domain names, accounts with Facebook, LinkedIn, Twitter and other social media platforms, internet domain registrations and related rights (collectively, "Internet Addresses"), (d) copyrightable works, copyrights, works of authorship, moral rights, mask work rights, database rights and design rights, whether or not registered or published, and all registrations, applications for registration, reversions, extensions and renewals of any of the foregoing, and all rights in and to any of the foregoing provided by international treaties or conventions (collectively, "Copyrights"), (e) confidential and proprietary information, including trade secrets, invention disclosures, processes and know-how, and (f) Technology and any other intellectual property or industrial property rights arising from or relating to any Technology.

"Intercompany Note" means the $100,000,000 promissory note, in substantially the form attached as Exhibit E, to be issued by a Subsidiary of SpinCo in favor of Parent prior to the Distribution in connection with the SpinCo Transfer.

"Internal Restructuring" means the internal restructuring steps set forth on Schedule 1.1(a).

"Internet Addresses" has the meaning set forth in the definition of "Intellectual Property."

"Investment" has the meaning set forth in the Recitals.

"Investment Agreement" has the meaning set forth in the Recitals.

"Investor" has the meaning set forth in the Recitals.

"Law" means all applicable national, supranational, federal, state, provincial, local or similar laws (including common law), statutes, ordinances, orders, decrees, codes, rules, regulations, policies or guidelines promulgated, or judgments, decisions, orders or arbitration awards, in each case, enacted, promulgated, issued or entered by a Governmental Authority.

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

"Linked" has the meaning set forth in Section 2.7(a).

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

"Marks" has the meaning set forth in the definition of "Intellectual Property."

"Mixed Actions" has the meaning set forth in Section 4.12(c).

"NASDAQ" means the NASDAQ Stock Market, including the NASDAQ Global Select Market or, as applicable, such other NASDAQ market on which Parent Shares or SpinCo Shares are or will be listed.

"Parent" has the meaning set forth in the Preamble.

"Parent Board" has the meaning set forth in the Recitals.

"Parent Released Persons" has the meaning set forth in Section 4.1(a).

"Parent Shares" means the common shares of Parent, $0.001 par value per share.

"Party" or "Parties" means a party or the parties to this Agreement.

"Patents" has the meaning set forth in the definition of "Intellectual Property."

"Permits" means permits, approvals, authorizations, consents, licenses, exemptions or certificates issued by any Governmental Authority.

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

"Personal Information" means any information relating to an identified or identifiable natural person and other similar terms as defined under applicable Laws.

"Prime Rate" means the rate that *The Wall Street Journal* publishes as its U.S. prime rate.

"Privileged Information" means any information, in written, oral, electronic or other tangible or intangible forms, including any communications by or to attorneys (including attorney-client privileged communications), memoranda and other materials protected by the work product doctrine, as to which a Party or any other member of its Group would be entitled to assert or have asserted a privilege or other protection, including the attorney-client and work product privileges.

"Product Collaboration Agreement" means the Product Collaboration Agreement to be entered into between Parent and SpinCo in connection with the Separation, the Distribution and the other transactions contemplated by this Agreement, substantially in the form attached as Exhibit F.

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

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

"Reimbursement Amount" means $25,000,000.

"RemainCo Accounts" has the meaning set forth in Section 2.7(a).

"RemainCo Assets" means all Assets of Parent, SpinCo or any other member of their respective Groups as of the Effective Time, other than the SpinCo Assets, it being understood that the RemainCo Assets will include (without duplication) the assets set forth on Schedule 1.1(b).

"RemainCo Business" means all businesses, operations and activities (whether or not such businesses, operations or activities are or have been terminated, divested or discontinued) conducted at any time prior to the Effective Time by Parent, SpinCo or any other member of their respective Groups, other than the SpinCo Business.

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

"RemainCo Indemnitees" has the meaning set forth in Section 4.2.

"RemainCo Liabilities" means all short term and long-term liabilities relating to or arising from the RemainCo Business or the RemainCo Assets other than any SpinCo Liabilities, it being understood that the RemainCo Liabilities will include (without duplication):

(a) all Liabilities of Parent and the other members of the RemainCo Group, other than any SpinCo Liabilities;

(b) all Liabilities relating to, arising out of or resulting from any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, with respect to all information contained in the Disclosure Documents relating to the RemainCo Business;

(c) all Liabilities assumed or allocated to any member of the RemainCo Group pursuant to the Employee Matters Agreement;

(d) the Liabilities set forth on Schedule 1.1(c); and

(e) all Transaction Expenses.

"RemainCo Portion" has the meaning set forth in Section 2.6.

"RemainCo Specified Actions" has the meaning set forth in Section 4.12(b)(ii).

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

"Sarbanes-Oxley Act" means the U.S. Sarbanes-Oxley Act of 2002, as amended.

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

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

"Separation" has the meaning set forth in the Recitals.

"Shared Contract" means any Contract of any member of either Group entered into prior to the Effective Time that relates to or inures to the benefit or burden of both the SpinCo Business and the RemainCo Business and either (a) the Parties specifically intended to amend or divide, modify, partially assign or replicate (in whole or in part) the respective rights and obligations under and in respect of such Contract prior to the Distribution, but were not able to do so prior to the Distribution or (b) either Party discovers the existence of such Contract prior to the date that is 12 months after the Distribution and had the Parties given specific consideration to such Contract they would have amended or divided, modified, partially assigned or replicated (in whole or in part) the respective rights and obligations under and in respect of such Contract.

"SIC" means the Singapore Securities Industry Council.

"Singapore" means the Republic of Singapore.

"Singapore Code" means the Singapore Code on Take-overs and Mergers.

"SpinCo" has the meaning set forth in the Preamble.

"SpinCo Accounts" has the meaning set forth in Section 2.7(a).

"SpinCo Amended Constitution" means the Amended and Restated Constitution of SpinCo, substantially in the form attached as Exhibit A.

"SpinCo Assets" means (without duplication):

(a) the shares of capital stock or other equity securities of each Transferred Entity;

(b) Contracts used or held for use exclusively in the SpinCo Business;

(c) the leased real property listed on Schedule 1.1(d)(i), together with all improvements, fixtures and other appurtenances thereto and rights in respect thereof, and each real property lease or sublease related to such leased real property;

(d) the owned real property listed on Schedule 1.1(d)(ii), together with all improvements, fixtures and other appurtenances thereto and rights in respect thereof;

(e) the fixed assets and tangible personal property (other than inventory), including fixtures, trade fixtures, building equipment, fittings, furniture, computer and other information systems hardware, office equipment, and other tangible personal property, in each case, (i) used or held for use exclusively in the SpinCo Business or (ii) used or held for use in the SpinCo Business and existing in any jurisdiction located outside of the Domestic Territory, and either (A) listed on Schedule 1.1(d)(iii)(A) or (B) located at the locations listed on Schedule 1.1(d)(iii)(B), in each case of clauses (ii)(A) and (ii)(B), other than any assets set forth on Schedule 1.1(b);

(f) all cars, trucks and other motor vehicles listed on Schedule 1.1(d)(iv);

(g) all inventory (i) used or held for use exclusively in the SpinCo Business or (ii) used or held for use in the SpinCo Business and existing in any jurisdiction located outside of the Domestic Territory, other than any assets set forth on Schedule 1.1(b);

(h) all Patents pending or issued in any jurisdiction located outside the 50 states of the United States, the District of Columbia and the U.S. Territories that are related to the SpinCo Business (including any such Patents related to Maxeon products (such as, for example, Maxeon 1, 2, 3, 5 and 6) and P-series products), including the Patents set forth on Schedule 1.1(d)(v)(A);

(i) other than Intellectual Property assigned to SpinCo or a Subsidiary of SpinCo pursuant to the Brand Framework Agreement and Intellectual Property described in clause (h), all other Intellectual Property that (i) is primarily related to the SpinCo Business and (ii) exists in any jurisdiction (including, for the avoidance of doubt, any U.S. Territory) located outside the 50 states of the United States and the District of Columbia, including the Copyright registrations and applications for Copyright registration set forth Schedule 1.1(d)(v)(B);

(j) all Permits (i) used or held for use exclusively in the SpinCo Business or (ii) used or held for use in the SpinCo Business and existing in any jurisdiction located outside of the Domestic Territory, including the Permits listed on Schedule 1.1(d)(vi), other than any assets set forth on Schedule 1.1(b);

(k) any counterclaims, setoffs or defenses that may be available with respect to any SpinCo Liabilities;

(l) all rights, claims, credits, causes of action or rights of set off with respect to Third Parties to the extent relating to or arising from the SpinCo Assets or SpinCo Liabilities, including rights under vendors' and manufacturers' warranties, indemnities, guaranties;

(m) all Assets reflected as Assets on the SpinCo Balance Sheet;

(n) all other Assets set forth on Schedule 1.1(d)(vii); and

(o) all goodwill associated with any of the foregoing assets.

"SpinCo Balance Sheet" means the consolidated balance sheets of SpinCo and the SpinCo Subsidiaries, included in the Form 20-F declared effective by the SEC under the Exchange Act.

"SpinCo Business" means (a) the current businesses, operations and activities (collectively, the "Current Activities") of or relating to developing, manufacturing, selling, marketing and importing/exporting products associated with solar cells, solar panels and related components (such related components include microinverters and power optimizers) conducted outside of the Domestic Territory at any time prior to the Effective

Time by Parent, SpinCo or any of their respective current or former Subsidiaries, (b) the future businesses, operations and activities of any member of the SpinCo Group conducted at or after the Effective Time, and (c) any terminated, divested or discontinued businesses, operations and activities that, at the time of termination, divestiture or discontinuation, primarily related to the business, operations or activities described in clause (a) as then conducted. For the avoidance of doubt, Current Activities and related products each exclude services, solutions and products for battery storage, solar panel installation design and solar panel mounting.

"SpinCo Designees" means any and all entities (including corporations, companies, general or limited partnerships, trusts, joint ventures, unincorporated organizations, limited liability entities or other entities) designated by SpinCo for the purposes of accepting the transfer, assignment or assumption of SpinCo Assets or SpinCo Liabilities from Parent, pursuant to Section 2.1 and that will be members of the SpinCo Group as of immediately prior to the Effective Time.

"SpinCo Financing" has the meaning set forth in Section 2.11(b).

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

"SpinCo Indemnitees" has the meaning set forth in Section 4.3.

"SpinCo Liabilities" means all short term and long-term Liabilities primarily relating to or arising from the SpinCo Business or the SpinCo Assets, it being understood that the SpinCo Liabilities will include (without duplication):

(a) all Liabilities of SpinCo and the other members of the SpinCo Group, other than any RemainCo Liabilities;

(b) all Liabilities relating to, arising out of or resulting from any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, with respect to all information contained in the Disclosure Documents relating to the SpinCo Business;

(c) all Liabilities assumed or allocated to any member of the SpinCo Group pursuant to the Employee Matters Agreement;

(d) all Liabilities reflected as Liabilities or obligations on the SpinCo Balance Sheet.

(e) the Liabilities set forth on Schedule 1.1(e).

"SpinCo Portion" has the meaning set forth in Section 2.6.

"SpinCo Released Persons" has the meaning set forth in Section 4.1(b).

"SpinCo Shares" means all of the ordinary shares of SpinCo.

"SpinCo Transfer" has the meaning set forth in the Recitals.

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

"Supply Agreement" means the Supply Agreement to be entered into between Parent and SpinCo in connection with the Separation, the Distribution and the other transactions contemplated by this Agreement, substantially in the form attached as Exhibit G.

"Tax" has the meaning set forth in the Tax Matters Agreement.

"Tax Matters Agreement" means the Tax Matters Agreement to be entered into between Parent and SpinCo in connection with the Separation, the Distribution and the other transactions contemplated by this Agreement, substantially in the form attached as Exhibit H.

"Technology" means all technology, formulae, algorithms, procedures, processes, methods, techniques, ideas, know-how, creations, inventions (whether patentable or unpatentable and whether or not reduced to practice), discoveries, improvements, product, servicing, business, financial and supplier information and materials, specifications, designs, models, devices, prototypes, schematics and development tools, software, websites, recordings, graphs, drawings, reports, analyses and other writings and other tangible embodiments of any of the foregoing, in any form or media whether or not specifically listed in this definition.

"Third Party" means any Person other than the Parties or any other members of the RemainCo Group or the SpinCo Group.

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

"Transaction Expenses" means all costs and expenses set forth on Schedule 10.9 and all other out-of-pocket fees, costs and expenses incurred by any member of the RemainCo Group or the SpinCo Group prior to the Effective Time (or relating to services provided prior to the Effective Time) in connection with the preparation, execution and delivery of this Agreement, the Investment Agreement and any Ancillary Agreement, and the implementation of this Agreement, the Separation, the Form 20-F, the Internal Restructuring, the Distribution, the Investment and the consummation of the transactions contemplated hereby and thereby.

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

"Transferred Entities" means the entities set forth on Schedule 1.1(f).

"Transition Services Agreement" means the Transition Services Agreement to be entered into between Parent and SpinCo in connection with the Separation, the Distribution and the other transactions contemplated by this Agreement, substantially in the form attached as Exhibit I.

"Unreleased RemainCo Liability" has the meaning set forth in Section 2.3(b)(ii).

"Unreleased SpinCo Liability" has the meaning set forth in Section 2.3(a)(ii).

"U.S." or "United States" means the United States of America.

"U.S. Territories" means the U.S. territories and possessions of Puerto Rico, American Samoa, Guam, the Northern Mariana Islands and the U.S. Virgin Islands.

ARTICLE II
THE SEPARATION

2.1 Transfer of Assets and Assumption of Liabilities.

(a) Prior to the Distribution:

(i) *Internal Restructuring*. To the extent not already completed, each of Parent and SpinCo will, and will cause their Affiliates to, consummate the Internal Restructuring.

(ii) *Transfer and Assignment of SpinCo Assets*. Parent will, and will cause the other applicable members of the RemainCo Group to, contribute, assign, transfer, convey and deliver to SpinCo, or the applicable SpinCo Designees, and SpinCo or such SpinCo Designees will accept from Parent and the applicable members of the RemainCo Group, all of Parent's and such RemainCo Group members' respective direct or indirect right, title and interest in and to all of the SpinCo Assets (it being understood that if any SpinCo Asset will be held by a Transferred Entity or a wholly owned Subsidiary of a Transferred Entity, such SpinCo Asset may be assigned, transferred, conveyed and delivered to SpinCo as a result of the transfer of all of the equity interests in such Transferred Entity from Parent or the other applicable members of the RemainCo Group to SpinCo or the applicable SpinCo Designee), such that the SpinCo Group will own, to the extent that it does not already own, all of the SpinCo Assets.

(iii) *Acceptance and Assumption of SpinCo Liabilities*. SpinCo and the applicable SpinCo Designees will accept, assume and agree faithfully to perform, discharge and fulfill all the SpinCo Liabilities in accordance with their respective terms (it being understood that if any SpinCo Liability is a liability of a Transferred

Entity or a wholly owned Subsidiary of a Transferred Entity, such SpinCo Liability may be assumed by SpinCo as a result of the transfer of all of the equity interests in such Transferred Entity from Parent or the other applicable members of the RemainCo Group to SpinCo or the applicable SpinCo Designee; provided that SpinCo will cause such Transferred Entity and such SpinCo Designee to perform, discharge and fulfill all such SpinCo Liabilities in accordance with their respective terms), such that the SpinCo Group will be liable for, to the extent it is not already liable for, all SpinCo Liabilities. SpinCo and such SpinCo Designees will be responsible for all SpinCo Liabilities, regardless of when or where such SpinCo Liabilities arose or arise, whether the facts on which they are based occurred prior to or subsequent to the Effective Time, where or against whom such SpinCo Liabilities are asserted or determined (including any SpinCo Liabilities arising out of claims made by Parent's or SpinCo's respective directors, officers, employees, agents, Subsidiaries or Affiliates against any member of the RemainCo Group or the SpinCo Group) or whether asserted or determined prior to or subsequent to the Effective Time, and regardless of whether arising from or alleged to arise from negligence, recklessness, violation of Law, fraud or misrepresentation by any member of the RemainCo Group or the SpinCo Group, or any of their respective directors, officers, employees, agents, Subsidiaries or Affiliates.

(iv) *Transfer and Assignment of RemainCo Assets*. Parent and SpinCo will cause SpinCo and the other applicable members of the SpinCo Group to contribute, assign, transfer, convey and deliver to Parent or certain members of the RemainCo Group designated by Parent, and Parent or such other members of the RemainCo Group will accept from SpinCo and the applicable members of the SpinCo Group, all of SpinCo's and such SpinCo Group members' respective direct or indirect right, title and interest in and to all RemainCo Assets, such that the RemainCo Group will own, to the extent that it does not already own, all of the RemainCo Assets.

(v) *Acceptance and Assumption of RemainCo Liabilities*. Parent and the other applicable members of the RemainCo Group designated by Parent will accept, assume and agree faithfully to perform, discharge and fulfill all the RemainCo Liabilities held by SpinCo or any SpinCo Designee and Parent and the other applicable members of the RemainCo Group will be responsible for all RemainCo Liabilities in accordance with their respective terms, such that the RemainCo Group will be liable for, to the extent it is not already liable for, all RemainCo Liabilities, regardless of when or where such RemainCo Liabilities arose or arise, whether the facts on which they are based occurred prior to or subsequent to the Effective Time, where or against whom such RemainCo Liabilities are asserted or determined (including any RemainCo Liabilities arising out of claims made by Parent's or SpinCo's respective directors, officers, employees, agents, Subsidiaries or Affiliates against any member of the RemainCo Group or the SpinCo Group) or whether asserted or determined prior to or subsequent to the Effective Time, and regardless of whether arising from or alleged to arise from negligence, recklessness, violation of Law, fraud or misrepresentation by any member of the RemainCo Group or the SpinCo Group, or any of their respective directors, officers, employees, agents, Subsidiaries or Affiliates.

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

(c) *Misallocations*. If at any time or from time to time (whether prior to, at or after the Effective Time), one Party (or any other member of such Party's Group) receives or otherwise possesses any Asset that is or should have been allocated to the other Party (or any other member of such other Party's Group) pursuant to this Agreement or any Ancillary Agreement, such Party will promptly transfer, or cause to be transferred, such Asset to the Party so entitled thereto (or to such member of such Party's Group), and such Party (or other member of such Party's Group) will accept such Asset. Prior to any such transfer, the Person receiving or possessing such Asset will hold such Asset in trust for such other Person. In the event that, at any time or from time to time (whether prior to, at or after the Effective Time), one Party (or any other member of such Party's Group) receives or otherwise is obligated for any Liability that is or should have been allocated to another unaffiliated Party (or the other applicable member of such Party's Group) pursuant to this Agreement or any Ancillary Agreement, such Party will promptly transfer, or cause to be transferred, such Liability to the Party (or to such member of such Party's Group) responsible therefor, and the Party (or other member of such Party's Group) responsible therefor will accept, assume and agree to faithfully perform such Liability. For the avoidance of doubt, in the event that at any time or from time to time (whether prior to, at or after the Effective Time), one Party (or any member of such Party's Group) shall make a payment in respect of any Liability that the Parties agree is allocated to the other Party pursuant to this Agreement or otherwise, such other Party shall reimburse the first Party for the amount so paid as promptly as is reasonably practicable following delivery of written evidence of such payment.

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

2.2 Approvals and Notifications.

(a) To the extent that the transfer or assignment of any Asset or the assumption of any Liability contemplated herein requires any Approvals or Notifications, the Parties will use their commercially reasonable efforts to obtain or make such Approvals or Notifications as soon as reasonably practicable; provided that, except to the extent expressly provided in this Agreement or any of the Ancillary Agreements or as otherwise agreed between the Parties, neither Party will be obligated to contribute capital or pay any consideration in any form (including providing any letter of credit, guaranty or other financial accommodation) to any Person in order to obtain or make such Approvals or Notifications.

(b) If and to the extent that the valid, complete and perfected transfer or assignment of any Asset or assumption of any Liability contemplated herein would be a violation of applicable Law or require any Approval or Notification that has not been obtained or made by the Effective Time then, unless the Parties otherwise mutually determine, the transfer or assignment of such Asset or the assumption of such Liability, as the case may be, will be automatically deemed deferred (any such SpinCo Assets, the "Delayed SpinCo Assets," any such SpinCo Liabilities, the "Delayed SpinCo Liabilities," any such RemainCo Assets, the "Delayed RemainCo Assets" and any such RemainCo Liabilities, the "Delayed RemainCo Liabilities") and any such purported transfer, assignment or assumption will be null and void until such time as all legal impediments are removed or such Approvals or Notifications have been obtained or made. Notwithstanding the foregoing, any such Assets will continue to constitute SpinCo Assets or RemainCo Assets, as the case may be, and any such Liabilities will continue to constitute SpinCo Liabilities or RemainCo Liabilities, as the case may be, for all other purposes of this Agreement and the Person retaining such Asset or Liability will thereafter hold such Asset or Liability, as the case may be, for the use and benefit or burden, as applicable, insofar as reasonably possible, of the Person entitled thereto or obligated thereon (at such Person's sole expense). The Parties will use their respective commercially reasonable efforts to continue to seek to remove all legal impediments or obtain such Approvals or Notifications (as applicable) as soon as reasonably practicable; provided, however, that, except with respect to those Assets and Liabilities set forth on Schedule 2.2(b), the obligations set forth in this sentence will terminate on the one-year anniversary of the Distribution. The Person retaining such Asset or Liability will treat such Asset or Liability in the ordinary course of business in accordance with past practice and take such other actions as may be reasonably requested by the Person entitled to receive such Asset or obligated to assume such Liability and develop and implement arrangements to place the Person entitled to receive such Asset or obligated to assume such Liability, insofar as reasonably possible and to the extent not

prohibited by applicable Law or the relevant Contract, in the same position as if such Asset or Liability, as the case may be, had been transferred, assigned or assumed as contemplated hereby such that all the benefits and burdens relating to such Asset or Liability, as the case may be, inure to the applicable Group.

(c) If and when the applicable legal impediments are removed or such Approvals or Notifications have been obtained or made, the transfer or assignment of the applicable Asset or the assumption of the applicable Liability, as the case may be, will be effected in accordance with the terms of this Agreement or the applicable Ancillary Agreement.

2.3 Novation of Liabilities.

(a) *Novation of SpinCo Liabilities.*

(i) Except as set forth in Schedule 2.3(a), each of the Parties, at the request of the other, will use its commercially reasonable efforts to obtain, or to cause to be obtained, as soon as reasonably practicable, any consent, substitution, approval or amendment required to novate or assign all SpinCo Liabilities and obtain in writing the unconditional release of each member of the RemainCo Group that is a party to any related agreement, lease, license or other obligation or Liability, so that, in any such case, the members of the SpinCo Group will be solely responsible for such SpinCo Liabilities; provided that, except as otherwise expressly provided in this Agreement or any of the Ancillary Agreements, neither Parent nor SpinCo will be obligated to contribute any capital or pay any consideration in any form (including providing any letter of credit, guaranty or other financial accommodation) to any Third Party from whom any such consent, substitution, approval, amendment or release is requested.

(ii) If the Parties are unable to obtain, or cause to be obtained, any such required consent, substitution, approval, amendment or release and the applicable member of the RemainCo Group continues to be bound by such agreement, lease, license or other obligation or Liability (each, an "Unreleased SpinCo Liability"), SpinCo will, to the extent not prohibited by Law, as indemnitor, guarantor, agent or subcontractor for such member of the RemainCo Group, as the case may be, (A) pay, perform and discharge fully all the obligations or other Liabilities of such member of the RemainCo Group that constitute Unreleased SpinCo Liabilities from and after the Effective Time in accordance with the terms thereunder and (B) use its commercially reasonable efforts to effect such payment, performance or discharge prior to any demand for such payment, performance or discharge is permitted to be made by the obligee thereunder on any member of the RemainCo Group. If and when any such consent, substitution, approval, amendment or release will be obtained or the Unreleased SpinCo Liabilities will otherwise become assignable or able to be novated, Parent will promptly assign, or cause to be assigned, and SpinCo or the applicable SpinCo Group member will assume, such Unreleased SpinCo Liabilities without exchange of further consideration.

(b) *Novation of RemainCo Liabilities*.

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

(ii) If the Parties are unable to obtain, or to cause to be obtained, any such required consent, substitution, approval, amendment or release and the applicable member of the SpinCo Group continues to be bound by such agreement, lease, license or other obligation or Liability (each, an "Unreleased RemainCo Liability"), Parent will, to the extent not prohibited by Law, as indemnitor, guarantor, agent or subcontractor for such member of the SpinCo Group, as the case may be, (A) pay, perform and discharge fully all the obligations or other Liabilities of such member of the SpinCo Group that constitute Unreleased RemainCo Liabilities from and after the Effective Time in accordance with the terms thereunder and (B) use its commercially reasonable efforts to effect such payment, performance or discharge prior to any demand for such payment, performance or discharge is permitted to be made by the obligee thereunder on any member of the SpinCo Group. If and when any such consent, substitution, approval, amendment or release will be obtained or the Unreleased RemainCo Liabilities will otherwise become assignable or able to be novated, SpinCo will promptly assign, or cause to be assigned, and RemainCo or the applicable RemainCo Group member will assume, such Unreleased RemainCo Liabilities without exchange of further consideration.

2.4 Release of Guarantees. In furtherance of, and not in limitation of, the obligations set forth in Section 2.3:

(a) At or prior to the Effective Time or as soon as practicable thereafter, each of the Parties will, at the request of the other Party and with the reasonable cooperation of such other Party and the applicable member(s) of such other Party's Group, use commercially reasonable efforts to: (i) have any member(s) of the RemainCo Group removed as guarantor of, indemnitor of or obligor for any SpinCo Liability, including the removal of any Security Interest on or in any RemainCo Asset that may serve as collateral or security for any such SpinCo Liability; and (ii) have any member(s) of the SpinCo Group removed as guarantor of, indemnitor of, or obligor for any RemainCo Liability, including the removal of any Security Interest on or in any SpinCo Asset that may serve as collateral or security for any such RemainCo Liability.

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

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

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

(c) If the Parties are unable to obtain, or to cause to be obtained, any such required removal or release as set forth in clauses (a) and (b) of this Section 2.4: (i) Parent, SpinCo or the other relevant member of the RemainCo Group or the SpinCo Group, as applicable, that has assumed the Liability with respect to such guarantee or indemnity will indemnify, defend and hold harmless the guarantor, indemnitor or obligor against or from any Liability arising from or relating thereto in accordance with the provisions of Article IV and will, as agent or subcontractor for such guarantor, indemnitor or obligor, pay, perform and discharge fully all the obligations or other Liabilities of such guarantor, indemnitor or obligor thereunder in accordance with its terms; and (ii) each of Parent and SpinCo, on behalf of itself and the other members of the RemainCo Group or the SpinCo Group, respectively, agree not to renew or extend the term of, increase any obligations under, or transfer to a Third Party, any loan, guarantee, lease, Contract or other obligation for which any other Party or a member of such other Party's Group is or may be liable unless all obligations of such other Party and the members of such other Party's Group with respect thereto are thereupon terminated by documentation satisfactory in form and substance to such other Party.

2.5 Termination of Agreements.

(a) Except as set forth in Section 2.5(b), in furtherance of the releases and other provisions of Section 4.1, SpinCo and each other member of the SpinCo Group, on the one hand, and Parent and each other member of the RemainCo Group, on the other hand, hereby terminate any and all Contracts, between or among any member of the SpinCo Group, on the one hand, and any member of the RemainCo Group, on the other hand, effective as of the Effective Time. No such terminated Contract (including any provision thereof which purports to survive termination) will be of any further force or effect after the Effective Time. Each Party will, at the reasonable request of the other Party, take, or cause to be taken, such other actions as may be necessary to effect the foregoing.

(b) The provisions of Section 2.5(a) will not apply to any of the following Contracts (or to any of the provisions thereof): (i) this Agreement and the Ancillary Agreements (and each other agreement or instrument expressly contemplated by this Agreement or any Ancillary Agreement to be entered into by Parent, SpinCo or any other member of their respective Groups or to be continued from and after the Effective Time); (ii) any Contracts listed or described on Schedule 2.5(b)(ii); (iii) any Contracts to which any Third Party is a party; (iv) any Contracts under which any intercompany accounts payable or accounts receivable accrued as of the Effective Time are reflected in the books and records of the Parties or otherwise documented in writing in accordance with past practice (for the avoidance of doubt, excluding the intercompany accounts receivable and accounts payable referenced in Sections 2.11(a)(iii) and 2.11(a)(iv)); (v) any Contracts to which any non-wholly owned Subsidiary of Parent or SpinCo, as the case may be, is a party (it being understood that directors' qualifying shares or similar interests will be disregarded for purposes of determining whether a Subsidiary is wholly owned); and (vi) any Shared Contracts.

(c) (i) All intercompany accounts receivable and accounts payable between any member of the RemainCo Group, on the one hand, and any member of the SpinCo Group, on the other hand, outstanding as of the Effective Time and arising out of the Contracts described in Section 2.5(b), or out of the provision, prior to the Effective Time, of the services to be provided following the Effective Time pursuant to any of the Ancillary Agreements will be paid or settled following the Effective Time in the ordinary course of business or, if otherwise mutually agreed prior to the Effective Time by duly authorized representatives of SpinCo and Parent, cancelled, assigned or assumed by SpinCo or Parent or one or more Subsidiaries of SpinCo or Parent; and (ii) no other intercompany accounts receivable and accounts payable between any member of the RemainCo Group, on the one hand, and any member of the SpinCo Group, on the other hand, are outstanding as of the Effective Time.

2.6 Treatment of Shared Contracts. The Parties will, and will cause the other members of their respective Groups to, use commercially reasonable efforts to work together (and, if necessary and desirable, to work with the applicable Third Party to such Shared Contract) in an effort to divide, partially assign, modify or replicate (in whole or in part) the respective rights and obligations under and in respect of any

Shared Contract, such that (a) a member of the SpinCo Group is the beneficiary of the rights and is responsible for the obligations in respect of that portion of such Shared Contract relating to the SpinCo Business (the "SpinCo Portion"), which rights will be a SpinCo Asset and which obligations will be a SpinCo Liability, and (b) a member of the RemainCo Group is the beneficiary of the rights and is responsible for the obligations in respect of that portion of such Shared Contract relating to the RemainCo Business (the "RemainCo Portion"), which rights will be a RemainCo Asset and which obligations will be a RemainCo Liability. If the Parties are not able to enter into an arrangement to formally divide, partially assign, modify or replicate such Shared Contract as contemplated by the previous sentence, then the Parties will, and will cause the applicable other members of their respective Groups to, cooperate in any lawful arrangement to provide that a member of the SpinCo Group will receive the interest in the benefits and obligations of the SpinCo Portion under such Shared Contract and a member of the RemainCo Group will receive the interest in the benefits and obligations of the RemainCo Portion under such Shared Contract; provided, however, that no Party will be required to expend any money or take any action in furtherance of this Section 2.6 that would require the expenditure of money (other than any payment obligations under the applicable Shared Contract) and neither Party will be obligated to contribute capital or pay any consideration in any form (including providing any letter of credit, guaranty or other financial accommodation) to any Person (other than any payment obligations under the applicable Shared Contract) in furtherance of this Section 2.6.

2.7 Bank Accounts; Cash Balances.

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

(b) With respect to any outstanding checks issued or payments initiated by Parent, SpinCo or any other member of their respective Groups prior to the Effective Time, such outstanding checks and payments will be honored following the Effective Time by the Person or Group owning the account on which the check is drawn or from which the payment was initiated, respectively.

(c) As between Parent and SpinCo (and the other members of their respective Groups), all payments made and reimbursements received after the Effective Time to or by either Party (or member of its Group) that relate to a business, Asset or Liability of the other Party (or other member of such other Party's Group), will be held by such receiving Party in trust for the use and benefit of the Party entitled thereto and, promptly following receipt by such receiving Party of any such payment or reimbursement, Parent or SpinCo, as applicable, will pay over, or will cause the applicable other member of its Group to pay over, to such other Party the amount of such payment or reimbursement without right of set-off.

2.8 Ancillary Agreements. Effective at or prior to the Effective Time, each Party will, or will cause each applicable other member of its Group to, execute and deliver all Ancillary Agreements to which it is a party.

2.9 Disclaimer of Representations and Warranties. EACH OF PARENT (ON BEHALF OF ITSELF AND EACH OTHER MEMBER OF THE REMAINCO GROUP) AND SPINCO (ON BEHALF OF ITSELF AND EACH OTHER MEMBER OF THE SPINCO GROUP) UNDERSTANDS AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN, OR IN THE INVESTMENT AGREEMENT OR ANY ANCILLARY AGREEMENT, NO PARTY TO THIS AGREEMENT, THE INVESTMENT AGREEMENT, ANY ANCILLARY AGREEMENT OR ANY OTHER AGREEMENT OR DOCUMENT CONTEMPLATED BY THIS AGREEMENT, THE INVESTMENT AGREEMENT, ANY ANCILLARY AGREEMENT OR OTHERWISE, IS REPRESENTING OR WARRANTING IN ANY WAY AS TO THE ASSETS, BUSINESSES OR LIABILITIES TRANSFERRED OR ASSUMED AS CONTEMPLATED HEREBY OR THEREBY, AS TO ANY CONSENTS OR APPROVALS REQUIRED IN CONNECTION HEREWITH OR THEREWITH, AS TO THE VALUE OR FREEDOM FROM ANY SECURITY INTERESTS OF ANY ASSETS OF SUCH PARTY OR ANY OTHER MEMBER OF ITS GROUP, OR ANY OTHER MATTER CONCERNING ANY ASSETS OR LIABILITIES OF SUCH PARTY OR ANY OTHER MEMBER OF ITS GROUP, OR AS TO THE EXISTENCE OR ABSENCE OF ANY DEFENSES OR RIGHT OF SETOFF OR FREEDOM FROM COUNTERCLAIM WITH RESPECT TO ANY CLAIM OR OTHER ASSET OR LIABILITY, INCLUDING ANY ACCOUNTS RECEIVABLE OR ACCOUNTS PAYABLE, OF EITHER PARTY OR ANY OTHER MEMBER OF ITS GROUP, OR AS TO THE LEGAL SUFFICIENCY OF ANY ASSIGNMENT, DOCUMENT OR INSTRUMENT DELIVERED HEREUNDER TO CONVEY TITLE TO ANY ASSET OR THING OF VALUE UPON THE EXECUTION, DELIVERY AND FILING HEREOF OR THEREOF. EXCEPT AS MAY EXPRESSLY BE SET FORTH HEREIN, OR IN THE INVESTMENT AGREEMENT OR ANY ANCILLARY AGREEMENT, ALL SUCH ASSETS ARE BEING TRANSFERRED ON AN “AS IS,” “WHERE IS” BASIS (AND, IN THE CASE OF ANY REAL PROPERTY, BY MEANS OF A QUITCLAIM OR SIMILAR FORM OF DEED OR CONVEYANCE) AND THE RESPECTIVE TRANSFEREES WILL BEAR THE ECONOMIC AND LEGAL RISKS THAT (A) ANY CONVEYANCE WILL PROVE TO BE INSUFFICIENT TO VEST IN THE TRANSFEREE GOOD AND MARKETABLE TITLE, FREE AND CLEAR OF ANY SECURITY INTEREST, AND (B) ANY NECESSARY APPROVALS OR NOTIFICATIONS ARE NOT OBTAINED OR MADE OR THAT ANY REQUIREMENTS OF LAWS OR JUDGMENTS ARE NOT COMPLIED WITH. Each of Parent (on behalf of itself and each member of the RemainCo Group) and SpinCo (on behalf of itself and each member of the SpinCo Group) further understands and agrees that if the disclaimer of express or implied representations and warranties contained in this Section 2.9 is held unenforceable or is unavailable for any reason under the Laws of

any jurisdiction outside the United States or if, under the Laws of a jurisdiction outside the United States, both Parent or any member of the RemainCo Group, on the one hand, and SpinCo or any member of the SpinCo Group, on the other hand, are jointly or severally liable for any RemainCo Liability or any SpinCo Liability (except as expressly set forth herein, or in the Investment Agreement or any Ancillary Agreement), respectively, then the Parties intend that, notwithstanding any provision to the contrary under the Laws of such jurisdictions, the provisions of this Agreement and the Ancillary Agreements (including the disclaimer of all representations and warranties, allocation of Liabilities among the Parties and their respective Subsidiaries, releases, indemnification and contribution of Liabilities) will prevail for any and all purposes among the Parties and their respective Subsidiaries.

2.10 Financial Information Certifications. Parent's disclosure controls and procedures and internal control over financial reporting (as each is contemplated by the Exchange Act) are currently applicable to SpinCo and the other members of the SpinCo Group as its Subsidiaries. In order to enable the principal executive officer and principal financial officer of SpinCo to make the certifications required of them under Sections 302 and 906 of the Sarbanes-Oxley Act, Parent will, as soon as reasonably practicable following the Distribution and in any event prior to such time that SpinCo is required to file with the SEC its first annual report on Form 20-F, provide SpinCo with one or more certifications with respect to such disclosure controls and procedures, its internal control over financial reporting and the effectiveness thereof (each, a "Certification"). Any such Certification(s) provided by Parent to SpinCo under this Section 2.10 will be provided by Parent (and not by any officer or employee in their individual capacity).

2.11 SpinCo Transfer.

(a) As contemplated by Section 2.1, Parent and SpinCo will, subject to the terms and conditions set forth herein, effect the SpinCo Transfer as described by this Section 2.11(a) prior to the Distribution. Parent will contribute, assign, transfer, convey and deliver (directly or indirectly) to SpinCo or other members of the SpinCo Group, as applicable, the SpinCo Assets as contemplated by Section 2.1. As consideration for such contribution, assignment, transfer, conveyance and delivery, no later than immediately prior to the Distribution, SpinCo will:

(i) issue and deliver to Parent a number of SpinCo Shares in an amount equal to (A) the product of the number of Parent Shares outstanding as of the Record Date multiplied by the distribution ratio determined by the Parent Board, less (B) the number of shares of SpinCo Shares outstanding immediately prior to the issuance of SpinCo Shares pursuant to this Section 2.11(a)(i);

(ii) assume the SpinCo Liabilities as contemplated by Section 2.1;

(iii) cause the issuance of the Intercompany Note; and

(iv) distribute to Parent any intercompany accounts receivable owed by any member of the RemainCo Group to any member of the SpinCo Group.

(b) At or prior to the Distribution Date, SpinCo, together with certain other members of the SpinCo Group will enter into definitive agreements with respect to the Debt Financing (as defined in the Investment Agreement) and the Additional Financing (as defined in the Investment Agreement) as contemplated pursuant to the Investment Agreement (the Debt Financing and the Additional Financing, the "SpinCo Financing").

(c) Following the closing of the Investment pursuant to the Investment Agreement, SpinCo will cause to be paid, to Parent all amounts due and owing to Parent or the RemainCo Group under the Intercompany Note, pursuant to the terms of the Intercompany Note.

(d) To the extent any transaction contemplated by this Section 2.11 is not tax efficient, the Parties will reasonably cooperate to change, reform or otherwise modify such transaction as necessary to achieve greater tax efficiency.

ARTICLE III
THE DISTRIBUTION

3.1 Parent Discretion; Cooperation.

(a) Subject to and in accordance with the terms and conditions of this Agreement and the Investment Agreement, Parent will determine the form and structure of any transaction(s) or offering(s) to effect the Distribution and the timing of the consummation of the Distribution. Nothing in this Agreement will in any way limit Parent's right to terminate this Agreement or the Distribution prior to the Effective Time pursuant to and in accordance with Article IX or alter the consequences of any such termination from those specified in Article IX, in each case, subject to the prior termination of the Investment Agreement in accordance with its terms.

(b) SpinCo will cooperate with Parent to accomplish the Distribution and will, at Parent's direction, to the extent permitted by applicable Law, promptly take any and all actions necessary or desirable to effect the Distribution, including in respect of the registration under the Exchange Act of SpinCo Shares on the Form 20-F. Parent will select any investment bank or manager in connection with the Distribution, as well as any financial printer, solicitation or exchange agent and financial, legal, accounting and other advisors for Parent. SpinCo and Parent will provide to the Agent any information required in order to complete the Distribution.

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

(a) *The Separation*. On or prior to the Distribution Date, Parent and SpinCo will take all actions and consummate all transactions required to be taken or consummated at or prior to the Distribution pursuant to Article II.

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

(c) *SpinCo Organizational Documents*. On or prior to the Distribution Date, Parent and SpinCo will take all necessary actions so that, as of the Effective Time, the SpinCo Amended Constitution will become the constitution of SpinCo.

(d) *SpinCo Directors and Officers*. On or prior to the Distribution Date, the Parties will take all necessary actions so that as of the Effective Time: (i) the directors and officers of SpinCo will be those set forth in the Disclosure Documents made available to the Record Holders prior to the Distribution Date, unless otherwise agreed by the Parties, and (ii) SpinCo will have such other officers as the board of directors of SpinCo will appoint.

(e) *NASDAQ Listing*. SpinCo will prepare and file and use its reasonable best efforts to have approved an application to permit listing of the SpinCo Shares to be distributed in the Distribution on NASDAQ, subject to official notice of issuance.

(f) *Securities Law Matters*. SpinCo will file any amendments or supplements to the Form 20-F as may be necessary or advisable in order to cause the Form 20-F to become and remain effective as required by the SEC or federal, state or other applicable securities Laws. The Parties will cooperate in preparing, filing with the SEC and causing to become effective registration statements or amendments thereof that are required to reflect the establishment of, or amendments to, any employee benefit and other plans necessary or advisable in connection with the transactions contemplated by this Agreement and the Ancillary Agreements. The Parties will prepare, and SpinCo will, to the extent required under applicable Law, file with the SEC any such documentation and any requisite no-action letters that Parent determines are necessary or desirable to effectuate the Distribution, and Parent and SpinCo will each use their respective reasonable best efforts to obtain all necessary approvals from the SEC with respect thereto as soon as practicable. The Parties will take all such action as may be necessary or appropriate under the securities or blue sky Laws of the United States (and any comparable Laws under any foreign jurisdiction) in connection with the Distribution.

(g) *Mailing of Form 20-F*. Parent will, as soon as is reasonably practical after the Form 20-F is declared effective by the SEC under the Exchange Act and the Parent Board has approved the Distribution, cause copies of the Form 20-F to be mailed to the Record Holders.

(h) *The Distribution Agent*. Parent will enter into a distribution agent agreement, or such other agreement as may be necessary, with the Agent or otherwise provide instructions to the Agent regarding the Distribution.

(i) *Financing Transactions*. In connection with the Separation and prior to the Effective Time, the Parties will cooperate with respect to and undertake such financing transactions (which may also include the transfer of cash between the RemainCo Group and the SpinCo Group) as Parent determines to be advisable (in accordance with the Investment Agreement), including the SpinCo Financing.

3.3 Conditions to the Distribution.

(a) The consummation of the Distribution will be subject to the satisfaction, or waiver, in whole or in part, by Parent, but subject to Parent's obligations under the Investment Agreement, of the following conditions:

(i) The Internal Restructuring and the SpinCo Transfer will have been consummated in all material respects (subject to Section 2.2).

(ii) SpinCo will have been duly incorporated and will have been converted from a private company to a public company under the Companies Act, Chapter 50 of Singapore.

(iii) All corporate or other action necessary in order to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby by each Party will have been obtained.

(iv) Parent will have received an opinion of Jones Day regarding the qualification of the Distribution as a transaction that is generally tax-free for U.S. federal income tax purposes under Section 355 of the Code to the stockholders of Parent.

(v) The SEC will have declared effective the Form 20-F; no order suspending the effectiveness of the Form 20-F will be in effect; and no proceedings for such purposes will be pending before or threatened by the SEC.

(vi) Copies of the Form 20-F shall have been mailed to the Record Holders.

(vii) The actions and filings necessary or appropriate under applicable U.S. federal, U.S. state or other securities Laws or blue sky Laws (and any comparable Laws under any foreign jurisdiction) and the rules and regulations thereunder will have been taken or made, and, where applicable, will have become effective or been accepted.

(viii) Any Governmental Approvals required for the consummation of the Separation and Distribution will have been obtained.

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

(x) The SpinCo Shares to be distributed to the stockholders of Parent in the Distribution will have been accepted for listing on NASDAQ, subject to official notice of issuance.

(xi) Each of the Ancillary Agreements will have been duly executed and delivered by the applicable parties thereto.

(xii) An independent valuation firm will have delivered one or more opinions to the Parent Board confirming the solvency and financial viability of each of Parent and SpinCo immediately after the consummation of the Distribution, and such opinions will be acceptable to Parent in form and substance in Parent's sole discretion, and such opinions will not have been withdrawn, rescinded or modified in any respect.

(xiii) The conditions to closing of the transactions contemplated by the Investment Agreement set forth in Sections 7.1 and 7.3 thereof will have been satisfied or, to the extent permitted by applicable Law, waived.

(xiv) If, and to the extent required by applicable Law, Parent shall have, and shall have procured that any applicable Subsidiary of Parent shall have, informed, consulted or more generally involved any relevant employee representative bodies, in connection with the transactions contemplated by this Agreement and by the Investment Agreement.

(xv) If (A) a General Waiver (as defined in the Investment Agreement) has not been obtained from the SIC, and (B) based on the advice of counsel, Parent, SpinCo and Total reasonably determine that the Distribution is expected to trigger the mandatory general offer provisions under Rule 14 of the Singapore Code, then a Ruling (as defined in the Investment Agreement) or a Specific Waiver (as defined in the Investment Agreement), in each case, applicable to the Distribution shall have been obtained from the SIC on conditions reasonably satisfactory to Parent, SpinCo and Total.

(b) The foregoing conditions (i) are for the sole benefit of Parent, (ii) will not give rise to or create any duty on the part of Parent or the Parent Board to waive or not waive any such condition in accordance with this Agreement and subject to Parent's obligations in the Investment Agreement, and (iii) will not in any way limit Parent's right to terminate this Agreement as set forth in Article IX or alter the consequences of any such termination from those specified in Article IX, in each case, subject to the prior termination of the Investment Agreement in accordance with its terms. Any determination made by the Parent Board prior to the Distribution concerning the satisfaction or waiver of any or all of the conditions set forth in Section 3.3(a) will be conclusive and binding on the Parties.

3.4 The Distribution.

(a) Subject to Section 3.3, at or prior to the Effective Time, SpinCo will deliver to the Agent, for the benefit of the Record Holders, book-entry transfer authorizations for such number of the outstanding SpinCo Shares as is necessary to effect the Distribution, and will cause the transfer agent for the Parent Shares to instruct the Agent to distribute at the Effective Time the appropriate number of SpinCo Shares to each such Record Holder or designated transferee or transferees of such Record Holder by crediting such number of SpinCo Shares to book-entry accounts of such Record Holder or designated transferee or transferees of such Record Holder. The Distribution will be effective at the Effective Time.

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

(c) No fractional shares will be distributed or credited to book-entry accounts in connection with the Distribution, and any such fractional share interests to which a Record Holder would otherwise be entitled will not entitle such Record Holder to vote or to any other rights as a shareholder of SpinCo. In lieu of any such fractional shares, each Record Holder who, but for the provisions of this Section 3.4(c), would be entitled to receive a fractional share interest of a SpinCo Share pursuant to the Distribution, will be paid cash, without any interest thereon, as hereinafter provided. As soon as practicable after the Effective Time, Parent will direct the Agent to determine the number of whole and fractional SpinCo Shares allocable to each Record Holder, to aggregate all such fractional shares into whole shares, and to sell the whole shares obtained thereby in the open market at the then-prevailing prices on behalf of each Record Holder who otherwise would be entitled to receive fractional share interests (with the Agent, in its sole and absolute discretion, determining when, how and through which broker-dealer and at what price to make such sales), and to cause to be distributed to each such Record Holder, in lieu of any fractional share, such Record Holder's or owner's ratable share of the total proceeds of such sale, after deducting any Taxes required to be withheld and applicable transfer Taxes, and after deducting the costs and expenses of such sale and distribution, including brokers' fees and commissions. None of Parent, SpinCo or the Agent will be required to guarantee any minimum sale price for the fractional SpinCo Shares sold in accordance with this Section 3.4(c). Neither Parent nor SpinCo will be required to pay any interest on the proceeds from the sale of fractional shares. Neither the Agent nor the broker-dealers through which the aggregated fractional shares are sold will be Affiliates of the Parties. Solely for purposes of computing fractional share interests pursuant to this Section 3.4(c) and Section 3.4(d), the beneficial owner of Parent Shares held of record in the name of a nominee in any nominee account will be treated as the Record Holder with respect to such shares.

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

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

ARTICLE IV
MUTUAL RELEASES, INDEMNIFICATION AND LITIGATION

4.1 Release of Pre-Distribution Claims.

(a) *SpinCo Release of RemainCo Group*. Except as provided in Sections 4.1(c) and 4.3, effective as of the Effective Time, SpinCo does hereby, for itself and each other member of the SpinCo Group, and their respective successors and assigns, and, to the extent permitted by Law, all Persons who at any time prior to the Effective Time have been shareholders, directors, officers, agents or employees of any member of the SpinCo Group (in each case, in their respective capacities as such), remise, release and forever discharge (i) Parent and the other members of the RemainCo Group, and their respective successors and assigns, (ii) all Persons who at any time prior to the Effective Time have been shareholders, directors, officers, agents or employees of any member of the RemainCo Group (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns and (iii) all Persons who at any time prior to the Effective Time are or have been shareholders, directors, officers, agents or employees of a Transferred Entity and who are not, as of immediately following the Effective Time, directors, officers or employees of either of SpinCo or another member of the SpinCo Group (collectively, the "Parent Released Persons"), in each case from: (A) all SpinCo Liabilities, (B) all Liabilities arising from or in connection with the transactions and all other activities to implement the Separation and the Distribution and (C) all Liabilities arising from or in connection with actions, inactions, events, omissions, conditions, facts or circumstances occurring or existing prior to the Effective Time (whether or not such Liabilities cease being contingent, mature, become known, are asserted or foreseen, or accrue, in each case before, at or after the Effective Time), in each case to the extent relating to, arising out of or resulting from the SpinCo Business, the SpinCo Assets or the SpinCo Liabilities.

(b) *Parent Release of SpinCo Group*. Except as provided in Sections 4.1(c) and 4.2, effective as of the Effective Time, Parent does hereby, for itself and each other member of the RemainCo Group and their respective successors and assigns, and, to the extent permitted by Law, all Persons who at any time prior to the Effective Time have been shareholders, directors, officers, agents or employees of any member of the RemainCo Group (in each case, in their respective capacities as such), remise, release and forever discharge SpinCo and the other members of the SpinCo Group, and their respective successors and assigns (collectively, the "SpinCo Released Persons"), from (i) all RemainCo Liabilities, (ii) all Liabilities arising from or in connection with the transactions and all other activities to implement the Separation and the Distribution and (iii) all Liabilities arising from or in connection with actions, inactions, events, omissions, conditions, facts or circumstances occurring or existing prior to the Effective Time (whether or not such Liabilities cease being contingent, mature, become known, are asserted or foreseen, or accrue, in each case before, at or after the Effective Time), in each case to the extent relating to, arising out of or resulting from the RemainCo Business, the RemainCo Assets or the RemainCo Liabilities.

(c) *Obligations Not Affected*. Nothing contained in Section 4.1(a) or 4.1(b) will impair any right of any Person to enforce this Agreement, the Investment Agreement, any Ancillary Agreement or any Contracts that are specified in Sections 2.5(b) and 2.5(c) or the applicable Schedule to Section 2.5(b) as not terminating as of the Effective Time, in each case in accordance with its terms. Nothing contained in Section 4.1(a) or 4.1(b) will release any Person from:

(i) any Liability provided in or resulting from any Contract among any members of the RemainCo Group or the SpinCo Group that is specified in Sections 2.5(b) or 2.5(c) or the applicable Schedule to Section 2.5(b) as not to terminate as of the Effective Time, or any other Liability specified in Sections 2.5(b) or 2.5(c) as not to terminate as of the Effective Time;

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

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

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

(v) any Liability the release of which would result in the release of any Person other than a Person released pursuant to this Section 4.1, provided, however, that each Party agrees not to and to cause the other members of its Group not to bring suit against any Parent Released Person or any SpinCo Released Person, as applicable, with respect to any such Liability; or

(vi) the Intercompany Note.

In addition, nothing contained in Section 4.1(a) will release any member of the RemainCo Group from honoring its existing obligations to indemnify any director, officer or employee of SpinCo who was a director, officer or employee of any member of the RemainCo Group at or prior to the Effective Time, to the extent such director, officer or employee becomes a named defendant in any Action with respect to which such director, officer or employee was entitled to such indemnification pursuant to such existing obligations, it being understood that, if the underlying obligation giving rise to such Action is a SpinCo Liability, SpinCo will indemnify Parent for such Liability (including Parent's costs to indemnify the director, officer or employee) in accordance with the provisions set forth in this Article IV.

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

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

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

(a) any SpinCo Liability;

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

(c) any breach by SpinCo or any other member of the SpinCo Group of (i) this Agreement at or after the Effective Time, or (ii) any of the Ancillary Agreements;

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

(e) the enforcement by RemainCo Indemnitees of their rights to be indemnified, defended and held harmless under this Section 4.2.

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

(a) any RemainCo Liability;

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

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

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

(e) the enforcement by RemainCo Indemnitees of their rights to be indemnified, defended and held harmless under this Section 4.3.

4.4 Indemnification Obligations Net of Insurance Proceeds and Other Amounts.

(a) The Parties intend that any Liability subject to indemnification, contribution or reimbursement pursuant to this Article IV or Article V will be net of Insurance Proceeds or other amounts actually recovered (including pursuant to any indemnity from a Third Party) (net of any out-of-pocket costs or expenses incurred in the collection thereof) from any Person by or on behalf of the Indemnitee in respect of any

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

(b) The Parties agree that an insurer or other Person (including pursuant to any indemnity from a Third Party) that would otherwise be obligated to pay any claim will not be relieved of the responsibility with respect thereto or, solely by virtue of any provision contained in this Agreement or any Ancillary Agreement, have any subrogation rights with respect thereto, it being understood that no insurer or any other Third Party will be entitled to a "windfall" (*i.e.*, a benefit they would not be entitled to receive in the absence of the indemnification provisions) by virtue of the liability allocation, indemnification and contribution provisions hereof. Each Party will, and will cause the members of its Group to, use commercially reasonable efforts to seek or collect or recover any Insurance Proceeds or any indemnity by any Third Party that may be collectible or recoverable with respect to the Liabilities for which indemnification or contribution may be available under this Article IV; provided that the Indemnitee's inability to collect or recover any such Insurance Proceeds or indemnity from a Third Party will not limit the Indemnifying Party's obligations under this Agreement.

4.5 Procedures for Indemnification of Third-Party Claims.

(a) *Notice of Claims*. If, after the Effective Time, an Indemnitee will receive notice or otherwise learn of the assertion by a Person (including any Governmental Authority) who is not a member of the RemainCo Group or the SpinCo Group of any claim or of the commencement by any such Person of any Action (collectively, a "Third-Party Claim") with respect to which an Indemnifying Party may be obligated to provide indemnification to such Indemnitee pursuant to Section 4.2 or 4.3, or any other Section of this Agreement or any Ancillary Agreement, such Indemnitee will give such Indemnifying Party written notice thereof as soon as practicable, but in any event no later than 14 days after becoming aware of such Third-Party Claim. Any such notice will describe the Third-Party Claim in reasonable detail, including the facts and circumstances giving rise to such claim for indemnification, and include copies of all notices and documents (including court papers) received by the Indemnitee relating to the Third-Party Claim. Notwithstanding the foregoing, the failure of an Indemnitee to provide notice in accordance with this Section 4.5(a) will not relieve an Indemnifying Party of its indemnification obligations under this Agreement, except to the extent (if any) to which the Indemnifying Party is actually prejudiced by the Indemnitee's failure to provide notice in accordance with this Section 4.5(a).

(b) *Control of Defense*. An Indemnifying Party may elect to defend (and seek to settle or compromise, subject to Section 4.5(e)), at its own expense and with its own counsel, any Third-Party Claim; provided that prior to the Indemnifying Party assuming and controlling defense of such Third-Party Claim, it will first confirm to the Indemnitee in writing that, assuming the facts presented to the Indemnifying Party by the Indemnitee being true, the Indemnifying Party will indemnify the Indemnitee for any Liabilities to the extent resulting from, or arising out of, such Third-Party Claim. Notwithstanding the foregoing, if the Indemnifying Party assumes such defense and, in the course of defending such Third-Party Claim, (i) the Indemnifying Party discovers that the facts presented at the time the Indemnifying Party acknowledged its indemnification obligation in respect of such Third-Party Claim were not true in all material respects and (ii) such untruth provides a reasonable basis for asserting that the Indemnifying Party does not have an indemnification obligation in respect of such Third-Party Claim, then (A) the Indemnifying Party will not be bound by such acknowledgment, (B) the Indemnifying Party will promptly thereafter provide the Indemnitee written notice of its assertion that it does not have an indemnification obligation in respect of such Third-Party Claim and (C) the Indemnitee will have the right to assume the defense of such Third-Party Claim. Within 30 days after the receipt of a notice from an Indemnitee in accordance with Section 4.5(a) (or sooner, if the nature of the Third-Party Claim so requires), the Indemnifying Party will provide written notice to the Indemnitee indicating whether the Indemnifying Party will assume responsibility for defending the Third-Party Claim. If an Indemnifying Party elects not to assume responsibility for defending any Third-Party Claim or fails to notify an Indemnitee of its election within 30 days after receipt of the notice from an Indemnitee as provided in Section 4.5(a), then the Indemnitee that is the subject of such Third-Party Claim will be entitled to continue to conduct and control the defense of such Third-Party Claim.

(c) *Allocation of Defense Costs.* If an Indemnifying Party has elected to assume the defense of a Third-Party Claim, then such Indemnifying Party will be solely liable for all fees and expenses incurred by it in connection with the defense of such Third-Party Claim and will not be entitled to seek any indemnification or reimbursement from the Indemnitee for any such fees or expenses incurred by the Indemnifying Party during the course of the defense of such Third-Party Claim by such Indemnifying Party, regardless of any subsequent decision by the Indemnifying Party to reject or otherwise abandon its assumption of such defense. If an Indemnifying Party elects not to assume responsibility for defending any Third-Party Claim or fails to notify an Indemnitee of its election within 30 days after receipt of a notice from an Indemnitee as provided in Section 4.5(a), and the Indemnitee conducts and controls the defense of such Third-Party Claim and the Indemnifying Party has an indemnification obligation with respect to such Third-Party Claim, then the Indemnifying Party will be liable for all reasonable fees and expenses incurred by the Indemnitee in connection with the defense of such Third-Party Claim.

(d) *Right to Monitor and Participate.* An Indemnitee that does not conduct and control the defense of any Third-Party Claim, or an Indemnifying Party that has failed to elect to defend any Third-Party Claim or has subsequently released the control of such defense to the Indemnitee as contemplated hereby, nevertheless will have the right to employ separate counsel (including local counsel, as necessary) of its own choosing to monitor and participate in (but not control) the defense of any Third-Party Claim for which it is a potential Indemnitee or Indemnifying Party, but the fees and expenses of such counsel will be at the expense of such Indemnitee or Indemnifying Party, as the case may be, and the provisions of Section 4.5(c) will not apply to such fees and expenses. Notwithstanding the foregoing, but subject to Sections 6.8 and 6.9, such Indemnitee or Indemnifying Party will cooperate with the Party entitled to conduct and control the defense of such Third-Party Claim in such defense and make available to the controlling Party, at the non-controlling Party's expense, all witnesses, information and materials in such Party's possession or under such Party's control relating thereto as are reasonably required by the controlling Party. In addition to the foregoing, if any Indemnitee will in good faith determine that such Indemnitee and the Indemnifying Party have actual or potential differing defenses or conflicts of interest between them that make joint representation inappropriate, then the Indemnitee will have the right to employ separate counsel (including local counsel, as necessary) and to participate in (but not control) the defense, compromise, or settlement thereof, and the Indemnifying Party will bear the reasonable fees and expenses of such counsel for all Indemnitees.

(e) *No Settlement.* No Party may settle or compromise any Third-Party Claim for which the other Party is seeking to be indemnified hereunder without the prior written consent of such other Party, which consent may not be unreasonably withheld, conditioned or delayed, unless such settlement or compromise is solely for monetary damages that are fully payable, and are capable of being paid in full, by the settling or compromising Party, does not involve any admission, finding or determination of wrongdoing or violation of Law by the other Party (or any other member of its Group or any of their respective past, present or future directors, officers or employees) and provides for a full, unconditional and irrevocable release of such other Party (and each other relevant member of its Group and any of its or their relevant past, present, or future directors, officers or employees) from all Liability in connection with the Third-Party Claim. Whether or not the Indemnifying Party shall have assumed the defense of a Third Party Claim, the Indemnitee will not admit any liability with respect to, or settle or comprise such Third Party Clam without the prior written consent of the Indemnifying Party, which consent may not be unreasonably withheld, conditioned or delayed. The Parties hereby agree that if a Party presents the other Party with a written notice containing a proposal to settle or compromise a Third-Party Claim for which such Party is seeking to be indemnified hereunder and the Party receiving such proposal does not respond in any manner to the Party presenting such proposal within 30 days (or within any such shorter time period that may be required by applicable Law or court order) of receipt of such proposal, then the Party receiving such proposal will be deemed to have consented to the terms of such proposal.

4.6 Additional Matters.

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

(b) *Notice of Direct Claims*. Any claim for indemnification or contribution under this Agreement or any Ancillary Agreement that does not result from a Third-Party Claim will be asserted by written notice given by the Indemnitee to the applicable Indemnifying Party as soon as practicable, but in any event within 14 days (or sooner if the nature of the claim so requires) after receipt of actual knowledge of such claim; provided that the failure by an Indemnitee to so assert any such claim will not prejudice the ability of the Indemnitee to do so at a later time except to the extent (if any) that the Indemnifying Party is actually prejudiced thereby. Such Indemnifying Party will have a period of 30 days after the receipt of such notice within which to respond thereto. If such Indemnifying Party does not respond within such 30-day period, such specified claim will be conclusively deemed a Liability of the Indemnifying Party under this Section 4.6(b) or, in the case of any written notice in which the amount of the claim (or any portion thereof) is estimated, on such later date when the amount of the claim (or such portion thereof) becomes finally determined. If such Indemnifying Party does not respond within such 30-day period or rejects such claim in whole or in part, such Indemnitee will, subject to the provisions of Article VII, be free to pursue such remedies as may be available to such party as contemplated by this Agreement and the Ancillary Agreements, as applicable, without prejudice to its continuing rights to pursue indemnification or contribution hereunder.

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

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

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

4.7 Right of Contribution.

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

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

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

4.9 Remedies Cumulative. The remedies provided in this Article IV will be cumulative and will not preclude assertion by any Indemnitee of any other rights or the seeking of any and all other remedies against any Indemnifying Party**.**

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

4.11 Coordination with Ancillary Agreements.

(a) The provisions of Sections 4.2 through 4.10 and Sections 4.12 through 4.13 will not apply with respect to Taxes or Tax matters (including the control of Tax related proceedings), which will be governed exclusively by the Tax Matters Agreement. In the case of any conflict between this Agreement and the Tax Matters Agreement in relation to any matters addressed by the Tax Matters Agreement, the Tax Matters Agreement will prevail.

(b) The provisions of Sections 4.2 through 4.10 and Sections 4.12 through 4.13 will not apply with respect to employees or employee benefits matters, which will be governed exclusively by the Employee Matters Agreement. In the case of any conflict between this Agreement and the Employee Matters Agreement in relation to any matters addressed by the Employee Matters Agreement, the Employee Matters Agreement will prevail.

4.12 Management of Certain Actions. This Section 4.12 will govern the direction of certain pending and future Actions in which members of the SpinCo Group or the RemainCo Group are named as parties, but will not alter the allocation of Liabilities set forth in Article II or the rights and obligations under Section 4.5 unless expressly set forth in this Section 4.12.

(a) *Management of SpinCo Actions*. From and after the Effective Time, the SpinCo Group will direct the defense or prosecution of any Actions that constitute only SpinCo Liabilities or SpinCo Assets. If an Action that constitutes solely a SpinCo Liability or a SpinCo Asset is commenced after the Effective Time naming a member of the RemainCo Group as a party thereto, then SpinCo will use its commercially reasonable efforts to cause such member of the RemainCo Group to be removed as a party to such Action. No Party will add any other Party (or any other member of such other Party's Group) to any Action contemplated by this Section 4.12(a) pending as of the Effective Time without the prior written consent of such other Party.

(b) *Management of RemainCo Actions*.

(i) From and after the Effective Time, the RemainCo Group will direct the defense or prosecution of any Actions that constitute only RemainCo Liabilities or RemainCo Assets. If an Action that constitutes solely a RemainCo Liability or a RemainCo Asset is commenced after the Effective Time naming a member of the SpinCo Group as a party thereto, then Parent will use its commercially reasonable efforts to cause such member of the SpinCo Group to be removed as a party to such Action. No Party will add any other Party (or any other Member of such other Party's Group) to any Action contemplated by this Section 4.12(b) pending as of the Effective Time without the prior written consent of such other Party.

(ii) From and after the Effective Time, the RemainCo Group will direct, and will have full and exclusive authority with respect to, the defense, prosecution, compromise or settlement (which authority shall include, and shall not limit, the ability of an indemnifying Third Party to conduct or direct the defense or prosecution on its own and at its own expense consistent with any agreement containing the relevant indemnification obligation) of the Actions specified on Schedule 4.12(b)(ii) (the "RemainCo Specified Actions"). In connection with the RemainCo Group's defense, prosecution, compromise or settlement of any RemainCo Specified Action, SpinCo will, unless otherwise prohibited by applicable Law, (A) make available to Parent, upon reasonable prior written request (1) the former, current and future directors, officers, employees, other personnel and agents of the members of the SpinCo Group as witnesses during normal business hours, and (2) any books, records or other documents within the SpinCo Group's control or which the SpinCo Group has the ability to make available, in each case to the extent that such person, books, records or other documents are reasonably required in connection with such defense, settlement or compromise of such RemainCo Specified Action subject, in the case of confidential information, to the execution of a confidentiality agreement customary for similar situations and, in the case of privileged information, to the execution of a joint defense or other similar agreement intended to preserve the privilege, (B) execute such further instruments or documents as are reasonably necessary in connection with such defense, prosecution, compromise or settlement of such RemainCo Specified Action, and (C) otherwise cooperate as is reasonably necessary in such defense,

prosecution, settlement or compromise of such RemainCo Specified Action; provided, in each case, that such execution or cooperation does not, in connection with the defense, prosecution, compromise or settlement of such RemainCo Specified Action, result in (x) any monetary remedy or relief to a Third Party for which any member of the SpinCo Group would be liable that is not indemnified by Parent or a Third Party or is not otherwise covered by insurance, or (y) without the prior written consent of SpinCo (not to be unreasonably withheld, conditioned or delayed), any non-monetary remedy or relief being imposed upon any member of the SpinCo Group (or any such member's respective past, present or future directors, officers, employees, other personnel or agents).

(c) *Management of Mixed Actions*. From and after the Effective Time, the Parties will jointly manage (whether as co-defendants or co-plaintiffs) any (i) any other Action that constitutes both a SpinCo Liability and a RemainCo Liability and (ii) any other Action that constitutes both a SpinCo Asset and a RemainCo Asset (clauses (i) to (ii), the "Mixed Actions"). The Parties will reasonably cooperate and consult with each other, and to the extent necessary or advisable, maintain a joint defense in a manner that would preserve for Parent, SpinCo and their respective Affiliates any attorney-client privilege, joint defense or other privilege with respect to Mixed Actions. Notwithstanding anything to the contrary herein, the Parties may jointly retain counsel (in which case the cost of counsel will be shared equally by Parent, on the one hand, and SpinCo, on the other hand) or retain separate counsel (in which case each Party will bear the cost of its separate counsel) with respect to any Mixed Action; provided that Parent, on the one hand, and SpinCo, on the other hand, will share equally discovery and other joint litigation costs. In any Mixed Action, each of Parent and SpinCo may pursue separate defenses, claims, counterclaims or settlements to those claims relating to the RemainCo Business or the SpinCo Business, respectively; provided that each Party will in good faith make all reasonable efforts to avoid adverse effects on the other Party. Notwithstanding anything to the contrary herein, (i) if a judgment is obtained with respect to a Mixed Action, the Parties will endeavor in good faith to allocate the Liabilities in respect of such judgment between them based on the RemainCo Business and the SpinCo Business, and otherwise will share equally such Liabilities; and (ii) if a recovery is obtained with respect to a Mixed Action, the Parties will endeavor in good faith to allocate the Assets in respect of such recovery between them based on their respective injuries, and otherwise will share equally such Assets. A Party (or another member of its Group) that is not named as a defendant in a Mixed Action may elect to become a party to such Mixed Action, and the Party (or other member of its Group) named in such Mixed Action will reasonably cooperate to have such first Party (or other member of its Group) named in such Mixed Action.

(d) *Delegation of Rights of Recovery*. To the maximum extent permitted by applicable Law, the rights to recovery of each member of a Party's Group in respect of any past, present or future Action are hereby delegated to such Party. It is the intent of the Parties that the foregoing delegation will satisfy any Law requiring such delegation to be effected pursuant to a power of attorney or similar instrument. Each of the Parties and each of the other members of its Group will execute such further instruments or documents as may be necessary to effect such delegation.

4.13 Settlement of Actions. Except with respect to the RemainCo Specified Actions, no Party managing an Action pursuant to Section 4.12 will settle or compromise such Action without the prior written consent of the other Party (not to be unreasonably withheld, conditioned or delayed) if such settlement or compromise would result in any remedy or relief being imposed upon any member of such other Party's Group (or any of such Group's respective past, present or future directors, officers, employees, other personnel or agents). Parent will have full and exclusive authority to settle or compromise any RemainCo Specified Action (which authority shall include, and shall not limit, the ability of an indemnifying Third Party to settle or compromise any RemainCo Specified Action consistent with any agreement containing the relevant indemnification obligation) without the prior written consent of SpinCo and SpinCo will execute or procure that the relevant member(s) of its Group execute such instruments as are reasonably necessary to effect such authority to settle or compromise such RemainCo Specified Action; provided that, such settlement or compromise does not result in (a) any monetary remedy or relief to a Third Party for which any member of the SpinCo Group would be liable that is not indemnified by Parent or a Third Party or is not otherwise covered by insurance or (b) without the prior written consent of SpinCo (not to be unreasonably withheld, conditions or delayed), any non-monetary remedy or relief being imposed upon any member of the SpinCo Group (or any such member's respective past, present or future directors, officers, employees, other personnel or agents). For the avoidance of doubt, Parent understands and agrees that nothing contained in Section 4.12(b) or this Section 4.13 will relieve Parent of its indemnification obligations under Section 4.3.

ARTICLE V
CERTAIN OTHER MATTERS

5.1 Insurance Matters.

(a) Prior to the Effective Time, the Parties will use commercially reasonable efforts to either obtain separate insurance policies for SpinCo and the other members of the SpinCo Group or ensure that SpinCo and the other members of the SpinCo Group are named insureds under existing insurance policies covering SpinCo or any member of the SpinCo Group (it being understood that SpinCo will be responsible for all premiums, costs and fees associated with any insurance policies covering SpinCo or any member of the SpinCo Group pursuant to this Section 5.1(a), whether paid directly to any insurance provider or as reimbursement to Parent for amounts expended by it for such policies). At the Effective Time, the SpinCo Group will have in effect all insurance programs required to comply with the contractual obligations of the SpinCo Group and such other insurance policies required by applicable Law or as reasonably necessary or appropriate for companies operating a business similar to the SpinCo Business.

(b) From and after the Effective Time, with respect to any Liabilities incurred by any member of the SpinCo Group prior to the Effective Time, Parent will provide such member of the SpinCo Group with access to, and such member of the SpinCo Group may, upon ten days' prior notice to Parent, make claims under the insurance policies of any member of the RemainCo Group in place prior to the Effective Time, but solely to the extent that such policies provided coverage for such member of the SpinCo Group prior to the Effective Time; provided that, such access to, and the right to make claims under, the insurance policies, shall be subject to the terms and conditions of such insurance policies, including any limits on coverage or scope, any deductibles and other fees and expenses, and shall be subject to the following additional conditions:

(i) SpinCo shall report any claim to Parent, as promptly as practicable, and in any event in sufficient time so that such claim may be made in accordance with Parent's claim reporting procedures in effect immediately prior to the Effective Time (or in accordance with any modifications to such procedures after the Effective Time communicated by Parent to SpinCo in writing);

(ii) SpinCo and the other members of the SpinCo Group shall exclusively bear and be liable for (and neither Parent nor any members of the RemainCo Group shall have any obligation to repay or reimburse SpinCo or any member of the SpinCo Group for) and shall indemnify, hold harmless and reimburse Parent and the other members of the RemainCo Group for any deductibles, self-insured retention, fees and expenses to the extent resulting from any access to, or any claims made by SpinCo or any other members of the SpinCo Group under any insurance provided pursuant to this Section 5.1(b), including indemnity payments, settlements, judgments, legal fees and allocated claims expenses and claim handling fees, whether such claims are made by members of the SpinCo Group, its employees or a Third Party; and

(iii) SpinCo shall exclusively bear and be liable for (and neither Parent nor any members of the RemainCo Group shall have any obligation to repay or reimburse SpinCo or any member of the SpinCo Group for) all uninsured, uncovered, unavailable or uncollectible amounts of all such claims made by SpinCo or any member of the SpinCo Group under the policies as provided for in this Section 5.1(b) (it being understood and agreed that the foregoing shall not limit any other right of SpinCo for payment or indemnification under this Agreement).

(c) Neither SpinCo nor any member of the SpinCo Group, in connection with making a claim under any insurance policy of any member of the RemainCo Group pursuant to this Section 5.1, shall take any action that would be reasonably likely to (i) have an adverse impact on the then-current relationship between Parent or any member of the RemainCo Group, on the one hand, and the applicable insurance company, on the other hand; (ii) result in the applicable insurance company terminating or reducing coverage, or increasing the amount of any premium owed by Parent or any member of the RemainCo Group under the applicable insurance policy; or (iii) otherwise compromise, jeopardize or interfere with the rights of Parent or any member of the RemainCo Group under the applicable insurance policy.

(d) Parent shall retain the exclusive right to control its insurance policies, including the right to exhaust, settle, release, commute, buyback or otherwise resolve disputes with respect to any of its insurance policies and to amend, modify or waive any rights under any such insurance policies, notwithstanding whether any such policies apply to any SpinCo Liabilities or claims any member of the SpinCo Group has made or could make in the future, and no member of the SpinCo Group shall erode, exhaust, settle, release, commute, buyback or otherwise resolve disputes with Parent's insurers with respect to any of the RemainCo Group's insurance policies, or amend, modify or waive any rights under any such insurance policies on behalf of the RemainCo Group. SpinCo shall cooperate with Parent and share such information as is reasonably necessary in order to permit Parent to manage and conduct its insurance matters as it deems appropriate. Neither Parent nor any of the members of the RemainCo Group shall have any obligation to secure extended reporting for any claims under any liability policies of Parent or any member of the RemainCo Group for any acts or omissions by any member of the SpinCo Group incurred prior to the Effective Time, and neither Parent nor any of the members of the RemainCo Group shall have any obligation to obtain new insurance policies.

(e) SpinCo does hereby, for itself and each other member of the SpinCo Group, agree that no member of the RemainCo Group will have any Liability whatsoever as a result of the insurance policies and practices of Parent and the other members of the RemainCo Group as in effect at any time, including as a result of the level or scope of any such insurance, the creditworthiness of any insurance carrier, the terms and conditions of any policy, the adequacy or timeliness of any notice to any insurance carrier with respect to any claim or potential claim or otherwise.

5.2 Payments and Late Payments. Except as expressly provided to the contrary in this Agreement or in any Ancillary Agreement, any amount payable or reimbursable by one Party to another Party under this Agreement or any Ancillary Agreement shall be paid within 30 days after the receipt of an invoice therefor by the Party responsible for such payment from the other Party. Any such amount not paid by such due date will accrue interest from and including the date immediately following such due date through and including the date of payment at a rate per annum equal to the Prime Rate plus 2.0% (compounded monthly). Such rate will be redetermined as of the first business day of each calendar quarter following such due date. Such interest will be payable at the same time as the payment to which it relates and will be calculated on the basis of a year of 365 days and the actual number of days for which due. If any Party incurs costs to enforce such payment or reimbursement obligations of the other Party, the Party against whom such enforcement was sought shall indemnify and hold harmless the Party seeking such enforcement for the costs of such enforcement, including reasonable attorneys' fees.

5.3 Post-Effective Time Conduct. The Parties acknowledge that, after the Effective Time, Parent (and the other members of the RemainCo Group) will be independent of SpinCo (and the other members of the SpinCo Group), and SpinCo (and the other members of the SpinCo Group) will be independent of Parent (and the other members of the RemainCo Group), in each case with responsibility for its own

respective actions and inactions and its own respective Liabilities relating to, arising out of or resulting from the conduct of its business, operations and activities following the Effective Time, except as may otherwise be provided in this Agreement or any Ancillary Agreement, and each Party will and will cause the other members of its Group to (except as otherwise provided in Article IV) use commercially reasonable efforts to prevent such Liabilities from being inappropriately borne by the other Party (or the other members of its Group).

ARTICLE VI
EXCHANGE OF INFORMATION; CONFIDENTIALITY

6.1 Agreement for Exchange of Information.

(a) Subject to Section 6.10, any other applicable confidentiality obligations, any Ancillary Agreement or any other agreement between the Parties or other members of their respective Groups, each of Parent and SpinCo, on behalf of itself and each other member of its respective Group, agrees to use commercially reasonable efforts to provide or make available, or cause to be provided or made available, to the other Party and the other members of such other Party's Group, at any time before, on or after the Effective Time, as soon as reasonably practicable after written request therefor, any information (or a copy thereof) in the possession or under the control of such Party or any other member of such Party's Group to the requesting Party or other member of such Party's Group to the extent that (i) such information relates to the SpinCo Business, or any SpinCo Asset or SpinCo Liability, if SpinCo or any other member of the SpinCo Group is the requesting Party, or to the RemainCo Business, or any RemainCo Asset or RemainCo Liability, if Parent or any other member of the RemainCo Group is the requesting Party; (ii) such information is required by the requesting Party to comply with its obligations under this Agreement, any Ancillary Agreement or the Investment Agreement; or (iii) such information is required by the requesting Party or any other member of such Party's Group to comply with any obligation imposed by any Governmental Authority; provided, however, that, if the Party to whom the request has been made determines that any such provision of information could be detrimental to it or any other member of its Group, violate any Law or agreement, or waive any privilege available under applicable Law, including any attorney-client privilege, then the Parties will use commercially reasonable efforts to permit compliance with such obligations to the extent and in a manner that avoids any such harm or consequence. Any Party providing information pursuant to this Section 6.1 will only be obligated to provide such information in the form, condition and format in which it then exists, and in no event will such Party be required to perform any improvement, modification, conversion, updating or reformatting of any such information, and nothing in this Section 6.1 will expand the obligations of a Party under Section 6.4.

(b) Without limiting the generality of Section 6.1(a), until the end of the SpinCo fiscal year during which the Distribution Date occurs (and for a reasonable period of time afterwards as required for each Party to prepare consolidated financial statements or complete a financial statement audit for the fiscal year during which the Distribution Date occurs), each Party will use its commercially reasonable efforts to

cooperate with the other Party's information requests to enable (i) the other Party to meet its timetable for dissemination of its earnings releases, financial statements and any management's assessment of the effectiveness of its disclosure controls and procedures and its internal control over financial reporting required by applicable Law; and (ii) the other Party's accountants to timely complete their review of the quarterly financial statements and audit of the annual financial statements, including, to the extent applicable to such Party, its auditor's audit of its internal control over financial reporting and management's assessment thereof in accordance with Section 404 of the Sarbanes-Oxley Act, the SEC's and Public Company Accounting Oversight Board's rules and auditing standards thereunder and any other applicable Laws.

6.2 Ownership of Information. The provision of any information pursuant to Section 6.1 or Section 6.8 will not affect the ownership of such information (which will be determined solely in accordance with the terms of this Agreement and the Ancillary Agreements), or constitute a grant of rights in or to any such information.

6.3 Compensation for Providing Information. Any Party requesting information pursuant to this Article VI agrees to reimburse the other Party for the reasonable costs, if any, of creating, gathering, copying, transporting and otherwise complying with the request with respect to such information (including any reasonable costs and expenses incurred in any review of information for purposes of protecting the Privileged Information of the providing Party or any other member of such Party's Group or in connection with the restoration of backup media for purposes of providing the requested information). Except as may be otherwise specifically provided elsewhere in this Agreement, any Ancillary Agreement, the Investment Agreement or any other agreement between the Parties or other members of their respective Groups, such costs will be computed in accordance with the providing Party's standard methodology and procedures as may be provided to the other Party from time to time.

6.4 Record Retention. To facilitate the possible exchange of information pursuant to this Article VI and other provisions of this Agreement after the Effective Time, each of the Parties agrees to use (and to cause the other members of its respective Group to use) commercially reasonable efforts, which will be no less rigorous than those used for retention of such Party's own information, to retain all information in their respective possession or control on the Effective Time until the latest of (a) the date such information is required to be retained under Parent's applicable record retention policy as in effect immediately prior to the Effective Time, (b) the date such information is required to be retained by applicable Law, and (c) the concluding date for such information to be retained pursuant to any pending action or governmental investigation.

6.5 Limitations of Liability. Neither Party will have any Liability to the other Party in the event that any information exchanged or provided pursuant to this Agreement is found to be inaccurate in the absence of gross negligence, bad faith or willful misconduct by the Party providing such information. No Party will have any Liability to any other Party if any information is destroyed after commercially reasonable efforts by such Party to comply with the provisions of Section 6.4.

6.6 Other Agreements Providing for Exchange of Information. The rights and obligations granted under this Article VI are subject to any specific limitations, qualifications or additional provisions on the sharing, exchange, retention or confidential treatment of information set forth in any Ancillary Agreement or the Investment Agreement.

6.7 Production of Witnesses; Records; Cooperation.

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

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

(c) Without limiting the foregoing, except in the case of an adversarial Action or Dispute between Parent and SpinCo or any other members of their respective Groups, the Parties will cooperate and consult to the extent reasonably necessary with respect to any Actions.

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

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

6.8 Privileged Matters.

(a) The Parties recognize that legal and other professional services that have been and will be provided prior to the Effective Time have been and will be rendered for the collective benefit of each of the members of the RemainCo Group and the SpinCo Group, and that each of the members of the RemainCo Group and the SpinCo Group should be deemed to be the client with respect to such services for the purposes of asserting all privileges which may be asserted under applicable Law in connection therewith. The Parties recognize that legal and other professional services will be provided following the Effective Time, which services will be rendered solely for the benefit of the RemainCo Group or the SpinCo Group, as the case may be. Notwithstanding the foregoing, the Parties acknowledge and agree that Jones Day, Simpson Thacher & Bartlett LLP and in-house counsel of RemainCo do not represent SpinCo in connection with this Agreement, any Ancillary Agreement or any of the transactions contemplated hereby or thereby and that (i) any advice given by or communications with Jones Day or Simpson Thacher & Bartlett LLP will not be subject to any joint privilege and will be owned solely by Parent or one or more directors of Parent, as the case may be and (ii) any advice given by or communications with in-house counsel of Parent (in each case to the extent that it relates to this Agreement, any Ancillary Agreement or any of the transactions contemplated hereby or thereby) will not be subject to any joint privilege and will be owned solely by Parent.

(b) The Parties agree as follows:

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

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

(iii) If the Parties do not agree as to whether certain information is Privileged Information, then such information will be treated as Privileged Information, and the Party that believes that such information is Privileged Information will be entitled to control the assertion or waiver of all privileges and immunities in connection with any such information until such time as it is finally determined by an arbitrator or by a court of competent jurisdiction that such information is not Privileged Information, unless the Parties otherwise agree. The Parties will use the procedures set forth in Article VII to resolve any Disputes as to whether any information relates solely to the RemainCo Business, solely to the SpinCo Business, or to both the RemainCo Business and the SpinCo Business.

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

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

(e) Subject to Section 6.9, in the event of any adversarial Action or Dispute between Parent and SpinCo, or any other members of their respective Groups, either Party may waive a privilege in which the other Party or member of such other Party's Group has a shared privilege, without obtaining consent pursuant to Section 6.9(c); provided that such waiver of a shared privilege will be effective only as to the use of information with respect to the Action or Dispute between the Parties or the applicable members of their respective Groups, and will not operate as a waiver of the shared privilege with respect to any Third Party.

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

(g) Any furnishing of, or access or transfer of, any information pursuant to this Agreement is made in reliance on the agreements of Parent and SpinCo set forth in this Section 6.8 and in Section 6.9 to maintain the confidentiality of Privileged Information and to assert and maintain all applicable privileges and immunities. The Parties agree that their respective rights to any access to information, witnesses and other Persons, the furnishing of notices and documents and other cooperative efforts between the Parties contemplated by this Agreement, and the transfer of Privileged Information between the Parties and members of their respective Groups pursuant to this Agreement, will not be deemed a waiver of any privilege that has been or may be asserted under this Agreement or otherwise.

(h) The Parties acknowledge that members of the RemainCo Group and members of the SpinCo Group may have or develop interests adverse to each other following the Effective Time. Each Party hereby waives (i) any and all current and future objections to any outside counsel that represented Parent or any of its Affiliates prior to the Effective Time from continuing to represent or in the future representing their respective clients or either Party (or any members of such Party's Group) in any matter, including matters in which members of the RemainCo Group and members of the SpinCo Group are adverse and Disputes relating to this Agreement or any Ancillary Agreement and (ii) all current and future rights to seek disqualification, whether based on the possession or disclosure of confidential information or otherwise, of any such outside counsel from any representation of their respective clients or either Party (or any members of such Party's Group) in any matter, including matters in which members of the RemainCo Group and members of the SpinCo Group are adverse and Disputes relating to this Agreement or any Ancillary Agreement.

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

6.9 Confidentiality.

(a) *Confidentiality*. Subject to Section 6.10, any Ancillary Agreement and any other agreement between the Parties or other members of their respective Groups, from and after the Effective Time until the five-year anniversary of the Effective Time, each of the Parties will, and will cause each other member of its respective Group to, and will cause its and their respective Representatives to, hold in strict confidence, with at least the same degree of care that applies to Parent's confidential and proprietary information pursuant to policies in effect as of the Effective Time, all confidential and proprietary information concerning the other Party or any other member of the other Party's respective Group or their respective businesses that is either in its possession (including confidential and proprietary information in its possession prior to the date hereof) or furnished by the other Party or any other member of such Party's Group or its or their respective Representatives at any time pursuant to this Agreement, any Ancillary Agreement or otherwise, and not use any such confidential and proprietary information other than for such purposes as will be expressly permitted hereunder or thereunder, except, in each case, to the extent that such confidential and proprietary information has been (i) in the public domain or generally available to the public, other than as a result of a disclosure by such Party or any other member of such Party's Group or any of their respective Representatives in violation of this Agreement, any Ancillary Agreement or any other agreement between the Parties or other members of their respective Groups, (ii) lawfully acquired from other sources by such Party (or any other member of such Party's Group) which sources are not themselves bound by a confidentiality obligation or other contractual, legal or fiduciary obligation of confidentiality to the other Party (or any other member of such Party's Group) with respect to such confidential and proprietary information, or (iii) independently developed or generated without reference to or use of any proprietary or confidential information of any other Party or any other member of such Party's Group. If any confidential and proprietary information of one Party or any other member of such Party's Group is disclosed to the other Party or any member of such other Party's Group in connection with providing services to such first Party or any other member of such first Party's Group under this Agreement or any Ancillary Agreement, then such disclosed confidential and proprietary information will be used only as required to perform such services. Notwithstanding anything in this Agreement, the Parties shall be deemed to have satisfied their obligations hereunder with respect to any proprietary or confidential information of any member of the other Group if they exercise the same degree of care (but not less than a reasonable degree of care) as they exercise to preserve confidentiality for their own similar proprietary or confidential information.

(b) *No Release; Return or Destruction*. Each Party agrees not to release or disclose, or permit to be released or disclosed, any information addressed in Section 6.9(a) to any other Person, except its Representatives who need to know such information in their capacities as such (who will be advised of their obligations hereunder with respect to such information), and except in compliance with Section 6.10. Without limiting the foregoing, when any such information is no longer needed for the purposes contemplated by this Agreement or any Ancillary Agreement, each Party will promptly after request of the other Party either return to the other Party

all such information in a tangible form (including all copies thereof and all notes, extracts or summaries based thereon) or notify the other Party in writing that it has destroyed such information in accordance with applicable Laws and such that the information is no longer decipherable or Personal Information contained therein identifiable (and such copies thereof and such notes, extracts or summaries based thereon).

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

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

demand (or other member of such Party's Group) may thereafter disclose or provide information to the extent required by such Law (as so advised by its counsel) or by lawful process or such Governmental Authority, and the disclosing Party (or other member of such Party's Group) will promptly provide the other Party with a copy of the information so disclosed, in the same form and format so disclosed, together with a list of all Persons to whom such information was disclosed, in each case to the extent legally permitted.

ARTICLE VII
DISPUTE RESOLUTION

7.1 Good-Faith Negotiation. Any Party seeking resolution of any dispute, controversy or claim arising out of or relating to this Agreement or any Ancillary Agreement (a "Dispute") will provide written notice thereof to the other Party (an "Initial Notice"). For a period of 30 days following the delivery of an Initial Notice, the Parties will attempt in good faith to negotiate a resolution of the Dispute. The negotiations will be conducted by the appropriate executives of each Party who have authority to resolve the Dispute. All such negotiations will be confidential and will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence. If the Parties are unable for any reason to resolve a Dispute within 30 days after the delivery of the Initial Notice (which period may be extended by written agreement of the Parties) or if a Party reasonably concludes that the other Party is not willing to negotiate as contemplated by this Section 7.1, the Dispute will be submitted to arbitration in accordance with Section 7.2.

7.2 Confidential Arbitration. In the event that a Dispute has not been resolved pursuant to Section 7.1, then such Dispute will, at the written request of Parent or SpinCo (the "Arbitration Request") be referred to and finally resolved by binding confidential (subject to Section 6.10) arbitration administered by the Singapore International Arbitration Centre in accordance with the Arbitration Rules of the Singapore International Arbitration Centre (the "Administered Rules") for the time being in force (which rules are deemed to be incorporated by reference in this Section 7.2), except as modified herein. The details of the arbitration will be as set forth in this Section 7.2. Unless otherwise agreed by the Parties in writing, any Dispute to be decided pursuant to this Section 7.2 will be decided by a panel of three arbitrators. The panel of three arbitrators will be chosen as follows: (i) within 15 days from the date of the receipt of the Arbitration Request, Parent and SpinCo will each name an arbitrator; and (ii) the two Party-appointed arbitrators will thereafter, within 30 days from the date on which the second of the two arbitrators was named, name a third, independent arbitrator who will act as chairperson of the arbitral tribunal. In the event that Parent or SpinCo fails to name an arbitrator within 15 days from the date of receipt of the Arbitration Request, then, upon written application by Parent or SpinCo, that arbitrator will be appointed pursuant to the Administered Rules. In the event that the two Party-appointed arbitrators fail to appoint the third, independent arbitrator within the time frame specified above or in the event that Parent or SpinCo fails to name an arbitrator within 15 days from the date of receipt of the Arbitration Request, then the third, independent arbitrator will be appointed pursuant to the Administered Rules. The arbitration will be conducted in English. Any document that a Party seeks to use in an arbitration that is not in English will be provided along with an English translation. The seat of arbitration will be Singapore.

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

7.4 Litigation. Notwithstanding the foregoing provisions of this Article VII, a Party may seek preliminary provisional or injunctive judicial relief from a court with respect to a Dispute without first complying with the procedures set forth in Sections 7.1 and 7.2 if such action is reasonably necessary to avoid irreparable damage.

ARTICLE VIII
FURTHER ASSURANCES AND ADDITIONAL COVENANTS

8.1 Further Assurances.

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

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

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

(d) Nothing in this Article VIII will limit or affect the provisions of Section 3.1(a) or Article IX.

8.2 Approved Modifications. At any time prior to the date that the Form 20-F shall have been declared effective by the SEC, Parent and SpinCo may agree in writing to amend or modify any of the Schedules to this Agreement or the Schedules to the Transition Services Agreement, in each case, if such modification is (a) an Approved Modification (as defined in the Investment Agreement) or (b) reasonably required to maintain the Tax-Free Status (as defined in the Tax Matters Agreement) of the Distribution and not materially adverse to SpinCo or the SpinCo Business.

ARTICLE IX
TERMINATION

9.1 Termination. Notwithstanding any provision to the contrary, prior to the Effective Time, this Agreement and all Ancillary Agreements may be terminated by Parent at any time following the termination of the Investment Agreement in accordance with its terms without the approval or consent of SpinCo. After the Effective Time, this Agreement may not be terminated except by an agreement in writing signed by a duly authorized officer of each of the Parties.

9.2 Effect of Termination. In the event of any termination of this Agreement prior to the Effective Time, this Agreement and all Ancillary Agreements will become void and no Party (nor any of its Affiliates, directors, officers or employees) will have any Liability or further obligation to the other Party (or any of its Affiliates) by reason of this Agreement.

ARTICLE X
MISCELLANEOUS

10.1 Counterparts; Entire Agreement; Corporate Power; Facsimile Signatures.

(a) This Agreement may be executed in one or more counterparts (including by facsimile, PDF or other electronic transmission), all of which will be considered one and the same agreement.

(b) This Agreement, the Investment Agreement, to the extent related to the Distribution, and the Ancillary Agreements contain the entire agreement between the Parties with respect to the subject matter hereof, and supersede all previous agreements, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter.

(c) Each Party represents and warrants to the other Party as follows:

(i) it has the requisite corporate or other power and authority and has taken all corporate or other action necessary in order to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby; and

(ii) this Agreement has been duly executed and delivered by it and constitutes a valid and binding agreement of it enforceable in accordance with the terms hereof.

10.2 Governing Law. This Agreement and, unless expressly provided therein, each Ancillary Agreement will be governed by and construed and interpreted in accordance with the Laws of Singapore without regard to rules of conflicts of laws.

10.3 Coordination with Ancillary Agreements. Except as expressly set forth in the applicable Ancillary Agreement, in the case of any conflict between this Agreement on the one hand, and any Ancillary Agreement on the other hand, in relation to matters specifically addressed by such Ancillary Agreement, the applicable Ancillary Agreement, as applicable, will prevail**.**

10.4 Binding Effect; Assignability. This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns; provided that no Party may assign any of its rights or assign or delegate any of its obligations under this Agreement without the express prior written consent of the other Party; provided, further, that, unless the Investment Agreement shall have been terminated in accordance with its terms, any such assignment prior to the Effective Time shall be subject to the prior written consent of Investor (not to be unreasonably withheld, conditioned or delayed). Any assignment or delegation requiring the prior written consent of the other Party or Investor pursuant to this Section 10.4 that is made without such consent will be void ab initio. No assignment or delegation of this Agreement will relieve the assigning or delegating Party of its obligations hereunder.

10.5 No Third-Party Beneficiaries. Except for the indemnification rights under this Agreement of any Indemnitee in its capacities as such, Investor's consent rights under Sections 10.4, 10.12 and 10.14 of this Agreement in its capacities as such, Total's consent rights under Section 10.14 of this Agreement in its capacity as such and an indemnifying Third Party's rights under Sections 4.12 and 4.13, no term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act, Chapter 53B of Singapore, by a person that is not a party to this Agreement.

10.6 Notices. All notices, requests, claims, demands or other communications under this Agreement will be in writing and will be given or made (and will be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service or by email (followed by delivery of an original via overnight courier service) to the respective Parties at the following addresses (or at such other address for a Party as will be specified in a notice given to the other Party in accordance with this Section 10.6):

If to Parent, to:

SunPower Corporation
51 Rio Robles
San Jose, California 95134
Attention: General Counsel
Email: LegalNoticeSunPower@sunpowercorp.com

If to SpinCo to:

Maxeon Solar Technologies, Pte. Ltd.
8 Marina Boulevard #05-02
Marina Bay Financial Center, 018981
Singapore
Attention: Jeff Waters, Chief Executive Officer
Email: Jeff.Waters@sunpower.com

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

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

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

10.9 Reimbursement Amount. As reimbursement in respect of a portion of the Transaction Expenses, on the date that is 30 days after the Distribution Date (or if such date is not a Business Day, the next Business Day), SpinCo will pay, or cause to be paid, to Parent by wire transfer of same-day immediately available funds to an account designated in writing by Parent an amount equal to the Reimbursement Amount.

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

10.11 Survival of Covenants. Except as expressly set forth in this Agreement, the covenants and agreements contained in this Agreement, and Liability for the breach of any such obligations contained herein, will survive the Separation and the Distribution and will remain in full force and effect.

10.12 Waivers of Default; Remedies Cumulative. Waiver by a Party of any default by another Party of any provision of this Agreement will not be deemed a waiver by the waiving Party of any subsequent or other default, nor will it prejudice the rights of another Party. No failure or delay by a Party in exercising any right, power or privilege under this Agreement will operate as a waiver thereof, nor will a single or partial exercise thereof prejudice any other or further exercise thereof or the exercise of any other right, power or privilege. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available. Notwithstanding the foregoing, unless the Investment Agreement shall have been terminated in accordance with its terms, any waiver by SpinCo of any default by Parent of any provision of this Agreement shall be subject to the prior written consent of Investor, such consent not to be unreasonably withheld, conditioned or delayed.

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

10.14 Amendments. No provisions of this Agreement may be waived, amended, supplemented or modified, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the Party against whom it is sought to enforce such waiver, amendment, supplement or modification; provided that,

(a) except as provided in Section 8.2, unless the Investment Agreement shall have been terminated, any waiver, amendment, supplement, or modification of any provision of this Agreement shall be subject to the prior written consent of Investor, such consent not to be unreasonably withheld, conditioned or delayed; and (b) the conditions set forth in Section 3.3(a)(xv) of this Agreement may not be waived, amended, supplemented or modified unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of Total.

10.15 Interpretation. In this Agreement and the Ancillary Agreements (unless otherwise expressly provided therein), (a) words in the singular will be deemed to include the plural and vice versa and words of one gender will be deemed to include the other genders as the context requires; (b) the terms "hereof," "herein," and "herewith" and words of similar import will, unless otherwise stated, be construed to refer to this Agreement as a whole (including all of the Schedules and Exhibits hereto) and not to any particular provision of this Agreement; (c) Article, Section, Schedule and Exhibit references are to the Articles, Sections, Schedules and Exhibits to this Agreement unless otherwise specified; (d) unless otherwise stated, all references to any agreement (including this Agreement and each Ancillary Agreement) will be deemed to include the exhibits, schedules and annexes to such agreement; (e) references to "$" will mean U.S. dollars; (f) the word "including" and words of similar import when used in this Agreement will mean "including, without limitation," unless otherwise specified; (g) the word "or" will not be exclusive; (h) unless otherwise specified in a particular case, the word "days" refers to calendar days; (i) references to "written" or "in writing" include in electronic form; (j) references to "business day" will mean any day other than a Saturday, a Sunday or a day on which banking institutions are generally authorized or required by law to close in the United States, or Singapore as the context requires; (k) references herein to this Agreement or any other agreement contemplated herein will be deemed to refer to this Agreement or such other agreement as of the date on which it is executed and as it may be amended, modified or supplemented thereafter, unless otherwise specified; (l) unless expressly stated to the contrary in this Agreement, all references to "the date hereof," "the date of this Agreement," "hereby" and "hereupon" and words of similar import will all be references to November 8, 2019; (m) "to the extent" means the degree to which a subject or other thing extends, and such phrase does not mean simply "if"; and (n) from and after the Distribution, references to "SpinCo" will mean "Maxeon Solar Technologies, Ltd."

10.16 Limitations of Liability. Notwithstanding anything in this Agreement to the contrary, neither SpinCo or any other member of the SpinCo Group, on the one hand, nor Parent or any other member of the RemainCo Group, on the other hand, will be liable under this Agreement to the other for any indirect, punitive, exemplary, remote, speculative or similar damages in excess of compensatory damages of the other (other than any such damages awarded to a Third Party with respect to a Third-Party Claim).

10.17 Performance. Parent will cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth in this Agreement or in any Ancillary Agreement to be performed by any member of the RemainCo Group. SpinCo will cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth in this Agreement or in any Ancillary Agreement to be performed by any member of the SpinCo Group.

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

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have caused this Separation and Distribution Agreement to be executed by their duly authorized representatives.

SUNPOWER CORPORATION

By: /s/ Thomas H. Werner
Name: Thomas H. Werner
Title: Chief Executive Officer

MAXEON SOLAR
TECHNOLOGIES, PTE. LTD.

By: /s/ Jeff Waters
Name: Jeff Waters
Title: President

[Signature Page to Separation and Distribution Agreement]

Exhibit 10.1

Execution Version

INVESTMENT AGREEMENT

DATED NOVEMBER 8, 2019

AMONG

SUNPOWER CORPORATION,

MAXEON SOLAR TECHNOLOGIES, PTE. LTD.,

TIANJIN ZHONGHUAN SEMICONDUCTOR CO., LTD.

AND

TOTAL SOLAR INTL SAS
(solely for purposes of Sections 5.2, 6.1, 6.3, 6.4, 6.6, 6.8, 6.9(d), 6.10, 8.2(a) and Article IX)

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INVESTMENT AGREEMENT

INVESTMENT AGREEMENT, dated November 8, 2019 (this "Agreement"), among SunPower Corporation, a Delaware corporation ("Parent"), Maxeon Solar Technologies, Pte. Ltd., a company incorporated under the Laws of Singapore and, as of the date hereof, a wholly owned subsidiary of Parent ("SpinCo"), Tianjin Zhonghuan Semiconductor Co., Ltd., a PRC joint stock limited company ("Investor" and, collectively with Parent and SpinCo, the "Parties") and, solely for purposes of Sections 5.2, 6.1, 6.3, 6.4, 6.6, 6.8, 6.9(d), 6.10, 8.2(a) and Article IX (collectively, the "Total Provisions"), Total Solar INTL SAS, a French *société par actions simplifiée* ("Total").

W I T N E S S E T H :

WHEREAS, pursuant to the terms of that certain Separation Agreement, dated as of the date hereof, between Parent and SpinCo and attached hereto as Exhibit A (as the foregoing may be amended from time to time in accordance with the terms hereof and thereof, the "Separation Agreement"), Parent intends to (a) separate into two separate, publicly traded companies, one for each of (i) the RemainCo Business (as defined in the Separation Agreement), which shall be owned and conducted, directly or indirectly, by Parent and its Subsidiaries (as defined herein) and (ii) the SpinCo Business (as defined in the Separation Agreement), which shall be owned and conducted, directly or indirectly, by SpinCo and the SpinCo Subsidiaries (as defined herein) (the "Separation"), and (b) following the Separation, (i) make a distribution, on a pro rata basis and in accordance with a distribution ratio to be determined by the Board of Directors of Parent in accordance with the Separation Agreement, to holders of Parent Shares (as defined in the Separation Agreement) on the Record Date (as defined in the Separation Agreement) of all the outstanding ordinary shares of SpinCo (the "SpinCo Shares") owned by Parent (the "Distribution") and (ii) prior to the Distribution, change SpinCo's name to "Maxeon Solar Technologies, Ltd.";

WHEREAS, on the terms and subject to the conditions set forth in this Agreement, SpinCo desires to issue and sell to Investor, and Investor desires to acquire and purchase from SpinCo, immediately following the Distribution, newly-issued SpinCo Shares, on the terms and subject to the conditions set forth in this Agreement (the "Investment");

WHEREAS, for U.S. federal income tax purposes, the Distribution is intended to qualify as a transaction that is generally tax-free under Section 355 of the Code (as defined herein) to Parent's stockholders (except with respect to cash received in lieu of fractional shares, if any);

WHEREAS, the Parties and, with respect to the Total Provisions, Total desire to make certain representations, warranties, covenants and agreements in connection with the transactions contemplated herein and in the other Investment Transaction Agreements and the Separation Transaction Agreements and to prescribe the various conditions to the transactions contemplated herein and in the other Investment Transaction Agreements and the Separation Transaction Agreements;

WHEREAS, as a condition to TZS entering into this Agreement and making the Investment, the Parties have agreed in accordance with the terms of this Agreement that, immediately following the Distribution and concurrent with the Closing (as defined herein), SpinCo and Total (as a shareholder of SpinCo following the Distribution) will enter into a Shareholders Agreement with Investor (the "Shareholders Agreement"), in substantially the form attached as Exhibit K, and a Registration Rights Agreement with Investor (the "Registration Rights Agreement"), in substantially the form attached as Exhibit L; and

WHEREAS, concurrently with the execution of this Agreement, Parent and Investor have entered into an Escrow Agreement with the Escrow Agent (as defined herein), in the form attached as Exhibit B (the "Escrow Agreement"), pursuant to which, (a) within one Business Day after the date of this Agreement, (i) Investor will deposit, or cause to be deposited, into the Investor Escrow Account (as defined herein) an amount in cash equal to the Investor Termination Fee (as defined herein) (such amount, together with all interest accrued thereon, the "Investor Escrow Fund") as collateral and security for payment of the same, and (ii) Parent will deposit, or cause to be deposited, into the Parent Escrow Account (as defined herein) an amount in cash equal to the Parent Termination Fee (as defined herein) (such amount, together with all interest accrued thereon, the "Parent Escrow Fund") as collateral and security for payment of the same, and (b) in accordance with Section 2.3, Investor will deposit, or cause to be deposited, into the Purchase Price Escrow Account (as defined herein) an amount in cash equal to the Purchase Price *less* the Investor Escrow Fund (such amount, together with all interest accrued thereon, the "Purchase Price Escrow Fund").

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth in this Agreement, and intending to be legally bound hereby, the Parties and, with respect to the Total Provisions, Total agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. Capitalized terms used in this Agreement have the meanings set forth in this Agreement or, when so indicated, in the applicable Separation Transaction Agreement. As used in this Agreement:

"Acceptable Confidentiality Agreement" means any confidentiality agreement that contains customary confidentiality provisions which are no less favorable in the aggregate to Parent than those contained in the Confidentiality Agreements; provided, that any such agreement and any related agreements shall not include any provision calling for any exclusive right to negotiate with any party or having the effect of prohibiting Parent or SpinCo from satisfying their obligations under this Agreement.

"Acceptable Financing Terms" means the terms set forth on Schedule 6.9(d).

"Acquisition Agreement" has the meaning set forth in Section 6.14(d).

"Action" means any demand, action, claim, counterclaim, dispute, suit, countersuit, arbitration, hearing, inquiry, subpoena, proceeding, examination or investigation of any nature (whether criminal, civil, legislative, administrative, arbitral, regulatory, prosecutorial, appellate, at law or in equity, or otherwise) by or before any Governmental Authority or any arbitration or mediation tribunal.

"Additional Financing" has the meaning set forth in Section 6.9(c).

"Adjustment Amount" means the amount (expressed as a positive or negative number), calculated without duplication, equal to (a) the Cash Adjustment Amount (if any), *minus* (b) the Debt Adjustment Amount (if any).

"Administered Rules" has the meaning set forth in Section 9.10(a).

"Affiliate" means, when used with respect to a specified Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified Person. For the purpose of this definition, "control" (including with correlative meanings, "controlled by" and "under common control with"), when used with respect to any specified Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or other interests, by Contract or otherwise; provided that, notwithstanding the foregoing, the definition of "Affiliate" when used with respect to Investor shall also include the TZS Group and when used with respect to Total shall also include the Total Group. It is expressly agreed that, prior to, at and after the Distribution Effective Time, for purposes of this Agreement, (a) no member of the SpinCo Group will be deemed to be an Affiliate of any member of the RemainCo Group (as defined in the Separation Agreement), (b) no member of the RemainCo Group will be deemed to be an Affiliate of any member of the SpinCo Group, (c) no member of the TZS Group will be deemed to be an Affiliate of any member of the SpinCo Group, and (d) no member of the SpinCo Group will be deemed to an Affiliate of and member of the TZS Group.

"Agreement" has the meaning set forth in the Preamble.

"Alternative Transaction" means (a) any transaction involving a merger, consolidation, business combination, exchange or tender offer, binding share exchange, joint venture, dissolution, scheme of arrangement or similar transaction involving SpinCo or the SpinCo Business, (b) any transaction to acquire, in any manner, more than 20% of the shares or equity interests or other ownership interests or voting power of SpinCo, (c) any transaction to acquire in any manner (including the acquisition of stock in any Subsidiary of SpinCo), directly or indirectly, assets or businesses of SpinCo, its Subsidiaries or the SpinCo Business, constituting more than 20% of the consolidated assets of the SpinCo Business or to which more than 20% of the consolidated revenues or net income of the SpinCo Business are attributable, or (d) any transaction to acquire, in any manner (including any merger, consolidation, exchange or

tender offer or similar transaction), more than 50% of the shares or equity interests or other ownership interests or voting power of Parent. For the avoidance of doubt, a transaction to acquire, in any manner, 50% or less than 50% of the shares or equity interests or other ownership interests or voting power of Parent shall not constitute an "Alternative Transaction."

"Alternative Transaction Recommendation" has the meaning set forth in Section 6.14(d).

"Approved Modification" has the meaning set forth in Section 5.2(d).

"AUO Payment" means the payment obligation in respect of the acquisition of AUO SunPower Sdn. Bhd.

"AUO Payment Target" means $26,000,000.

"Available Cash" means cash, as defined under GAAP. For the avoidance of doubt, (i) Available Cash does not include cash classified as "Restricted Cash" under GAAP and (ii) to the extent any such cash of SpinCo or any of the SpinCo Subsidiaries is denominated in currencies other than the U.S. dollar, the U.S. dollar equivalent of the amount of such cash shall be used to calculate Available Cash for purposes of this Agreement, based on the applicable exchange rates published by Bloomberg on the Closing Date.

"Back-to-Back Agreement" means the agreement regarding the Hemlock Supply Agreements to be entered into between Parent and SpinCo in the form attached hereto as Exhibit M.

"Benefit Plans" means each material "employee benefit plan" (as such term is defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended, whether or not subject to ERISA), and each material pension, retirement, profit-sharing, savings, health, welfare, bonus, incentive, commission, stock option, restricted stock, equity or equity-based compensation, deferred compensation, severance, retention, accident, disability, employment, change of control, separation, consulting, vacation, paid time off, fringe benefit and each other material benefit or compensation plan, program, policy, agreement, contract or arrangement, in each case that is maintained, sponsored, contributed to or required to be contributed to by SpinCo or any of SpinCo Subsidiaries or under or with respect to which SpinCo or any of SpinCo Subsidiaries has any liability.

"Board of Directors" means, when used with respect to any specified Person, the board of directors or similar governing body of such specified Person.

"Brand Framework Agreement" means the Brand Framework Agreement to be entered into between Parent and SpinCo, in substantially the form attached hereto as Exhibit D.

"Business Day" means any day other than a Saturday, a Sunday or a day on which banking institutions are generally authorized or required by law to close in the City of New York, the PRC or Singapore.

"Cash Adjustment Amount" means the amount (expressed as a positive or negative number), calculated without duplication, equal to (a) the Closing Cash Amount, *minus* (b) the Target Cash Amount.

"Closing" has the meaning set forth in Section 2.2.

"Closing Cash Amount" means the actual aggregate amount of Available Cash held by SpinCo and the SpinCo Subsidiaries immediately prior to the Closing.

"Closing Date" has the meaning set forth in Section 2.2.

"Closing Debt Amount" means the actual aggregate amount of Financial Indebtedness of SpinCo and the SpinCo Subsidiaries immediately prior to the Closing.

"Closing Statement" has the meaning set forth in Section 6.9(e)(ii).

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

"Company Intellectual Property" means, collectively, the Licensed Intellectual Property and the Owned Intellectual Property.

"Company IT Systems" mean all information technology, computers, computer systems and communications systems owned, operated, leased or licensed by any member of the SpinCo Group.

"Company Voting Debt" has the meaning set forth in Section 4.2(b)(iii).

"Competing Businesses" has the meaning set forth in Section 6.8(a)(ii).

"Confidentiality Agreements" has the meaning set forth in Section 6.2.

"Contract" means any agreement, understanding, contract, obligation, indenture, instrument, lease, promise, arrangement, release, warranty, commitment or undertaking (whether written or oral and whether express or implied) that is legally binding.

"Cross License Agreement" means the Cross License Agreement to be entered into between Parent and SpinCo, in substantially the form attached hereto as Exhibit E.

"Debt Adjustment Amount" means the amount (expressed as a positive or negative number), calculated without duplication, equal to (a) the Closing Debt Amount, *minus* (b) the Target Debt Amount.

"Debt Financing" means a term loan facility of not less than $325,000,000 available to be drawn by SpinCo immediately after Closing on the best terms and conditions then available to SpinCo, which terms shall, in any event, be no less favorable to SpinCo than the Acceptable Financing Terms.

"Debt Financing Sources" means the Proposed Financing Source and each Person (other than Parent or SpinCo, but including each lender, agent and arranger) that has committed to provide or otherwise entered into agreements in connection with the Proposed Financing or other financings, including any Debt Financing and any Replacement Financing, in each case, with terms no less favorable to SpinCo than the Acceptable Financing Terms, in connection with the transactions contemplated by this Agreement, including any commitment letters, engagement letters, credit agreements, loan agreements, joinders or indentures pursuant to or relating thereto, together with each Affiliate thereof and each officer, director, employee, partner, trustee, controlling person, stockholder, advisor, attorney, agent and representative of each such Person or Affiliate and their respective successors and assigns.

"Debt Term Sheet" has the meaning set forth in Section 4.2(s)(i).

"Dispute" has the meaning set forth in Section 9.10(a).

"Distribution" has the meaning set forth in the Recitals.

"Distribution Date" has the meaning set forth in the Separation Agreement.

"Distribution Effective Time" means the time at which the Distribution is effective as determined by the Board of Directors of Parent in accordance with the Separation Agreement.

"Effective SpinCo 2018 Pro Forma Balance Sheet" means the pro forma combined balance sheet of the SpinCo Business at December 30, 2018 included in the Form 20-F, at the time when the Form 20-F (including any amendments thereof) is declared effective by the SEC.

"Employee Matters Agreement" means the Employee Matters Agreement to be entered into between Parent and SpinCo, in substantially the form attached hereto as Exhibit F.

"Employees" means any officer, director, employee (regular, temporary, part-time or otherwise), consultant, project worker, agent or individual independent contractor of SpinCo or any of the SpinCo Subsidiaries.

"Environmental Laws" has the meaning set forth in Section 4.2(j)(i).

"Environmental Liabilities" has the meaning set forth in Section 4.2(j)(ii).

"Escrow Agent" means The Hongkong and Shanghai Banking Corporation Limited, Singapore Branch.

"Escrow Agreement" has the meaning set forth in the Recitals.

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

"Expenses" means all out-of-pocket expenses (including applicable filing and registration fees and all fees and expenses of counsel, accountants, investment bankers, printers, experts and consultants to a Party, Total or each of their respective Affiliates) incurred by a Party or Total or on behalf of such Party or Total in connection with or related to the authorization, preparation, negotiation, execution and performance of this Agreement and the Separation Transaction Agreements and the transactions contemplated herein and under the Separation Transaction Agreements, including the preparation, printing, filing and mailing of the Form 20-F, and all fees or expenses charged by Persons providing the Debt Financing or the Additional Financing to SpinCo and any applicable members of the SpinCo Group, any interest expenses of the Debt Financing or the Additional Financing and any reasonable and documented out-of-pocket expenses of Parent (including applicable filing and registration fees and all fees and expenses of counsel, accountants, investment bankers, printers, experts and consultants to a Party and its Affiliates), SpinCo or any of their respective Subsidiaries, and all other matters related to the transactions contemplated herein and in the Separation Transaction Agreements.

"Final Adjustment Amount" means the Adjustment Amount set forth in the Final Statement.

"Final Statement" means the statement of the Closing Cash Amount, the Closing Debt Amount and the Adjustment Amount that is final and binding on SpinCo and Parent, as determined through agreement of SpinCo and Parent pursuant to Section 6.9(e)(ii) or through the action of the Independent Accounting Firm pursuant to the Section 6.9(e)(ii).

"Financial Indebtedness" means, with respect to any Person, (i) all indebtedness of such Person, whether or not contingent, for borrowed money (excluding the Debt Financing and the Additional Financing), (ii) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (iii) all obligations of such Person under currency, interest rate or other swaps and all hedging and other obligations of such Person under other derivative instruments, (iv) all obligations of such Person for the deferred purchase price of property or services (excluding trade accounts payable and accrued obligations incurred in the ordinary course of business), (v) all indebtedness of others referred to in clauses (i) through (iv) guaranteed, directly or indirectly, in any manner by such Person, and (vi) all indebtedness referred to in clauses (i) through (iv) secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any Liens on property (including accounts and contract rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such indebtedness, in each case, determined in accordance with GAAP.

"Foreign Antitrust Law" means the merger control, competition, antitrust or other applicable Law intended to prohibit violations of competition or antitrust Laws of any jurisdiction outside of the United States.

"Form 20-F" means the registration statement on Form 20-F (or other appropriate form) filed by SpinCo with the SEC to effect the registration of SpinCo Shares pursuant to Section 12(b) of the Exchange Act in connection with the Distribution, as such registration statement may be amended or supplemented from time to time prior to the Distribution.

"Form 20-F Effective Date" has the meaning set forth in Section 6.14(c).

"Fully Diluted SpinCo Shares" means the total number of SpinCo Shares outstanding immediately after giving effect to the Closing on a fully-diluted, as converted and as exercised basis, including all SpinCo Shares reserved in order to effectuate the conversion of equity awards pursuant to the Employee Matters Agreement, all SpinCo Shares reserved for issuance pursuant to future awards under SpinCo Equity Plans and any other outstanding securities of SpinCo convertible into or exchangeable or exercisable for shares of SpinCo Shares.

"GAAP" means United States generally accepted accounting principles, consistently applied.

"General Waiver" has the meaning set forth in Section 6.6(a).

"Governmental Authority" means any nation or government, any state, provincial, municipality or other political subdivision thereof, and any entity, body, agency, commission, department, board, bureau, court, tribunal or other instrumentality, whether federal, national, state, provincial, local, domestic, foreign, supranational or multinational, exercising executive, legislative, judicial, regulatory, administrative or other similar functions of, or pertaining to, a government and any executive official thereof.

"IBC Business" has the meaning set forth in Section 6.8(a)(ii).

"Independent Accounting Firm" has the meaning set forth in Section 6.9(e)(ii).

"Injunction" has the meaning set forth in Section 7.1(a).

"Intellectual Property" means all intellectual property and industrial property, whether arising under the Laws of the United States or of any foreign or multinational jurisdiction, including all: (a) patents, patent applications (including patents issued thereon), patent disclosures and statutory invention registrations, including reissues, divisions, continuations, continuations in part, substitutions, renewals, extensions and reexaminations of any of the foregoing, and all rights in or to apply for any of the foregoing provided by international treaties or conventions (collectively, "Patents"), (b) trademarks, service marks, trade names, service names, trade dress, logos and other source or business identifiers, including all goodwill associated with any of the

foregoing, and any and all common law rights in and to any of the foregoing, registrations and applications for registration of any of the foregoing, all rights in and to any of the foregoing provided by international treaties or conventions, and all reissues, extensions and renewals of any of the foregoing (collectively, "Marks"), (c) Internet domain names, accounts with Facebook, LinkedIn, Twitter and other social media platforms, internet domain registrations and related rights (collectively, "Internet Addresses"), (d) copyrightable works, copyrights, works of authorship, moral rights, mask work rights, database rights and design rights, whether or not registered or published, and all registrations, applications for registration, reversions, extensions and renewals of any of the foregoing, and all rights in and to any of the foregoing provided by international treaties or conventions (collectively, "Copyrights"), and (e) confidential and proprietary information, including trade secrets, invention disclosures, processes and know-how (collectively, "Trade Secrets").

"Internal Restructuring" has the meaning set forth in the Separation Agreement.

"Investment" has the meaning set forth in the Recitals.

"Investment Transaction Agreements" means this Agreement, the Shareholders Agreement and the Registration Rights Agreement.

"Investor" has the meaning set forth in the Preamble.

"Investor Designee" has the meaning set forth in Section 9.5.

"Investor Escrow Account" means an escrow account opened pursuant to the Escrow Agreement for purposes of holding an amount in cash equal to the Investor Termination Fee.

"Investor Escrow Fund" has the meaning set forth in the Recitals.

"Investor Tax Affiliate" means any Person (i) whose ownership of stock would be attributable to or aggregated with Investor under Section 355(e)(4)(C) of the Code, (ii) who is a member of any "coordinating group" (within the meaning of Treasury Regulation Section 1.355-7(h)(4)) that includes Investor, or (iii) who is acting pursuant to a "plan or arrangement" (within the meaning of Section 355(d)(7)(B) of the Code) with Investor.

"Investor Representation Letter" as the meaning set forth in Section 7.3(d).

"Investor Termination Fee" means $35,000,000.

"Knowledge" means, (i) with respect to Parent or SpinCo, the actual knowledge of any of the persons set forth on Schedule 1.1(a)(i) after reasonable inquiry of their direct reports and (ii) with respect to Investor, the actual knowledge of any of the persons set forth on Schedule 1.1(a)(ii) after reasonable inquiry of their direct reports.

"Law" means all applicable national, supranational, federal, state, provincial, local or similar laws (including common law), statutes, ordinances, orders, decrees, codes, rules, regulations, policies or guidelines promulgated, or judgments, decisions, orders or arbitration awards, in each case, enacted, promulgated, issued or entered by a Governmental Authority.

"Licensed Intellectual Property" means all Intellectual Property (other than Owned Intellectual Property) used, held for use or practiced pursuant to a license or covenant (including the Cross License Agreement) in connection with the SpinCo Business as conducted as of the date of this Agreement.

"Lien" means any claim, lien (statutory or otherwise), charge, encumbrance, mortgage, pledge, hypothecation, security interest, deed of trust, option, covenant, lease or sublease, building or use restriction, easement, encroachment, conditional sales agreement, adverse right or claim or other encumbrance or contractual restriction (including any right of first refusal or first offer, call right, put right, tag along right, drag along right) of any kind or nature, preemptive right, title defect or other adverse claim of any third party, whether voluntarily or involuntarily incurred, arising by operation of applicable Law, by contract or otherwise, and including any agreement (whether written or otherwise) to give any of the foregoing in the future.

"Material Adverse Effect" means any event, effect, change, circumstance or development that, individually or in the aggregate with other such events, effects, changes, circumstances or developments, has or would reasonably be expected to have, a material adverse effect on, (i) with respect to Investor, on the one hand, or Parent or SpinCo, on the other hand, the ability of Investor, or of Parent or SpinCo, as applicable, to consummate the Investment or any of the transactions contemplated by this Agreement, or (ii) with respect to SpinCo, the business, financial condition, operations, result of operations, properties, assets or liabilities of the SpinCo Group, taken as a whole, or the SpinCo Business (including prior to the Distribution, the businesses and operations engaged in by Parent and its Subsidiaries that constitute the SpinCo Business, taken as a whole), other than, in the case of clause (ii), any event, effect, change, circumstance or development (A) resulting from changes after the date hereof affecting general economic or political conditions in the jurisdictions in which the SpinCo Business operates, (B) resulting from changes after the date hereof generally affecting any of the markets, businesses, or industries in which the SpinCo Business operates, (C) resulting from any action of Parent or SpinCo or any Subsidiary of either of them, in each case, taken after the date hereof that is expressly required by this Agreement or taken after the date hereof with the express prior written consent of Investor, (D) resulting from the commencement, occurrence or continuation of any war, armed hostilities or acts of terrorism involving or affecting the jurisdictions in which the SpinCo Business operates, (E) resulting from changes in financial, banking, or securities markets (including any disruption thereof and any decline in the price of any security or any market index), (F) resulting from any failure by SpinCo to meet any internal or public projection, budget, estimate, forecast, estimate or expectation in respect of SpinCo's revenues, earnings or other financial or operating performance metrics for any period (but not the underlying causes of such failure, unless such

causes would be excepted by operation of clauses (A) through (E) or (G) through (I)), (G) resulting from changes, after the date hereof, in GAAP or the accounting rules and regulations of the SEC, (H) resulting from changes, after the date hereof, in applicable Laws, including as to Taxes, or (I) resulting from the announcement of the execution of this Agreement (provided that this exception shall not apply with respect to any representation or warranty contained in this Agreement to the extent the purpose of such representation or warranty is to address the consequences resulting from the announcement of the execution of this Agreement, including Section 4.2(c)) or any matter expressly set forth in the Separation Transaction Agreements (but not including any changes to the extent resulting from any delay of the Distribution); provided that events, effects, changes, circumstances or developments set forth in the foregoing clauses (excluding clauses (C) and (I)) shall be taken into account in determining whether a "Material Adverse Effect" has occurred or would reasonably be expected to occur if and to the extent any such events, effects, changes, circumstances or developments, individually or in the aggregate, have a materially disproportionate impact on the SpinCo Group, taken as a whole, or the SpinCo Business (or, as may be applicable, the businesses and operations engaged in by Parent and its Subsidiaries that constitute the SpinCo Business), taken as a whole, relative to the other participants in the industries in which they operate.

"Material Contracts" means all Contracts to which any member of the SpinCo Group is (or, after the Separation, will be) a party or are included (in whole or in part) in the SpinCo Assets or the SpinCo Liabilities (each as defined in the Separation Agreement), that (i) would be, if the Distribution had occurred immediately prior to the execution of this Agreement, required to be filed as exhibits by SpinCo with the SEC pursuant to Items 601(b)(4) and 601(b)(10) of Regulation S-K promulgated by the SEC, or (ii) if the Separation had occurred immediately prior to the execution of this Agreement: (A) limits, in any material respect, the right of any member of the SpinCo Group from engaging or competing in any line of business that is material to the SpinCo Business; (B) to the extent material to the SpinCo Business, contains "most favorite nation" pricing provisions or grants exclusive rights or rights of first refusal to customers or suppliers; (C) limits the ability of any member of the SpinCo Group to incur indebtedness or pay dividends; (D) requires aggregate payments by any member of the SpinCo Group in excess of $10,000,000 over the remaining term of the Contract and is not terminable within one year without penalty; (E) guarantees the material obligations of any Person (other than any member of the SpinCo Group) by any member of the SpinCo Group; (F) relates to or evidences third-party indebtedness for borrowed money of any member of the SpinCo Group in an aggregate principal amount in excess of $10,000,000; (G) is a distribution or supply agreement with respect to products of the SpinCo Business or any member of the SpinCo Group pursuant to which payments in excess of $10,000,000 have been made in the previous fiscal year; (H) pursuant to the Separation Agreement, is contemplated to survive the Distribution Effective Time and is between any member of the SpinCo Group on the one hand, and any member of the RemainCo Group on the other hand (other than any purchase order made in the ordinary course of business consistent with past practice that involves a consideration not exceeding $10,000,000 in any fiscal year); (I) is a partnership or joint venture agreement that is material to the SpinCo Business, other than any partnership or joint venture agreement between

SpinCo and a wholly owned Subsidiary of SpinCo or between two wholly owned Subsidiaries of SpinCo; (J) provides for the acquisition or disposition (pending as of the date of this Agreement), directly or indirectly (by merger or otherwise) of material properties or assets of or by the SpinCo Business that involves consideration exceeding $10,000,000; (K) involves the research, development or licensing of any material Company Intellectual Property; (L) involves the grant, by any member of the SpinCo Group to any Person, any license, sublicense, right, option, permission, consent, non-assertion or release relating to any Intellectual Property material to the SpinCo Business (excluding non-exclusive licenses granted in the ordinary course of business consistent with past practice for use in connection with products of the licensor); or (M) involves the grant, by any Person to any member of the SpinCo Group, of any license, sublicense, right, option, permission, consent, non-assertion or release relating to any Intellectual Property (excluding licenses for open source software or commercially available off-the-shelf software pursuant to standard terms for an aggregate fee of less than $100,000); provided that none of the Investment Transaction Agreements or the Separation Transaction Agreements shall constitute a Material Contract.

"Modification Notice" has the meaning set forth in Section 5.2(b).

"MOFCOM" means the Ministry of Commerce of the PRC or its competent local counterparts.

"N-Type Cell Business" has the meaning set forth in Section 6.8(a)(i).

"NASDAQ" has the meaning set forth in the Separation Agreement.

"NDRC" means the National Development and Reform Commission of the PRC or its competent local counterparts.

"Net Aggregated Impact on Changes of Pro Forma Balance Sheet" has the meaning set forth in Section 4.2(d)(iv).

"Newly Identified Liabilities" means, collectively, (i) any new liability item in the Submitted SpinCo 2018 Pro Forma Balance Sheet or the Effective SpinCo 2018 Pro Forma Balance Sheet, as applicable, that is not reflected in the October 29 Pro Forma Balance Sheet, and (ii) any increase in any liability item reflected in the October 29 Pro Forma Balance Sheet (which, in the case of clause (i) or clause (ii), may trigger net cash outflow after the Distribution Date), but in any case excluding (A) any liability associated with the purchase commitments for the procurement of poly silicon in existence prior to December 30, 2018, or (B) any liability associated with the Back-to-Back Agreement.

"Non-Controlled Entity" means any company, corporation, limited liability company, joint venture, partnership or other entity in which SpinCo or any SpinCo Subsidiary beneficially owns, or will beneficially own after giving effect to the Internal Restructuring, equity interests, voting securities, capital, profit interests, membership interests or other similar interests, other than a SpinCo Subsidiary.

"Notice of Disagreement" has the meaning set forth in Section 6.9(e)(ii).

"Notice of Superior Proposal" has the meaning set forth in Section 6.14(d).

"October 29 Historical SpinCo Financial Statements" means the line items under the column titled "Historical" in the combined balance sheet of the SpinCo Business and the related combined statement of operations provided by or on behalf of Parent to Investor on October 29, 2019 as part of the Pro Forma SpinCo Financial Statements, which were derived from the consolidated financial statements and accounting records of Parent and were prepared in accordance with GAAP.

"October 29 Pro Forma Balance Sheet" means the pro forma combined balance sheet of the SpinCo Business provided by or on behalf of Parent to Investor on October 29, 2019 as part of the Pro Forma SpinCo Financial Statements.

"Offer Obligation" has the meaning set forth in Section 6.6(b).

"Organizational Documents" means, with respect to any specified Person, the articles of association, the memorandum of association, the constitution, the certificate of incorporation, by-laws or other equivalent corporate charter document of such specified Person.

"Owned Intellectual Property" means all Intellectual Property owned (or purported to be owned) by any member of the SpinCo Group.

"Parent" has the meaning set forth in the Preamble.

"Parent Board Approval" means, with respect to any action, that approval of such action by the Board of Directors of Parent is required pursuant to the Parent Corporate Approval Policy.

"Parent Corporate Approval Policy" means the SunPower Corporate Approval and Signature Policy, as in effect on the date of this Agreement and made available to Investor prior to the execution of this Agreement.

"Parent Disclosure Schedule" has the meaning set forth in Section 4.2.

"Parent Escrow Account" means an escrow account opened pursuant to the Escrow Agreement for purposes of holding an amount in cash equal to the Parent Termination Fee.

"Parent Escrow Fund" has the meaning set forth in the Recitals.

"Parent Filed SEC Reports" has the meaning set forth in Section 4.2(d)(ii).

"Parent SEC Reports" has the meaning set forth in Section 4.2(d)(iii).

"Parent Termination Fee" means $20,000,000.

"Parent Transaction" means an Alternative Transaction involving any of the transactions contemplated in clause (d) of the definition of "Alternative Transaction."

"Parent Transaction Fee" means $80,000,000.

"Parties" has the meaning set forth in the Preamble.

"Permit" means any permit, license, franchise, variance, exemption, order or approval of any Governmental Authority.

"Permitted Liens" means any (a) Lien for Taxes not yet due and payable or which are being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with GAAP in the latest financial statements included in the Pro Forma SpinCo Financial Statements, as applicable, (b) carrier's, warehousemen's, mechanic's, materialmen's, repairmen's or other similar Lien incurred in the ordinary course of business consistent with past practices that are not (A) resulting from a breach, default or violation of any Contract or Applicable Law or (B) for amounts being contested in good faith by appropriate proceedings, (c) pledge or deposit in connection with workers' compensation, unemployment insurance and other social security legislation, in the ordinary course of business, (d) pledges and deposits to secure performance of bids, trade contracts, leases, tenders, statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other similar obligations, in the ordinary course of business, (e) customary rights of setoff, revocation, refund or chargeback under banking, cash management, credit card and similar arrangements in the ordinary course of business, (f) inchoate Lien arising under operation of Law in the ordinary course of business, (g) Lien in favor of customs and revenue authorities that secure payment of custom or import duties with respect to the assets being so imported and in respect of which such duties are owing, in the ordinary course of business, (h) easement, right-of-way, restriction, covenant, condition, encroachment, defect, and irregularity of title and other similar encumbrance that has been placed by any developer, landlord or other Person on any real property and that does not materially adversely affect the continued use of the property to which it relates or the conduct of business currently conducted thereon, and (i) zoning, building code and other land use regulation that is not violated by the current use or occupancy of any owned real property and that does not secure indebtedness and that does not materially adversely affect the continued use of the property to which it relates or the conduct of business currently conducted thereon.

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

"Personal Information" means, in addition to any definition for any similar term (e.g., "personally identifiable information" or "PII") provided by applicable Law, or by SpinCo or Parent in any of their respective privacy policies, notices, or contracts, all information that identifies, could be used to identify, or is otherwise associated with an individual person or device, whether or not such information is associated with an identifiable individual. Personal Information may relate to any individual, including a current, prospective, or former customer, end user, or employee of any Person, and includes information in any form or media, whether paper, electronic, or otherwise.

"PRC" means the People's Republic of China.

"PRC Approvals" means the approvals or the acceptances of the record-filings of NDRC and MOFCOM for the PRC overseas direct investment by Investor as contemplated by this Agreement and, if required, (i) the approval of SASAC with respect to the transactions contemplated by this Agreement and the other Investment Transaction Agreements and (ii) subsequent completion of the foreign exchange filing with the relevant bank authorized by SAFE.

"Pro Forma SpinCo Financial Statements" has the meaning set forth in Section 4.2(d)(i).

"Product Collaboration Agreement" means the Product Collaboration Agreement to be entered into between Parent and SpinCo, in substantially the form attached hereto as Exhibit G.

"Proposed Financing" has the meaning set forth in Section 4.2(s)(i).

"Proposed Financing Source" has the meaning set forth in Section 4.2(s)(i).

"Proposed Modification" has the meaning set forth in Section 5.2(b).

"Purchase Price" means $298,000,000.

"Purchase Price Deposit" has the meaning set forth in Section 2.3(a).

"Purchase Price Escrow Account" means an escrow account opened pursuant to the Escrow Agreement for purposes of holding an amount in cash equal to the Purchase Price *less* the Investor Escrow Fund.

"Purchase Price Escrow Fund" has the meaning set forth in the Recitals.

"Purchase Price Escrow Release Time" means 5:00 p.m. New York time on the date that is the 30th day after the deposit into the Purchase Price Escrow Account pursuant to Section 2.3(a).

"Purchased Shares" has the meaning set forth in Section 2.1.

"Registration Rights Agreement" has the meaning set forth in the Recitals.

"Replacement Financing" has the meaning set forth in Section 6.9(b).

"Representatives" has the meaning set forth in Section 6.14(a).

"Required Foreign Antitrust Approvals" means the filings, notifications or approvals required under Foreign Antitrust Laws in connection with the transactions contemplated by this Agreement and set forth on Schedule 1.1(b).

"Review Period" has the meaning set forth in Section 6.9(e)(ii).

"Ruling" has the meaning set forth in Section 6.6(b).

"SAFE" means the State Administration of Foreign Exchange of the PRC or its competent local counterparts.

"SASAC" means the State-owned Assets Supervision and Administration Commission of the State Council of the PRC or its competent local counterparts.

"Sarbanes-Oxley Act" means the means U.S. Sarbanes-Oxley Act of 2002, as amended.

"Scheduled Intellectual Property" means all issued Patents, pending Patent applications, Mark registrations, applications for Mark registration, Copyright registrations, applications for Copyright registration and Internet Addresses, in each case, included in the Owned Intellectual Property.

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

"Securities Act" means the U.S. Securities Act of 1933, as amended, together with the rules and regulations promulgated thereunder.

"Separation" has the meaning set forth in the Recitals.

"Separation Agreement" has the meaning set forth in the Recitals.

"Separation Committee" means an eight-member committee formed for the purposes set forth in Section 5.2 that is comprised of two individuals designated by each Separation Committee Party as its representatives; provided that, at least one representative of each Separation Committee Party must be a member of the executive leadership team or senior management team, or a corresponding senior executive, of such Separation Committee Party with decision making authority for such Separation Committee Party.

"Separation Committee Parties" means Parent, SpinCo, Total and Investor.

"Separation Transaction Agreements" means collectively, the Separation Agreement, the Brand Framework Agreement, the Cross License Agreement, the Employee Matters Agreement, the Product Collaboration Agreement, the Supply Agreement, the Tax Matters Agreement, the Transition Services Agreement, the Intercompany Note (as defined in the Separation Agreement), the Back-to-Back Agreement and such other agreements, if any, entered into or to be entered into in connection with the transaction contemplated under the Separation Agreement.

"Shareholders Agreement" has the meaning set forth in the Recitals.

"SIC" means the Singapore Securities Industry Council.

"Singapore" means the Republic of Singapore.

"Singapore Code" means the Singapore Code on Take-overs and Mergers.

"Solvency Condition Determination" has the meaning set forth in Section 8.1(f).

"Solvency Firm" has the meaning set forth in Section 6.12.

"Specific Waiver" has the meaning set forth in Section 6.6(b).

"Specified Assets" means the assets set forth in Section 4.2(d)(iii) of the Parent Disclosure Schedule.

"SpinCo" has the meaning set forth in the Preamble.

"SpinCo Amended Constitution" means the Amended and Restated Constitution of SpinCo, substantially in the form attached as Exhibit C.

"SpinCo Equity Plans" means any Benefit Plan that provides for the issuance or grant of (i) SpinCo Shares as compensation for services, and/or (ii) compensatory awards that provide for the delivery of, relate to, are based on, and/or are valued by reference to, SpinCo Shares, including in the form of stock options, stock appreciation rights, restricted stock units, or phantom units.

"SpinCo Group" has the meaning set forth in the Separation Agreement.

"SpinCo Leases" has the meaning set forth in Section 4.2(m)(i).

"SpinCo Permits" has the meaning set forth in Section 4.2(h)(ii).

"SpinCo Real Property" has the meaning set forth in Section 4.2(m)(i).

"SpinCo Shares" has the meaning set forth in the Recitals.

"SpinCo Subsidiary" or any reference to SpinCo's Subsidiaries or the Subsidiaries of SpinCo, means the Subsidiaries of SpinCo after giving effect to the Internal Restructuring.

"Submitted SpinCo 2018 Financial Statements" means, collectively, the historical consolidated audited balance sheet of the SpinCo Business at December 30, 2018, and the related consolidated audited statement of operations and the related consolidated audited statement of cash flow, in each case, for the fiscal year ended December 30, 2018 (in each case, together with the notes thereto), in each case, included in the Form 20-F, at the time when the Form 20-F is submitted to the SEC in the initial confidential submission after the date of this Agreement.

"Submitted SpinCo 2018 Pro Forma Balance Sheet" means the pro forma combined balance sheet of the SpinCo Business at December 30, 2018 included in the Form 20-F, at the time when the Form 20-F is submitted to the SEC in the initial confidential submission after the date of this Agreement.

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

"Superior Proposal" means a bona fide written proposal or offer for a Parent Transaction which was not obtained in violation of Section 6.14 that the Board of Directors of Parent determines in good faith, after consultation with outside legal counsel and its financial advisor, is reasonably likely to be consummated in accordance with its terms, taking into account all financial, legal, regulatory and other aspects of such Parent Transaction, including all conditions contained therein, and that the Board of Directors of Parent determines in good faith, after consultation with outside legal counsel and its financial advisor (taking into account any changes to this Agreement and the Separation Transaction Agreements proposed by Investor in response to a proposal or offer for a Parent Transaction), is more favorable to the stockholders of Parent than the transactions contemplated by this Agreement and the Separation Transaction Agreements from a financial point of view.

"Superior Proposal Notice Period" has the meaning set forth in Section 6.14(d).

"Supply Agreement" means the Supply Agreement to be entered into between Parent and SpinCo, in substantially the form attached hereto as Exhibit H.

"Surplus and Solvency Opinions" has the meaning set forth in Section 6.12.

"Takeover Statute" means any "business combination", "control share acquisition," "fair price," "moratorium" or other anti-takeover or similar statute or regulation.

"Target Cash Amount" means $50,000,000 as increased pursuant to Section 6.9(f)(i).

"Target Debt Amount" means $138,000,000.

"Tax" (and, with correlative meaning, "Taxes" and "Taxable") means any federal, state, local or foreign tax, in the U.S. or any other jurisdictions, (including any fee, assessment or other charge in the nature of or in lieu of any tax), including without limitation income, gross income, gross receipts, profits, capital stock, franchise, withholding, payroll, social security, workers compensation, unemployment, disability, property, ad valorem, escheat, stamp, excise, severance, occupation, service, sales, use, license, lease, transfer, import, export, value added, custom, withholding, alternative minimum, estimated or other similar tax (including any fee, assessment or other charge in the nature of or in lieu of any tax) imposed by any Governmental Authority and any interest, penalties, additions to tax or additional amounts in respect of the foregoing.

"Tax Law" means the Law of any Governmental Authority, and any controlling judicial or administrative interpretations of such Law, relating to any Tax.

"Tax Matters Agreement" means the Tax Matters Agreement to be entered into between Parent and SpinCo, in the form attached hereto as Exhibit I.

"Tax Return" means any report of Taxes due (including estimated Taxes), any claims for refund of Taxes paid, any information return with respect to Taxes, or any other similar report, statement, declaration or document required to be filed (by paper, electronically or otherwise) under any applicable Tax Law, including any attachments, exhibits or other materials submitted with any of the foregoing, and including any amendments or supplements to any of the foregoing.

"Termination Date" has the meaning set forth in Section 8.1(b).

"Tier I Exemption" means the Tier I exemption set forth in Rule 13e-4(h) of the Exchange Act.

"Total" has the meaning set forth in the Preamble.

"Total Group" means Total S.A. and its Subsidiaries.

"Total Provisions" has the meaning set forth in the Preamble.

"Transition Services Agreement" means the Transition Services Agreement to be entered into between Parent and SpinCo, in substantially the form attached hereto as Exhibit J.

"Tribunal" has the meaning set forth in Section 9.10(b).

"TZS Group" means Tianjin Zhonghuan Semiconductor Co., Ltd. and its Subsidiaries.

"U.S." or "United States" means the United States of America.

ARTICLE II

INVESTMENT

Section 2.1 Investment. Upon the terms and subject to the conditions of this Agreement, at the Closing, SpinCo will issue and sell to Investor and Investor will purchase from SpinCo a number of previously unissued SpinCo Shares (determined in accordance with Section 2.5) such that, immediately following such issuance, Investor

will own no less than 28.8480% of the Fully Diluted SpinCo Shares (the "Purchased Shares"), free and clear of any Liens (other than any Liens arising pursuant to the Shareholders Agreement or any transfer restrictions arising under applicable securities Law). In consideration for the issuance and sale of the Purchased Shares, and upon the terms and subject to the conditions of this Agreement, at the Closing, Investor will pay, or cause to be paid, to SpinCo the Purchase Price.

Section 2.2 Closing. Promptly after the Purchase Price Deposit is deposited into the Purchase Price Escrow Account in accordance with Section 2.3(a), Parent shall notify Investor in writing of the Distribution Date determined by the Board of Directors of Parent pursuant to the Separation Agreement, which Distribution Date shall be at least five Business Days after Investor's receipt of such notice. Subject to the satisfaction or waiver (subject to applicable Laws) of the conditions set forth in Article VII, the closing of the Investment and the other transactions contemplated herein (the "Closing") will take place on the Distribution Date immediately following the consummation of the Distribution (the actual time and date of the Closing being referred to herein as the "Closing Date"). The Closing will be held at the offices of Jones Day, 1755 Embarcadero Road, Palo Alto, California unless another place is agreed to in writing by the Parties. In no event will the consummation of the Investment occur unless the Distribution has been consummated, and in no event will the consummation of the Distribution occur unless the Investment is to be consummated immediately thereafter.

Section 2.3 Purchase Price Escrow Account.

(a) Within two Business Days after the last to occur of (i) the satisfaction of each of the conditions set forth in Section 7.1(c), Section 7.1(d) and Section 7.1(e), and (ii) both (A) definitive agreements for the Debt Financing, in form and substance reasonably satisfactory to Investor, having been agreed between SpinCo and the relevant Debt Financing Sources, and (B) no event having occurred that has resulted, or could reasonably be expected to result, in any of the conditions precedent to the utilization of the Debt Financing set forth in such definitive agreements not being satisfied, and provided that at such time no event shall have occurred that has resulted, or could reasonably be expected to result, in any other condition set forth in Section 7.1 or Section 7.2 not being satisfied, Investor will deposit, or will cause to be deposited, into the Purchase Price Escrow Account an amount in cash equal to the Purchase Price less the Investor Escrow Fund on the date of such deposit (the "Purchase Price Deposit").

(b) At the Closing, the relevant actions specified in Section 2.4(b)(i) will occur, and the receipt by SpinCo of funds in an aggregate amount equal to the Purchase Price from either (i) the Investor Escrow Account and the Purchase Price Escrow Account as contemplated by Section 2.4(b)(i)(1), or (ii) the Investor Escrow Fund and payment made, or caused to be made, by Parent as contemplated by Section 2.4(b)(i)(2), shall, in either case, fully discharge Investor from its obligation to pay such amount to SpinCo pursuant to Section 2.1.

(c) If the Closing has not occurred by the Purchase Price Escrow Release Time, the Purchase Price Escrow Fund shall be promptly released to Investor. Investor and Parent shall provide a joint written instruction to the Escrow Agent as promptly as practicable and in any event no later than the first Business Day after the Purchase Price Escrow Release Time and take any other action that may be required to give full effect to this Section 2.3(c).

Section 2.4 Closing Deliverables. At the Closing, upon the terms and subject to the conditions of this Agreement:

(a) Parent and SpinCo will deliver or cause to be delivered to Investor (or the Investor Designee, if applicable):

(i) a certificate or appropriate evidence of a book entry transfer representing the Purchased Shares duly registered in the name of Investor (or the Investor Designee, if applicable);

(ii) a counterpart to the Shareholders Agreement and a counterpart to the Registration Rights Agreement, each duly executed by SpinCo and by Total; and

(iii) a duly executed counterpart of a joint written instruction to the Escrow Agent pursuant to the Escrow Agreement instructing the Escrow Agent to release (A) the Parent Escrow Fund to Parent, (B) the applicable portion of the Investor Escrow Fund and/or the Purchase Price Escrow Fund contemplated by Section 2.4(b)(i) to SpinCo, and (C) the remainder (if any) of the Investor Escrow Fund and the Purchase Price Escrow Fund, after taking into account any release to SpinCo as contemplated by Section 2.4(b)(i), to Investor.

(b) Investor will deliver or cause to be delivered to SpinCo:

(i) the Purchase Price provided for in Section 2.1 (A) if prior to the Purchase Price Escrow Release Time, by jointly instructing the Escrow Agent pursuant to the terms of the Escrow Agreement to release from the Investor Escrow Fund and the Purchase Price Escrow Fund an aggregate amount equal to the Purchase Price to SpinCo or (B) if the Purchase Price Escrow Fund has been released to Investor in accordance with Section 2.3(c) after the Purchase Price Escrow Release Time, by (1) jointly instructing the Escrow Agent pursuant to the terms of the Escrow Agreement to release the full amount of the Investor Escrow Fund to SpinCo and (2) paying, or causing to be paid, to SpinCo an amount in cash equal to the Purchase Price less the amount of the Investor Escrow Fund released to SpinCo pursuant to the foregoing clause (1), in each case, by wire transfer of immediately available funds to an account designated in writing by SpinCo delivered to Investor at least two days prior to the Closing Date;

(ii) a duly executed counterpart of a joint written instruction to the Escrow Agent pursuant to the Escrow Agreement instructing the Escrow Agent to release (A) the Parent Escrow Fund to Parent, (B) the applicable portion of the Investor Escrow Fund and/or the Purchase Price Escrow Fund contemplated by Section 2.4(b)(i) to SpinCo, and (C) the remainder (if any) of the Investor Escrow Fund and the Purchase Price Escrow Fund, after taking into account the release of an aggregate amount equal to the Purchase Price as set forth in Section 2.4(b)(i), to Investor; and

(iii) a counterpart to the Shareholders Agreement and a counterpart to the Registration Rights Agreement, each duly executed by Investor (or the Investor Designee, if applicable).

Section 2.5 Purchased Share Number. During the two Business Days prior to the Distribution Date, Investor and Parent mutually will determine in good faith the number of Purchased Shares to be issued and sold to Investor pursuant to Section 2.1 in a manner consistent with the terms and methodology set forth on Schedule 2.5.

ARTICLE III

OTHER TRANSACTIONS.

Section 3.1 Other Transactions. The transactions set forth in this Section 3.1 will take place in the order set forth in this Section 3.1:

(a) *The SpinCo Transfer*. Upon the terms and subject to the conditions set forth in the Separation Agreement, Parent and SpinCo will effect the Internal Restructuring (as defined in the Separation Agreement) and the SpinCo Transfer (as defined in the Separation Agreement), in each case, prior to the Distribution Effective Time and in accordance with the terms of the Separation Agreement. As a result of the Internal Restructuring and SpinCo Transfer, SpinCo will wholly own, directly and indirectly, the SpinCo Business immediately prior to the Distribution Effective Time.

(b) *Organizational Documents of SpinCo*. Prior to the Distribution Effective Time, and subject and pursuant to the terms and conditions of the Separation Agreement, Parent and SpinCo will take all necessary actions so that, as of the Distribution Effective Time, the SpinCo Amended Constitution will become the constitution of SpinCo.

(c) *Distribution*. Upon the terms and subject to the conditions of the Separation Agreement and this Agreement, following the Separation and at the Distribution Effective Time, Parent will effect the Distribution as contemplated by the Separation Agreement.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 4.1 Representations and Warranties of Investor. Investor hereby represents and warrants to Parent and SpinCo that:

(a) *Organization, Authority*. Investor is a company duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, with all requisite power and authority to enter into each of the Investment Transaction Agreements and to consummate the transactions contemplated hereby and thereby and otherwise to carry

out its obligations hereunder and thereunder. The execution and delivery of each of the Investment Transaction Agreements by Investor and the consummation by Investor of the transactions contemplated hereby or thereby have been duly authorized by all necessary internal action on the part of Investor. This Agreement has been, and upon its execution each other Investment Transaction Agreement will have been, duly executed by Investor and, when delivered by Investor in accordance with the terms hereof and thereof, and assuming the due authorization and valid execution and delivery of this Agreement and each other Investment Transaction Agreement by the other parties hereto and thereto, as applicable, this Agreement constitutes, and upon its execution and delivery each other Investment Transaction Agreement will constitute, legal, valid and binding obligations of Investor, enforceable against it in accordance with its terms, except as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally.

(b) *No Conflicts*.

(i) The execution, delivery and performance by Investor of this Agreement and each other Investment Transaction Agreement do not and will not, and the consummation of the Investment and the transactions contemplated hereby and thereby will not (A) conflict with or violate any provision of Investor's Organizational Documents, (B) conflict with or result in any breach or violation of, or constitute a default (with or without notice or lapse of time, or both) under, or give rise to a right of or result by its terms in the creation of any Lien upon any of the properties or assets of Investor pursuant to, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any Contract to which Investor or any of its Affiliates is a party or by which any property or asset of Investor or any of its Affiliates is bound or affected, or (C) assuming (1) the PRC Approvals shall have been obtained, (2) all notifications and filings required under any Foreign Antitrust Laws to be made prior to the Closing Date to any Governmental Authority, and all consents, approvals and authorizations required by applicable Laws to be obtained prior to the Closing Date under Foreign Antitrust Laws in order to effect the Investment shall have been made or obtained, and all waiting periods applicable to the Investment under any Foreign Antitrust Laws, shall have expired or been terminated, and (3) any filings required under, and compliance with any applicable requirements of, the Securities Act, the Exchange Act, state securities or "blue sky" laws or regulations, and any rules and regulations of NASDAQ or the Shenzhen Stock Exchange shall have been made and the Form 20-F shall have been declared effective, conflict with or result in a violation of any applicable Law or other restriction of any Governmental Authority to which Investor or any of its Affiliates is subject (including federal, state and foreign securities Laws), or by which any property or asset of Investor or any of its Affiliates is bound or affected; except in the case of each of clauses (B) and (C), such as has not had and would not reasonably be expected to have a material adverse effect on the legality, validity or enforceability of any Investment Transaction Agreement or a Material Adverse Effect on Investor.

(ii) No material consent, waiver, approval, order or authorization of, or registration, declaration or filing with, any Governmental Authority or any other Person is required to be obtained or made by or with respect to Investor or any of its Affiliates in connection with the execution and delivery of the Investment Transaction Agreements or the consummation by Investor of the Investment and other transactions contemplated thereby, except for those required under or in relation to (A) state securities or "blue sky" laws or regulations, (B) the Securities Act, (C) the Exchange Act, (D) the rules and regulations of NASDAQ or the Shenzhen Stock Exchange, and (E) the PRC Approvals and the Required Foreign Antitrust Approvals.

(iii) As of the date hereof, all required approvals by SASAC with respect to the transactions contemplated by this Agreement and the other Investment Transaction Agreements have been obtained and are not subject to withdrawal or revocation.

(c) *Litigation; Compliance with Laws*.

(i) There is no Action pending or, to the Knowledge of Investor, threatened against Investor or any property or asset of Investor or any Subsidiary of Investor which, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect on Investor, nor is there any judgment, decree, injunction, rule or order of any Governmental Authority or arbitrator outstanding against Investor or any Subsidiary of Investor which, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect on Investor.

(ii) None of Investor or any of its Affiliates is in violation of, and Investor and its Affiliates have not received since Investor's inception any written notices of violations with respect to, any applicable Laws, except for violations which, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on Investor.

(d) *Brokers or Finders*. No agent, broker, investment banker, financial advisor or other firm or Person is or will be entitled to any broker's or finder's fee or any other similar commission or fee in connection with any of the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Investor or any of its Affiliates, except Morgan Stanley, whose fees and expenses will be paid in accordance with Section 6.4.

(e) *No Competing Business*. Neither Investor nor any of its Affiliates is conducting, participating or engaging in, or bidding for or otherwise pursuing a Competing Business that would be deemed a violation of Section 6.8(a) after Closing.

(f) *Acquisition for Investment*. Investor is acquiring the Purchased Shares for its own account for the purpose of investment and not with a view to or for sale in connection with any distribution thereof, and Investor has no present intention or plan to effect any distribution of SpinCo Shares; provided, however; that the disposition of such Investor's property will at all times be and remain within its control and subject to the provisions of this Agreement and the Shareholders Agreement.

(g) *No Investment Company*. Investor is not, and after giving effect to the Investment will not be, required to register as an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

(h) *Ownership of Stock*. Neither Investor nor any Investor Tax Affiliate owns any Parent Shares (as defined in the Separation Agreement), or options to acquire Parent Shares, or has any arrangement or agreement with SpinCo to acquire any SpinCo Shares or shares of or other equity interests in any of SpinCo Subsidiaries, or options to acquire SpinCo Shares or shares of or other equity interests in any of SpinCo Subsidiaries (other than Purchased Shares or as otherwise contemplated by the Investment Transaction Agreements).

(i) *Sufficient Funds.* On or prior to the Closing, Investor will have sufficient funds available to it to, together with the Investor Escrow Fund and the Purchase Price Escrow Fund, pay the full Purchase Price at the Closing and to perform its obligations hereunder, in each case, in accordance with the terms and conditions hereof.

(j) *Access to Information*. Investor has been given access to SpinCo documents, records and other information that Investor has requested, and has had adequate opportunity to ask questions of, and receive answers from, Parent's and SpinCo's officers, employees, agents, accountants, and representatives concerning the SpinCo Business and its operations, financial condition, assets, liabilities and all other matters relevant to the Investment. Neither such inquiries nor any other investigation conducted by or on behalf of Investor or Investor's representatives will modify, amend or affect such Investor's right to rely on the truth and accuracy of the representations and warranties of Parent and SpinCo and the covenants and agreements contained in this Agreement, in any other Investment Transaction Agreement or in any certificate or other documents delivered hereunder or thereunder, nor will anything in this Section 4.1(j) operate to limit any claim by Investor for fraud.

(k) *No Other Representations and Warranties.* Investor hereby expressly acknowledges and agrees that (i) the representations and warranties set forth in Section 4.2 are the only representations and warranties made by Parent or SpinCo (or any of their respective Subsidiaries) with respect to Parent or SpinCo, any of their respective Subsidiaries or the SpinCo Business or the transactions contemplated by this Agreement and (ii) except for the representations and warranties expressly set forth in Section 4.2, none of Parent, SpinCo or any of their respective Subsidiaries makes any other express or implied representation or warranty with respect to Parent or SpinCo, any of their respective Subsidiaries or the SpinCo Business or the transactions contemplated by this Agreement, and each of Parent, SpinCo and their respective Subsidiaries hereby disclaim all liability and responsibility for any and all projections, forecasts, estimates, plans or prospects (including the reasonableness of the assumptions underlying such forecasts, estimates, projections, plans or prospects), management presentations.

Section 4.2 Representations and Warranties of Parent and SpinCo. Parent and SpinCo hereby jointly represent and warrant to Investor that, except as disclosed in the schedule delivered by Parent to Investor on the date of this Agreement (the "Parent Disclosure Schedule") (it being understood that the disclosure of any fact or item in any section of the Parent Disclosure Schedule will, should the existence of such fact or item be relevant to any other section, be deemed to be disclosed with respect to that other section to the extent that its relevance is reasonably apparent):

(a) *Organization, Authority and Subsidiaries.* (i) Each of Parent and SpinCo is a corporation or company duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation with all requisite power and authority to enter into each of the Investment Transaction Agreements and to consummate the transactions contemplated hereby and thereby and otherwise to carry out their respective obligations hereunder and thereunder. Each of Parent and SpinCo has the requisite power and authority to enter into the Separation Transaction Agreements that it is entering into on (or entered into prior to) the date hereof, and prior to the Distribution Effective Time, will have all requisite power and authority to enter into the other Separation Transaction Agreements and to consummate the transactions contemplated thereby and otherwise to carry out its obligations thereunder. The execution and delivery of each of the Investment Transaction Agreements and the Separation Agreement by Parent and SpinCo and the consummation by Parent and SpinCo of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action on the part of Parent and SpinCo. The execution and delivery of each of the Separation Transaction Agreements (other than the Separation Agreement) by Parent and SpinCo and the consummation by Parent and SpinCo of the transactions contemplated thereby has been (or will, prior to the Distribution Effective Time, have been) duly authorized by all necessary corporate action on the part of Parent and SpinCo. This Agreement and the Separation Agreement have been, and upon their execution each other Investment Transaction Agreement and each other Separation Transaction Agreement to which Parent, SpinCo, or any of their respective Subsidiaries is a party shall have been, duly executed by Parent, SpinCo or the applicable Subsidiary of Parent or SpinCo and, when delivered by Parent, SpinCo or such Subsidiary in accordance with the terms hereof or thereof, and assuming the due authorization and valid execution and delivery of this Agreement, each other Investment Transaction Agreements and the Separation Transaction Agreements by the other parties hereto and thereto, as applicable, will constitute legal, valid and binding obligations of Parent, SpinCo or such Subsidiary (as applicable), enforceable against it in accordance with its terms, except as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally.

(ii) SpinCo and each SpinCo Subsidiary is in good standing in each jurisdiction in which the nature of its business or the ownership, leasing or operation of its properties or assets makes such qualification necessary, except where the failure to be in good standing (individually or in the aggregate) has not had and would not reasonably be expected to have a Material Adverse Effect on SpinCo.

(iii) Each SpinCo Subsidiary is, or as of the Closing will be, a corporation or other organization duly organized, validly existing and in good standing or active status (where applicable) under the laws of its jurisdiction of incorporation or organization, and SpinCo and each SpinCo Subsidiary has (or prior to and as of the Closing will have) the requisite power and authority to own, lease and operate its properties and to carry on the SpinCo Business as now being conducted and will be conducted through the Closing, except where the failure to be in good standing or to have such power and authority, individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect on SpinCo. Copies of the Organizational Documents of SpinCo and each of the SpinCo Subsidiaries which are true, complete and correct, in all material respects, and in effect on the date hereof have been made available to Investor on or prior to the date hereof.

(b) *Capital Structure*.

(i) As of the date of this Agreement, and without giving effect to, the Investment, SpinCo's issued and paid up share capital consists of one SpinCo Share. All of the SpinCo Shares that are issued and outstanding are, as of the date hereof and at all time periods prior to the Distribution will be, owned of record and beneficially by Parent or a wholly owned Subsidiary of Parent free and clear of any Liens (other than any transfer restrictions arising under applicable securities Law), except as imposed by applicable securities laws. As of the date of this Agreement and as of the Closing: (A) other than (1) the SpinCo Shares that are expected to be reserved for issuance in order to effectuate the conversion of equity awards pursuant to the Employee Matters Agreement, (2) the SpinCo Shares that are expected to be reserved for issuance pursuant to future awards under SpinCo Equity Plans, (3) the SpinCo Shares that will be reserved for issuance in the Distribution, and (4) the number of Purchased Shares that will be reserved for issuance pursuant to this Agreement, SpinCo has no SpinCo Shares reserved for issuance; (B) other than the equity awards that will be converted into awards with respect to SpinCo Shares pursuant to the Employee Matters Agreement, there are no other shares or other equity securities (including securities convertible, exercisable or exchangeable for shares) of SpinCo that are outstanding; and (C) all issued and outstanding SpinCo Shares are duly authorized, validly issued, fully paid and nonassessable and the holders of SpinCo Shares are not entitled to preemptive rights.

(ii) As of the Closing, the Purchased Shares will be duly authorized, validly issued, fully paid and nonassessable, and will be owned of record and beneficially by Investor (or the Investor Designee, if applicable), free and clear of any Liens other than any Liens arising pursuant to the Shareholders Agreement or any transfer restrictions arising under applicable securities Law. Immediately following the Closing, the Purchased Shares will constitute no less than 28.8480% of the Fully Diluted SpinCo Shares.

(iii) As of the date of this Agreement and as of the Closing, no bonds, debentures, notes or other indebtedness of SpinCo having the right to vote (or convertible into or exercisable or exchangeable for securities having the right to vote) on any matters on which shareholders of SpinCo may vote ("Company Voting Debt") are issued or outstanding.

(iv) Section 4.2(b)(iv) of the Parent Disclosure Schedule sets forth a list of all the SpinCo Subsidiaries and the Non-Controlled Entities as of the date of this Agreement, as if the Internal Restructuring had occurred immediately prior to the date of this Agreement. As of the date of this Agreement and as of the Closing, all the outstanding share capital or registered capital, as the case may be, of each SpinCo Subsidiary is duly authorized, validly issued, fully paid and non-assessable. All of the outstanding share capital or registered capital, as the case may be, of each such Subsidiary is owned as of the date hereof, directly or indirectly, by Parent and will be owned as of the Closing, directly or indirectly, by SpinCo, in each case, free and clear of any Liens (other than any Permitted Liens) and free of any other material restriction (including any restriction on the right to vote, sell or otherwise dispose of such capital stock or other equity interests, but excluding restrictions under the Securities Act or other applicable Law relating to securities). As of the date of this Agreement and as of the Closing, neither SpinCo nor any SpinCo Subsidiary, directly or indirectly, owns any equity or similar interest in, or any interest convertible into or exchangeable or exercisable for any equity or similar interest in, any corporation, partnership, joint venture or other business association or entity (other than SpinCo Subsidiaries and Non-Controlled Entities) that is or would reasonably be expected to be material to SpinCo and the SpinCo Subsidiaries, taken as a whole. The portion of the outstanding share capital or registered capital, as the case may be, of each Non-Controlled Entity that is owned by any member of the RemainCo Group or the SpinCo Group: (i) is duly authorized, validly issued, fully paid and non-assessable as of the date of this Agreement and as of the Closing; and (ii) is owned as of the date hereof, directly or indirectly, by Parent and will be owned as of the Closing, directly or indirectly, by SpinCo, in each case, free and clear of any Liens (other than any Permitted Liens) and free of any other material restriction (including any restriction on the right to vote, sell or otherwise dispose of such capital stock or other equity interests, but excluding restrictions under the Securities Act or other applicable Law relating to securities).

(v) As of the date of this Agreement and as of the Closing, (A) other than the Purchased Shares and the SpinCo Shares to be distributed pursuant to the Distribution, there are no securities, options, warrants, calls, share appreciation rights, performance units, restricted share units, contingent value rights, "phantom" share units or similar securities or rights that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of, any share capital or other equity interests in, SpinCo or any SpinCo Subsidiary, or any other commitments, agreements, arrangements or undertakings of any kind to which Parent, SpinCo or any of their respective Subsidiaries is a party or by which any of them is bound obligating Parent, SpinCo or any of their respective Subsidiaries to issue, deliver or sell, or cause to be issued, delivered or sold, additional shares of

SpinCo or any SpinCo Subsidiary, Company Voting Debt, SpinCo Shares or other voting securities (including securities convertible, exercisable or exchangeable for capital stock) of SpinCo or any SpinCo Subsidiary or obligating SpinCo or any SpinCo Subsidiary to issue, grant, extend or enter into any such security, option, warrant, call, share appreciation right, performance unit, restricted share unit, contingent value right, "phantom" share unit or similar security or right derivative of, or providing economic benefits based, directly or indirectly, on the value or price of, any share capital or other equity interests in, SpinCo or any SpinCo Subsidiary, or any other commitment, agreement, arrangement or undertakings of any kind; and (B) there are no outstanding obligations of SpinCo or any SpinCo Subsidiary to repurchase, redeem or otherwise acquire any shares or equity interest (including any security convertible, exercisable or exchangeable for any equity interest) of SpinCo or any SpinCo Subsidiary or to provide funds to, or make investment (in the form of a loan, capital contribution or otherwise) in, SpinCo or any SpinCo Subsidiary or any other Person.

(vi) As of the date of this Agreement and as of the Closing, other than the Investment Transaction Agreements, there are no shareholder agreements, voting trusts or other Contracts to which SpinCo is a party or by which it is bound relating to the voting, issuance or transfer of any shares of SpinCo.

(vii) As of the date of this Agreement and as of the Closing, other than indebtedness under the Debt Financing or the Additional Financing or as otherwise expressly contemplated by this Agreement (including the Financial Indebtedness contemplated pursuant to Section 6.9(e)) or the Separation Agreement, there is no outstanding indebtedness for borrowed money of SpinCo or any SpinCo Subsidiary (other than indebtedness for borrowed money owing by SpinCo or a wholly owned SpinCo Subsidiary to SpinCo or a wholly owned SpinCo Subsidiary).

(c) *No Conflicts.*

(i) The execution, delivery and performance by SpinCo of the Shareholders Agreement and the Registration Rights Agreement, and the execution delivery and performance by Parent and SpinCo of this Agreement do not, and the execution and delivery by Parent, SpinCo and their respective Subsidiaries, as applicable, of the Separation Transaction Agreements with respect to which Parent, SpinCo or any of their respective Subsidiaries is contemplated thereby to be a party will not, and the consummation of the Investment and the transactions contemplated hereby and thereby will not (A) conflict with or violate any provision of Parent's, SpinCo's or their respective Subsidiaries' Organizational Documents or (B) conflict with or result in any breach or violation of, or constitute a default (with or without notice or lapse of time, or both) under, or give rise to a right of or result by its terms in the creation of any Lien upon any of the properties or assets of Parent, SpinCo and their respective Subsidiaries pursuant to, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time, or both) of, any Contract to which Parent or SpinCo or any of their respective Subsidiaries is a party or by which any property or asset of Parent or SpinCo or any

of their respective Subsidiaries is bound or affected, or (C) assuming that all notifications and filings required under any Foreign Antitrust Laws to be made prior to the Closing Date to any Governmental Authority, and all consents, approvals and authorizations required by applicable Laws to be obtained prior to the Closing Date under Foreign Antitrust Laws in order to effect the Investment shall have been made or obtained, and all waiting periods applicable to the Investment under any Foreign Antitrust Laws, shall have expired or been terminated, and all filings required under, and compliance with any applicable requirements of, the Securities Act, the Exchange Act, state securities or "blue sky" laws or regulations, and the rules and regulations of NASDAQ shall have been made and the Form 20-F shall have been declared effective, conflict with or result in a violation of any applicable Law or other restriction of any Governmental Authority to which Parent or SpinCo or any of their respective Subsidiaries or the SpinCo Business is subject (including federal, state and foreign securities Laws), or by which any property or asset of Parent or SpinCo or any of their respective Subsidiaries or the SpinCo Business is bound or affected; except in the case of each of clauses (B) and (C), such as has not had and would not reasonably be expected to have a material adverse effect on the legality, validity or enforceability of any Investment Transaction Agreement or any Separation Transaction Agreement or a Material Adverse Effect on Parent or SpinCo.

(ii) No material consent, waiver, approval, order or authorization of, or registration, declaration or filing with, any Governmental Authority or any other Person is required to be obtained or made by or with respect to Parent, SpinCo or any of their Subsidiaries or the SpinCo Business in connection with the execution and delivery of the Investment Transaction Agreements, Separation Transaction Agreements, or the consummation of the Investment and the transactions contemplated hereby, except for those required under or in relation to (A) state securities or "blue sky" laws or regulations, (B) the Securities Act, (C) the Exchange Act, (D) the rules and regulations of NASDAQ, and (E) the Required Foreign Antitrust Approvals.

(d) *Reports and Financial Statements; No Undisclosed Liabilities.*

(i) As of the date of this Agreement, neither SpinCo nor any SpinCo Subsidiary is required to file reports with the SEC under Sections 13 or 15(d) of the Exchange Act. Section 4.2(d)(i) of the Parent Disclosure Schedule sets forth the combined pro forma balance sheet of the SpinCo Business at December 30, 2018, and the related combined pro forma statement of operations for the fiscal year ended December 30, 2018 and delivered to Investor on October 29, 2019 (such statements, together with the notes thereto, the "Pro Forma SpinCo Financial Statements"). The Pro Forma SpinCo Financial Statements have been prepared from the books and records of Spinco and the Spinco Subsidiaries and in accordance with GAAP and present fairly, in all material respects, the consolidated financial position and consolidated results of operations of the SpinCo Business as of the respective dates and for the respective periods set forth therein, all in conformity with GAAP consistently applied during the periods involved except as otherwise noted therein. The consolidated audited and any unaudited interim balance sheets of SpinCo and the SpinCo

Subsidiaries, and the related consolidated audited and any unaudited interim statement of operations and the related consolidated audited and any unaudited interim statements of cash flows, and the related combined pro forma balance sheet of the Spinco Business and the related consolidated pro forma statement of operations (in each case, together with the notes thereto), in each case included in the Form 20-F, at the time when the Form 20-F (including any amendment thereof) is filed with the SEC and at the time when the Form 20-F is declared effective by the SEC, will have been prepared from the books and records of Spinco and the Spinco Subsidiaries and in accordance with GAAP and present fairly, in all material respects, the consolidated financial position and consolidated results of operations of the Spinco Business as of the respective dates and for the respective periods set forth therein, all in conformity with GAAP consistently applied during the periods involved except as otherwise noted therein (subject (x) in the case of any unaudited interim statements, to normal year-end adjustments, and (y) in the case of consolidated audited and any unaudited interim statements of SpinCo and the SpinCo Subsidiaries, to pro forma adjustments as reflected in the consolidated pro forma statements of the SpinCo Business).

(ii) (A) The amount of each line item reflected in the Submitted SpinCo 2018 Financial Statements will not differ from the amount of such line item reflected in the October 29 Historical SpinCo Financial Statements by more than $10,000,000; and (B) the amount of the line items titled "Total assets," "Total liabilities," "Total equity," "Revenue" and "Net loss" reflected in the Submitted SpinCo 2018 Financial Statements will not differ from the amount of the line items titled "Total assets," "Total liabilities," "Total equity," "Revenue" and "Net loss" reflected in the October 29 Historical SpinCo Financial Statements by more than $10,000,000, in the aggregate.

(iii) (A) The amount of the AUO Payment reflected in the Submitted SpinCo 2018 Pro Forma Balance Sheet will not be greater than the AUO Payment Target by more than $10,000,000; (B) the amount of Newly Identified Liabilities reflected in the Submitted SpinCo 2018 Pro Forma Balance Sheet will not be more than $10,000,000; and (C) the value of the Specified Assets reflected in the Submitted SpinCo 2018 Pro Forma Balance Sheet will not be less than the value of the Specified Assets reflected in the October 29 Pro Forma Balance Sheet by more than $10,000,000, individually and in the aggregate.

(iv) The aggregate of: (A) the difference between the AUO Payment Target and the amount of the AUO Payment reflected in the Submitted SpinCo 2018 Pro Forma Balance Sheet, expressed as a positive or negative number; (B) the amount of Newly Identified Liabilities reflected in the Submitted SpinCo 2018 Pro Forma Balance Sheet, expressed as a negative number; and (C) the difference between the value of the Specified Assets reflected in the Submitted SpinCo 2018 Pro Forma Balance Sheet and the value of the Specified Assets reflected in the October 29 Pro Forma Balance Sheet, expressed as a positive or negative number, will not reflect a decrease in net assets of more than $10,000,000.

(v) The aggregate of: (A) the difference between the AUO Payment Target and the amount of the AUO Payment reflected in the Effective SpinCo 2018 Pro Forma Balance Sheet, expressed as a positive or negative number; (B) the amount of Newly Identified Liabilities reflected in the Effective SpinCo 2018 Pro Forma Balance Sheet, expressed as a negative number; and (C) the value of the Specified Assets reflected in the Effective SpinCo 2018 Pro Forma Balance Sheet and the value of the Specified Assets reflected in the October 29 Pro Forma Balance Sheet, expressed as a positive or negative number (such aggregate amount, the "Net Aggregated Impact on Changes of Pro Forma Balance Sheet"), will not reflect a decrease or increase in net assets of more than $50,000,000.

(vi) Except as disclosed in the Parent SEC Reports filed since January 1, 2019 but prior to the date of this Agreement other than any disclosures set forth in such Parent SEC Reports under the headings "Risk Factors" and "Cautionary Statement Concerning Forward-Looking Statements" (such Parent SEC Reports, other than such risk factors and forward-looking statements, the "Parent Filed SEC Reports") or in the SpinCo Financial Statements, SpinCo and its Subsidiaries have not incurred liabilities that are of a nature that would be required to be disclosed in a consolidated balance sheet of SpinCo and its Subsidiaries or in the footnotes thereto prepared in conformity with GAAP, other than liabilities incurred in the ordinary course of business or that, individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect on SpinCo.

(vii) All of the registration statements, prospectuses, reports, schedules, forms, statements and other documents required to be filed by Parent and its Subsidiaries with the SEC since January 1, 2017 (collectively, including all exhibits thereto, the "Parent SEC Reports") at the time they were filed (or, if amended or superseded by a filing prior to the date of this Agreement, then on the date of such filing), complied in all material respects with the requirements of the Securities Act, the Exchange Act, the Sarbanes-Oxley Act, and the rules and regulations promulgated thereunder, as applicable, and NASDAQ listing rules and none of such Parent SEC Reports, as of their respective filing dates, contained any untrue statement of a material fact or omitted 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.

(viii) With respect to SpinCo, the SpinCo Subsidiaries and the SpinCo Business, Parent and its Subsidiaries have designed and maintain a system of internal controls over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) of the Exchange Act) sufficient to provide reasonable assurances regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP. Parent (A) has designed and maintains disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act) to ensure that material information required to be disclosed by Parent (with respect to SpinCo, the SpinCo Subsidiaries and the SpinCo Business) in the reports that Parent files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified

in the SEC's rules and forms and is accumulated and communicated to Parent's management as appropriate to allow timely decisions regarding required disclosure and to make the certifications of the principal executive officer and principal financial officer of Parent required under the Exchange Act with respect to such reports and (B) has disclosed, based on its most recent evaluation of such disclosure controls and procedures prior to the date hereof to its auditors and the audit committee of Parent's Board of Directors (x) any significant deficiencies and material weaknesses in the design or operation of Parent's internal controls over financial reporting with respect to members of the SpinCo Group that are reasonably likely to adversely affect in any material respect Parent's ability to record, process, summarize and report financial information with respect to members of the SpinCo Group and (y) any fraud, whether or not material, that involves management or other employees of members of the SpinCo Group who have a significant role in Parent's internal controls over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) of the Exchange Act).

(e) *Information Supplied*.

(i) The Form 20-F will not, at the time it becomes effective, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(ii) Notwithstanding the foregoing provisions of this Section 4.2(e), no representation or warranty is made by Parent with respect to statements made or incorporated by reference in the Form 20-F based on information supplied by or on behalf of Investor specifically for inclusion or incorporation by reference therein.

(f) *Brokers or Finders*. No agent, broker, investment banker, financial advisor or other firm or Person is or will be entitled to any broker's or finder's fee or any other similar commission or fee in connection with any of the transactions contemplated by this Agreement or by any of the Separation Transaction Agreements based upon arrangements made by or on behalf of Parent or any of its Subsidiaries, except Goldman, Sachs & Co., whose fees and expenses will be paid in accordance with Section 6.4.

(g) *Taxes*.

(i) All Tax Returns required to be filed by each of SpinCo and its Subsidiaries have been timely filed, or requests for extensions to file such Tax Returns have been timely filed, granted and have not expired, and all such Tax Returns are complete and correct, except to the extent that such failures to file, to have extensions granted that remain in effect or for such Tax Returns to be complete or correct, individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect on SpinCo. All material Taxes that are due with respect to SpinCo, the SpinCo Subsidiaries and the SpinCo Business have been paid or properly accrued in accordance with GAAP. Since December 30, 2018, no Tax liability with respect to SpinCo, the SpinCo Subsidiaries and the SpinCo Business has been incurred outside the ordinary course of business or otherwise inconsistent with past custom and practice.

(ii) No deficiencies for any Taxes have been proposed, asserted or assessed in writing in respect of or against SpinCo or any of its Subsidiaries or the SpinCo Business that are not adequately reserved for on the books of SpinCo, except for deficiencies that, individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect on SpinCo. The applicable statutes of limitations have expired for all Tax periods through 2014 for all material Tax Returns of SpinCo and its Subsidiaries. Since January 1, 2014, no written claim has been made to Parent, SpinCo or any of their respective Subsidiaries by a Governmental Authority in a jurisdiction where a member of the SpinCo Group does not file a Tax Return that such member of the SpinCo Group is or may be subject to a material Tax liability in that jurisdiction. No written claim has been made to Parent, SpinCo or any of their respective Subsidiaries by a Governmental Authority in a jurisdiction where to SpinCo or any of its Subsidiaries does not file an income or franchise Tax Return that SpinCo or any such SpinCo Subsidiary is or may be subject to income or franchise Taxes in that jurisdiction. No Contract waiving or extending, or having the effect of waiving or extending, the statute of limitations or the period of assessment or collection of any Taxes relating to SpinCo or any of its Subsidiaries or the SpinCo Business has been filed or entered into with any Governmental Authority, and no power of attorney with respect to any such Taxes has been granted by SpinCo or its Subsidiaries to any Person.

(iii) None of Parent, SpinCo or any of their Subsidiaries has taken any action that could reasonably be expected to prevent the Distribution from qualifying as a distribution eligible for non-recognition to the shareholders of Parent under Section 355(a) of the Code.

(iv) Except for the Separation Transaction Agreements, (A) none of SpinCo or any SpinCo Subsidiary is a party to any Tax sharing or Tax indemnity agreements (excluding any commercial agreements entered into in the ordinary course of business and not primarily relating to Taxes) and (B) none of Parent or any of its Subsidiaries is a party to any Tax sharing or Tax indemnity agreements that could reasonably be expected to result in a material Tax liability to the SpinCo Group.

(v) Other than with respect to the Distribution, within the past five years, none of Parent or any of its Subsidiaries has been a “distributing corporation” or a “controlled corporation” in a distribution intended to qualify under Section 355(a) of the Code.

(vi) No member of the SpinCo Group has agreed to make, or is required to make, any material adjustment affecting any open taxable year or period under Section 481(a) of the Code or any similar provision of state, local or foreign law by reason of a change in accounting methods or otherwise.

(vii) No member of the SpinCo Group has any material liability for Taxes of another corporation by reason of being an affiliate of such corporation, as a transferee or successor, pursuant to any contractual obligation, or otherwise for any Taxes of any person, in each case, other than such member of the SpinCo Group.

(viii) SpinCo is resident only in the jurisdiction of its incorporation for Tax purposes and has never been treated as resident of any other jurisdiction for Tax purposes.

(ix) Each of SpinCo and any its Subsidiaries is and has been, with respect to the SpinCo Business, in compliance with all transfer pricing requirements in all material respects in all jurisdictions in which it is required to comply with applicable transfer pricing regulations, and all the transactions between SpinCo or its Subsidiaries (including any of their respective directors or officers) and any related party have been effected on an arm's length basis.

(h) *Litigation; Compliance with Laws; Permits*.

(i) Except as set forth in the Parent Filed SEC Reports or in the SpinCo Financial Statements, there is no Action pending or, to the Knowledge of SpinCo and Parent, threatened against Parent, SpinCo, any of their respective Subsidiaries or any property or asset of SpinCo, any SpinCo Subsidiary or the SpinCo Business, which individually or in the aggregate, has had or would reasonably be expected to have a Material Adverse Effect on SpinCo, nor is there any judgment, decree, injunction, rule or order of any Governmental Authority or arbitrator outstanding against Parent, SpinCo, any of their respective Subsidiaries, except as has not had and would not reasonably be expected to have a Material Adverse Effect on Parent or SpinCo. There is no Action pending or, to the Knowledge of SpinCo and Parent, threatened questioning the validity of, or the right of Parent or SpinCo to enter into, this Agreement, the other Investment Transaction Agreements or the Separation Transaction Agreements, or to consummate the transactions contemplated hereby and thereby.

(ii) (A) As of the date of this Agreement, the SpinCo Business does, and as of the Closing, SpinCo and the SpinCo Subsidiaries will hold all Permits which, taken as a whole, are necessary and sufficient for the operation of the SpinCo Business as currently conducted (the "SpinCo Permits"), and no suspension or cancellation of any of the SpinCo Permits is pending or, to the Knowledge of SpinCo and Parent, threatened, and (B) as of the date of this Agreement, the SpinCo Business is, and as of the Closing, SpinCo and the SpinCo Subsidiaries will be in compliance in all respects with the terms of the SpinCo Permits, except in each case where the failure to hold any such SpinCo Permits or the suspension or cancellation of any such SpinCo Permits or the noncompliance with respect to any such SpinCo Permits, individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect on SpinCo. None of SpinCo, any of the SpinCo Subsidiaries or the SpinCo Business are in, and none of Parent, SpinCo or any of their respective Subsidiaries has received since January 1, 2017, any written notices with respect to violation of any applicable Laws, except where such violations, individually or in the aggregate, have not had and would not reasonably be expected to have a Material Adverse Effect on SpinCo.

(i) *Absence of Certain Changes or Events*.

(i) Since December 30, 2018, there has not been any event, change, circumstance or development which, individually or in the aggregate, has had, or would reasonably be expected to have, a Material Adverse Effect on SpinCo. Except (A) as specifically contemplated or permitted by this Agreement or the Separation Transaction Agreements, (B) as set forth in the Parent Filed SEC Reports or (C) for changes resulting from the announcement of this Agreement or the transactions contemplated hereby or by the Separation Transaction Agreements, since January 1, 2019 through the date hereof, members of the SpinCo Group have conducted their respective business and the SpinCo Business has been conducted, in all material respects, in the ordinary course of business consistent with past practice.

(ii) From December 30, 2018 through the date of this Agreement, except as contemplated by the Internal Restructuring, the Separation Agreement or in the Parent Filed SEC Reports, none of Parent, SpinCo or their respective Subsidiaries have taken any action that, if taken without the consent of Investor during the period from the date of this Agreement through the Closing, would constitute a breach of Article V.

(j) *Environmental Matters.* Except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on SpinCo:

(i) The SpinCo Business has been, since December 31, 2017, and is in compliance with any and all applicable Laws and regulations relating to the protection of health, safety, or the environment or the handling, use, transportation, disposal or release of hazardous or toxic substances or wastes, pollutants or contaminants ("Environmental Laws") and with all SpinCo Permits required by applicable Environmental Laws;

(ii) There are no pending or, to the Knowledge of SpinCo and Parent, threatened, Actions under or pursuant to Environmental Laws against SpinCo, any of the SpinCo Subsidiaries or the SpinCo Business, or to the Knowledge of SpinCo and Parent, any other Person whose Environmental Liabilities any member of the SpinCo Group has or may have retained or assumed by contract or operation of law, or involving any real property currently or, to the Knowledge of Parent and SpinCo, formerly owned, operated or leased by any member of the SpinCo Group or used for the SpinCo Business. The "Environmental Liabilities" of a Person means any liabilities of such Person which arise under or relate to matters covered or regulated by, or for which liability is imposed under Environmental Laws and relate to actions occurring or conditions existing on or prior to the Closing (whether vested or unvested, contingent or fixed, actual or potential, known or unknown);

(iii) There are no actual or alleged (in writing) costs (including any capital or operating expenditures required for cleanup, closure of properties or compliance with Environmental Laws or any Permit and any liabilities to Third Parties) associated with Environmental Laws or other Environmental Liabilities outstanding against any member of the SpinCo Group or any Person whose Environmental Liabilities any member of the SpinCo Group has retained or assumed by Contract or operation of law;

(iv) No real property currently or formerly owned or operated by the SpinCo Business or any member of the SpinCo Group has been contaminated with or is releasing any hazardous or toxic substances or wastes, pollutants or contaminants in a manner that would reasonably be expected to result in any Environmental Liabilities or require remediation or other action pursuant to any Environmental Law;

(v) None of Parent, SpinCo or any of their respective Subsidiaries has received any notice, demand, letter, claim or request for information alleging that SpinCo or any SpinCo Subsidiary or the SpinCo Business is in violation of or liable under any Environmental Law; and

(vi) No member of the SpinCo Group is subject to any order, decree or injunction with any Governmental Authority or agreement with any person concerning liability under any Environmental Law or relating to any hazardous or toxic substances or wastes, pollutants or contaminants.

(k) *Intellectual Property*.

(i) Section 4.2(k)(i) of the Parent Disclosure Schedule sets forth a true and complete list of all Scheduled Intellectual Property, including in each case (other than with respect to Internet Addresses), as applicable, the jurisdiction in which each such item has been issued or filed, registration number and application number, and, with respect to each domain name, the registrar and registrant, and, with respect to Internet Addresses, the applicable registrar.

(ii) One or more members of the SpinCo Group will own (A) as of the Closing all Owned Intellectual Property, free and clear of all Liens other than (i) non-exclusive licenses granted in the ordinary course of business consistent with past practice for use in connection with products of the SpinCo Group, (ii) Permitted Liens, and (iii) other licenses, covenants or other encumbrances granted in Contracts that have been delivered or made available to the Investor, and (B) will have as of the Closing valid rights to use the Licensed Intellectual Property. The Company Intellectual Property constitutes all of the Intellectual Property necessary and sufficient to enable the SpinCo Group to conduct the SpinCo Business in the manner in which it is being conducted as of the date of this Agreement and as contemplated to be conducted under the Separation Transaction Agreements.

(iii) To the Knowledge of SpinCo and Parent, all Intellectual Property owned by any member of the SpinCo Group is valid and enforceable.

(iv) (A) As of the date of this Agreement, none of the products or services of any member of the SpinCo Group (or the making, use, sale, distribution or other disposal or exploitation of any such products or services) or the conduct or operation of the SpinCo Business infringes, misappropriates or otherwise violates, or has infringed upon, misappropriated or otherwise violated, any Intellectual Property of any Person, except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on SpinCo; and (B) except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on SpinCo, no Actions are currently pending or threatened in writing (and remaining unresolved as of the date of this Agreement) or, to the Knowledge of SpinCo and Parent, otherwise threatened (and remaining unresolved as of the date of this Agreement) by any Person (1) alleging any of the foregoing, (2) challenging the ownership, validity or enforceability of any Owned Intellectual Property, or (3) challenging the use by SpinCo, Parent or any of their respective Subsidiaries of any Company Intellectual Property; and (C) in the eighteen (18) months immediately preceding the date of this Agreement, none of SpinCo, Parent or any of their respective Subsidiaries have received any written notice or, to the Knowledge of SpinCo and Parent, other notice regarding any of the foregoing described in clauses (A) or (B) above (including any demand or request from any Person that SpinCo, Parent or any of their respective Subsidiaries license any Intellectual Property). To the Knowledge of SpinCo and Parent, there is no reasonable basis for any such Action or challenge described in this Section 4.2(k)(iv).

(v) The use, practice and exploitation by the members of the SpinCo Group of the Licensed Intellectual Property material to the SpinCo Business as conducted on the date of this Agreement is in accordance in all material respects with the terms of the applicable license agreement pursuant to which the applicable member of the SpinCo Group acquired the right to use such Licensed Intellectual Property.

(vi) To the Knowledge of SpinCo and Parent, except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on SpinCo, no Person is infringing, misappropriating or otherwise violating, or has infringed, misappropriated or otherwise violated: (A) any Owned Intellectual Property or (B) any Intellectual Property exclusively licensed to any member of the SpinCo Group. None of SpinCo, Parent or any of their respective Subsidiaries have made any claims against any Person alleging any such infringement, misappropriation or other violation described in this Section 4.2(k)(vi)

(vii) To the Knowledge of SpinCo and Parent, no Owned Intellectual Property is being used by or enforced by any member of the SpinCo Group in a manner that would reasonably be expected to result in the abandonment, cancellation or unenforceability of such Intellectual Property.

(viii) Each member of the SpinCo Group has taken security measures reasonable in the industry in which the SpinCo Business operates to maintain and protect the confidentiality and value of all (A) material Trade Secrets included in the Owned Intellectual Property and (B) Trade Secrets owned by any Person to whom any member of the SpinCo Group has a confidentiality obligation with respect to such Trade Secrets. No material Trade Secret included in the Owned Intellectual Property has been authorized to be disclosed or, to the Knowledge of SpinCo and Parent, has been actually disclosed to any Person other than pursuant to a valid written confidentiality Contract sufficiently restricting the disclosure and use of such material Trade Secret.

(ix) The Company IT Systems (A) are adequate in all material respects for the operation of the SpinCo Business as currently conducted and as contemplated to be conducted under the Separation Transaction Agreements; and (B) to the Knowledge of SpinCo and Parent, do not contain any viruses, worms, trojan horses, bugs, faults or other devices, errors, contaminants or effects that (1) materially disrupt or affect the functionality of any Company IT Systems, or (2) enable or assist any Person to access any Company IT Systems without authorization by or on behalf of the SpinCo Group.

(x) SpinCo has implemented commercially reasonable safeguards, consistent with practices in the industry in which SpinCo operates or commensurate with the risk posed by the Personal Information at issue, to protect Personal Information in its possession or under its control against loss, theft, misuse, or unauthorized access, use, modification, or disclosure.

(l) *Title to Properties*. Each member of the SpinCo Group has good and valid title to, or, in the case of leased properties and assets, valid leasehold interests in, all their respective properties and assets (other than assets that have been sold or disposed of, or for which a leasehold interest has expired or not been removed, in each case after the date hereof in the ordinary course of business consistent with past practice), except where the failure to have such good and valid title, or valid leasehold interest, individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect on SpinCo. The properties, assets and rights owned, leased or licensed by the members of the SpinCo Group together with the services to be provided by the RemainCo Group to the SpinCo Group pursuant to the Separation Transaction Agreements, constitute (a) all of the properties, assets and rights necessary to operate the SpinCo Business as currently conducted by Parent and its Subsidiaries and as contemplated to be conducted after the Distribution under the Separation Transaction Agreements, and (b) all of the assets primarily used by Parent and its Subsidiaries in carrying on the SpinCo Business as of the date hereof.

(m) *Real Property*.

(i) Section 4.2(m) of the Parent Disclosure Schedule contains as of the date hereof and as of the Closing a list of all real property relating to the SpinCo Business that is (A) owned by SpinCo or SpinCo Subsidiaries (the "SpinCo Real Property") or (B) leased or subleased by SpinCo or SpinCo Subsidiaries as lessee or sublessee, except for such leases or subleases that provide for payments of less than $10,000,000 in the aggregate in any given year (the "SpinCo Leases"). Other than the SpinCo Real Property and the real property leased or subleased pursuant to the SpinCo Leases, there is no real property used by or otherwise relating to the SpinCo Business.

(ii) Except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on SpinCo: (A) as of the date of this Agreement, Parent or its Subsidiary has, and as of the Closing a member of the SpinCo Group will have, good and marketable title to each SpinCo Real Property (and to all buildings and improvements located on such Spinco Owned Real Property), and (B) there are no pending, or, to the knowledge of Parent and SpinCo, threatened, appropriation, condemnation eminent domain or like proceedings relating to any SpinCo Real Property.

(iii) Each SpinCo Lease is valid and in full force and effect (except those which are cancelled, rescinded or terminated after the date hereof in accordance with their terms), except where the failure to be in full force and effect, individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect on SpinCo. Neither SpinCo nor Parent has Knowledge of, or has received written notice of, any violation of or default under (or any condition which with the passage of time or the giving of notice would cause such a violation of or default under) any SpinCo Lease, except for violations or defaults that, individually or in the aggregate, have not had and would not reasonably be expected to have a Material Adverse Effect on SpinCo. Copies of all SpinCo Leases, which are true, correct and complete, in all material respects, have been delivered or made available to Investor.

(n) *Material Contracts*. Except as, individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect on SpinCo: (i) each Material Contract is a legal, valid and binding obligation of a member of the SpinCo Group or a member of the RemainCo Group enforceable against such member of the SpinCo Group or the RemainCo Group and, to the Knowledge of SpinCo and Parent, any other party thereto, in accordance with its terms, except to the extent that enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or other similar laws affecting creditors' rights generally and by general equitable principles; (ii) no member of the SpinCo Group or RemainCo Group, as applicable, is in breach, violation or default (with or without notice or lapse of time or both) under any Material Contract; (iii) to the Knowledge of SpinCo and Parent, no other Person that is a party to any Material Contract is in breach, violation or default (with or without notice or lapse of time or both) under such Material Contract; (iv) to the Knowledge of SpinCo and Parent, no Person is challenging the validity or enforceability of any Material Contract; and (v) from January 1, 2019 until the date hereof, no member of the RemainCo Group or the SpinCo Group has been notified that any other party to any Material Contract intends to cancel, terminate or not renew any Material Contract, whether in connection with the transactions contemplated hereby or otherwise.

(o) *Employee Benefits; Labor Relations*.

(i) Section 4.2(o)(i) of the Parent Disclosure Schedule will be provided within 30 days of the date of this Agreement and will contain a true and complete list of each material Benefit Plan. With respect to each material written Benefit Plan, SpinCo and Parent have made available to the Investor a current, accurate and complete copy thereof.

(ii) Except as has not had and would not reasonably be expected to have, in the aggregate, a Material Adverse Effect on SpinCo:

(A) The terms of each Benefit Plan comply with applicable Laws, and each Benefit Plan has been operated in compliance with its terms and applicable Laws.

(B) All payments by or obligations of any member of the SpinCo Group required by any Benefit Plan have been timely made or discharged and/or book-reserved, as appropriate.

(iii) Except for the Benefit Plans set forth in Section 4.2(o)(iii) of the Parent Disclosure Schedule, no Benefit Plan is a defined benefit pension plan and no current or former Employee participates in any defined benefit pension plans sponsored, or contributed to, by any member of the SpinCo Group or any member of the RemainCo Group.

(iv) The execution, delivery and performance of this Agreement, the other Investment Transaction Agreements, and the Separation Transaction Agreements by SpinCo and Parent and the consummation of transactions contemplated hereby and thereby will not: (A) result in any payment becoming due, accelerate the time of payment or vesting of benefits, or increase the amount of compensation due to any Employee, (B) trigger any funding obligation under any Benefit Plan, or (C) entitle any Employee who remains employed with any member of the SpinCo Group following the Distribution Date to any severance pay upon the Distribution.

(v) Except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on SpinCo, each member of the SpinCo Group is in compliance with all applicable Laws with respect to employment, employment practices, labor, terms and conditions of employment and wages and hours, and no work stoppage or labor strike against any member of the SpinCo Group is pending or, to the Knowledge of SpinCo and Parent, threatened, nor is any member of the SpinCo Group involved in or, to the Knowledge of SpinCo and Parent, threatened with any labor dispute, grievance or litigation relating to labor matters involving any Employee.

(p) *Insurance and Warranty*.

(i) As of the date hereof, Parent and its Subsidiaries maintain with respect to the SpinCo Business, and as of the Closing, SpinCo and the SpinCo Subsidiaries maintain, insurance coverage with reputable insurers in such amounts and covering such risks as are in accordance with normal industry practice for companies engaged in businesses similar to the SpinCo Business (taking into account the cost and availability of such insurance). With respect to each such insurance policy, except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on SpinCo, (A) the policy is legal, valid, binding and enforceable in accordance with its terms and, except for policies that have expired under their terms in the ordinary course after the date hereof, is in full force and effect; (B) neither Parent, SpinCo nor any of their respective Subsidiary is in material breach or default (including any such breach or default with respect to the payment of premiums or the giving of notice), and, to the Knowledge of Parent and SpinCo, no event has occurred which, with notice or the lapse of time, would constitute such a material breach or default, or permit termination or modification, under the policy; (C) to the Knowledge of Parent and SpinCo, no insurer on the policy has been declared insolvent or placed in receivership, conservatorship or liquidation; and (D) to the Knowledge of Parent and SpinCo, no notice of cancellation or termination has been received other than in connection with ordinary renewals.

(ii) Section 4.2(p)(ii) of the Parent Disclosure Schedule sets forth a correct and complete list of all material warranties, warranty policies, service agreements and maintenance agreements with respect to the SpinCo Business as of the date hereof, which provide for warranty coverage for a period in excess of five years other than the standard warranties utilized by the SpinCo Business in the ordinary course of business. All products manufactured, processed, assembled, distributed, shipped or sold and any services rendered in the SpinCo Business have been in conformity with all applicable contractual commitments and all express or implied warranties, except where the failure to be in conformity, individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect on SpinCo.

(q) *Liens*. No Liens exist on any assets of any member of the SpinCo Group, except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on SpinCo.

(r) *No Other Activities of SpinCo*. SpinCo was formed solely for the purpose of engaging in the transactions contemplated by this Agreement, the other Investment Transaction Agreements and the Separation Transaction Agreements, and it has not conducted any business prior to the date hereof other than those incident to its formation and capitalization or otherwise in connection with the transactions contemplated by this Agreement, the other Investment Transaction Agreements and the Separation Transaction Agreements. Parent and its Subsidiaries have not had or operated any terminated, divested or discontinued businesses, operations and activities that engaged in a business or operations substantially different from the SpinCo Business.

(s) *SpinCo Financing*. As of the date of this Agreement, Parent (or a Subsidiary thereof) and SpinCo have delivered an indicative term sheet (which is attached hereto as Section 4.2(s)(i) of the Parent Disclosure Schedule (as may be amended or replaced, in each case subject to the terms of Section 6.9(b), the "Debt Term Sheet")) to China Construction Bank (Malaysia) Berhad (the "Proposed Financing Source"), which reflects substantially the terms and conditions on which the Proposed Financing Source will agree to arrange or provide certain financings in an aggregate amount not less than the amount of the Debt Financing (the "Proposed Financing"). A true and complete copy of the Debt Term Sheet has been provided to Investor.

(t) *No Other Representations and Warranties*. Parent and SpinCo hereby expressly acknowledge and agree that (i) the representations and warranties set forth in Section 4.1 and in the Investor Representation Letter are the only representations and warranties made by Investor with respect to the transactions contemplated by this Agreement and (ii) except for the representations and warranties expressly set forth in Section 4.1 and in the Investor Representation Letter, Investor does not make any other express or implied representation or warranty with respect to itself or the transactions contemplated by this Agreement, and Investor hereby disclaims all liability and responsibility for any and all projections, forecasts, estimates, plans or prospects (including the reasonableness of the assumptions underlying such forecasts, estimates, projections, plans or prospects), management presentations.

ARTICLE V

COVENANTS RELATING TO CONDUCT OF BUSINESS

Section 5.1 Covenants of Parent and SpinCo.

(a) Between the date of this Agreement and the Closing, except as required by applicable Law or as set forth in Section 5.1(a) of the Parent Disclosure Schedule or as expressly permitted by any other provision of this Agreement, unless Investor otherwise provides its prior written consent (not to be unreasonably withheld, conditioned or delayed), Parent and SpinCo will, or will cause their Subsidiaries to (i) conduct the SpinCo Business in the ordinary course of business consistent with past practice, (ii) use commercially reasonable efforts to (A) maintain in effect all material SpinCo Permits, (B) keep available the services of key employees, and (C) preserve in all material respects the current relationships and goodwill of the SpinCo Business with customers and other Persons with whom any member of the SpinCo Group has business dealings.

(b) In furtherance and not in limitation of Section 5.1(a), except as expressly set forth in Section 5.1(b) of the Parent Disclosure Schedule, the plan for the Internal Restructuring, the Separation Transaction Agreements (including any exhibit or schedule thereto) or as required by applicable Law or as expressly provided by any other provision of the Investment Transaction Agreements, Parent and SpinCo will not, and will not permit any of their respective Subsidiaries to, between the date of this Agreement and the Closing, do any of the following with respect to the SpinCo Business, SpinCo or any SpinCo Subsidiary, without the prior written consent of Investor (not to be unreasonably withheld, conditioned or delayed):

(i) amend or otherwise change the Organizational Documents of SpinCo or any SpinCo Subsidiary;

(ii) sell, transfer, lease, sublease, license, covenant not to sue with respect to, abandon, cancel, permit to lapse or expire, pledge, dispose of, grant or subject to any Liens (other than Permitted Liens), or authorize the sale, transfer, lease, sublease, license, covenant not to sue with respect to, abandonment, cancellation, pledge, disposition, grant or any Lien (other than any Permitted Lien) on, any material property, rights or assets of the SpinCo Business (other than any such transaction which (A) is in the ordinary course of business consistent with past practice and does not require Parent Board Approval, or (B) is solely among wholly owned SpinCo Subsidiaries or between SpinCo and any wholly owned SpinCo Subsidiary);

(iii) declare, set aside, make or pay any dividend or other distribution, payable in cash, shares, property or otherwise, with respect to any of its shares, other than dividends or other distributions from any SpinCo Subsidiary to SpinCo or a wholly owned SpinCo Subsidiary;

(iv) issue any shares, or any options, warrants, convertible securities or other rights exchangeable into or convertible or exercisable for any capital stock of SpinCo or any SpinCo Subsidiary, in each case, other than (A) in connection with the settlement of any equity awards that were issued prior to the Distribution Effective Time; (B) the issuance or settlement of any equity awards issued in the conversion of equity awards in connection with the Separation and in accordance with the Employee Matters Agreement, or (C) the issuance of any equity awards related to any newly hired or promoted senior management Employees in the ordinary course of business consistent with past practice;

(v) (A) acquire (including, without limitation, by merger, consolidation, scheme of arrangement, amalgamation or acquisition of stock or assets or any other business combination), or make any capital contribution or investment in, any corporation, partnership, other business organization or any division thereof (other than a wholly owned SpinCo Subsidiary), or (B) acquire any assets (other than from a wholly owned SpinCo Subsidiary), other than, in each case, any acquisition which does not require Parent Board Approval; provided, however, that the aggregate amount of all acquisitions, contributions or investments contemplated by clauses (A) and (B), whether or not requiring Parent Board Approval, shall not exceed $25,000,000;

(vi) create, incur, assume or suffer to exist any indebtedness (determined in accordance with GAAP) for borrowed money, or issue guarantees, loans or advances, in each case, other than (A) borrowings under existing credit facilities of SpinCo or the SpinCo Subsidiaries as in effect on the date of this Agreement solely

to fund operating expenses in the ordinary course of business, (B) any transactions among SpinCo and the wholly owned SpinCo Subsidiaries, (C) guarantees of indebtedness for borrowed money of any wholly owned SpinCo Subsidiary by SpinCo or guarantees by any such SpinCo Subsidiary of indebtedness for borrowed money of SpinCo or any other wholly owned SpinCo Subsidiary, which indebtedness is incurred in compliance with this Section 5.1(b)(vi), or (D) indebtedness for borrowed money incurred to replace, renew, extend or refinance any existing indebtedness for borrowed money of SpinCo or any wholly owned SpinCo Subsidiary, in each case in an amount not to exceed the amount of the indebtedness replaced, renewed, extended or refinanced (plus interest and premium, if any, thereon and the amount of reasonable refinancing fees and expenses incurred in connection therewith) and on terms that are no less favorable to SpinCo or such SpinCo Subsidiary than the terms of the indebtedness replaced, renewed, extended or refinanced;

(vii) engage in the conduct of any new line of business material to the SpinCo Business, taken as a whole;

(viii) fail to maintain sufficient working capital required to operate the SpinCo Business in the ordinary course consistent with past practice;

(ix) make any amendment, supplement or modification to, waive any default, provision or condition of, assign or delegate any rights or obligations under, or terminate any provision of, any Separation Transaction Agreement (or enter into any Separation Transaction Agreement having the effect of any of the foregoing), other than an Approved Modification;

(x) (A) hire any Employee whose annual base salary exceeds $500,000 and who is employed at the executive vice president level or above (a "Senior Executive"), (B) materially increase benefits payable to Employees under any existing severance or termination pay policies, (C) establish, adopt or materially amend any collective bargaining, pension, retirement or deferred compensation arrangement or (D) increase compensation payable to any Senior Executive, except, in the case of clauses (B) through (D), for any such action which is (x) in the ordinary course of business, (y) as may be required by applicable Laws or pursuant to any Benefit Plan, or (z) consistent with actions taken for similarly situated employees of the RemainCo Business;

(xi) make any material changes in financial or tax accounting methods, principles or practices (or change an annual accounting period), except insofar as may be required by a change in GAAP or applicable Law;

(xii) make or change any material election concerning Taxes or Tax Returns, file any amended Tax Return, enter into any closing agreement with respect to Taxes, settle any material Tax claim or assessment or surrender any right to claim a refund of Taxes or obtain any Tax ruling;

(xiii) adopt a plan or agreement of complete or partial liquidation, dissolution, restructuring, recapitalization, merger, consolidation or other reorganization;

(xiv) pay, discharge, settle or satisfy any claims, liabilities or obligations (absolute, accrued, asserted or unasserted, contingent or otherwise), other than the payment, discharge, settlement or satisfaction in accordance with their terms of liabilities, claims or obligations reflected or reserved against in the SpinCo Financial Statements or incurred since the date of the SpinCo Financial Statements in the ordinary course of business consistent with past practice;

(xv) (A) enter into any Material Contract that (1) limits or otherwise restricts any member of the SpinCo Group from engaging or competing in any line of business in any geographic area, (2) requires Parent Board Approval, or (3) would be breached by, or require the consent of any third party in order to continue in full force and effect, following the Closing, or (B) modify, amend or terminate any Material Contract to which it is a party or waive, release or assign any material rights or claims it may have under any such Material Contract, other than any such modification, amendment, termination, waiver, release or assignment which is in the ordinary course of business consistent with past practice and does not require Parent Board Approval;

(xvi) settle or compromise any material Action involving the SpinCo Business, other than any settlement or compromise which: (A) is in the ordinary course of business consistent with past practice and does not require Parent Board Approval or (B) Parent is permitted to undertake pursuant to Section 4.12 and Section 4.13 of the Separation Agreement without SpinCo's consent (including in respect of any RemainCo Specified Actions (as defined in the Separation Agreement)), but subject to the provisions thereof;

(xvii) enter into, waive any material rights under or amend in any material respect any Contract between any member of the SpinCo Group, on the one hand, and any member of the RemainCo Group, on the other hand, that, pursuant to the Separation Agreement, will survive the Distribution Effective Time; or

(xviii) authorize or agree to take any of the foregoing actions, or enter into any letter of intent (binding or non-binding) or similar written agreement or arrangement with respect to any of the foregoing.

(c) Parent and SpinCo shall, prior to the Closing, provide Investor: (i) on or prior to November 15, 2019, the historical consolidated audited balance sheet of the SpinCo Business at December 30, 2018, and the related consolidated audited statement of operations and the related consolidated audited statement of cash flow, in each case, for the fiscal year ended December 30, 2018 (in each case, together with the notes thereto), in each case, to be included in the initial filing of the Form 20-F; (ii) within a reasonable period after the books for each monthly accounting period of the SpinCo Business are closed, a monthly unaudited report for the SpinCo Business for such month, in the form attached to Schedule 5.1(c)(ii); and (iii) within a reasonable period after the books for each quarterly accounting period of the SpinCo Business are closed, a quarterly unaudited report for the SpinCo Business for such quarter, in the form attached to Schedule 5.1(c)(iii).

(d) Nothing contained in this Agreement shall give Parent or SpinCo, directly or indirectly, the right to control or direct Investor's business prior to the Closing. Nothing contained in this Agreement shall give Investor, directly or indirectly, the right to control or direct the operations of the SpinCo Business prior to the Closing.

Section 5.2 Separation Committee.

(a) Each Separation Committee Party will notify the other Separation Committee Parties of its initial two representatives on the Separation Committee promptly after the date of this Agreement. The Separation Committee Parties will use their respective commercially reasonable efforts to cause their representatives on the Separation Committee to meet (whether in person and/or by video or phone conference) at least once every two weeks (or such other frequency as may be mutually agreed by the Separation Committee Parties) to discuss the progress of, and matters relating to, the Internal Restructuring, the Separation, the Distribution and the SpinCo Transfer (as defined in the Separation Agreement). Parent will be responsible for scheduling such meetings, including soliciting agenda items from the Separation Committee Parties and their representatives, preparing agendas and, if applicable, other materials for such meetings and circulating the agenda, any relevant materials and a meeting notice/invitation with video and/or telephone conference numbers at least one Business Day prior to each scheduled meeting. Each Separation Committee Party will ensure that its respective legal counsel has reviewed the proposed agenda and any other meeting materials in advance of each meeting and that such legal counsel participates in each meeting to ensure, among other things, compliance with applicable Law.

(b) To the extent Parent and/or SpinCo wishes to modify any of the schedules to (i) the Separation Agreement, including any modification to the internal restructuring steps set forth in Schedule 1.1(a) to the Separation Agreement, or (ii) the Transition Services Agreement (in each case, other than any such modification that is reasonably required to maintain the Tax-Free Status (as defined in the Tax Matters Agreement) of the Distribution and is not materially adverse to SpinCo or the SpinCo Business), Parent and/or SpinCo will provide to each member of the Separation Committee a notice (a "Modification Notice") setting out in reasonable detail such proposed modification (a "Proposed Modification") and its reasons for such Proposed Modification.

(c) The Separation Committee, acting by majority vote of its members other than (i) representatives of the Separation Committee Party proposing a Proposed Modification, and (ii) representatives of Total, must either approve or reject such Proposed Modification within five Business Days after receipt of the applicable Modification Notice (such approval not to be unreasonably withheld, conditioned or delayed) or such other time period as the Separation Committee Parties may agree to in writing from time to time, provided that, if a member of the Separation Committee whose vote is required to approve or reject a Proposed Modification does not take action to approve or reject

such Proposed Modification within five Business Days after receipt of the applicable Modification Notice, such member will be deemed to have approved such Proposed Modification. The Separation Committee Party proposing a Proposed Modification will use commercially reasonable efforts to respond to any questions from any member of the Separation Committee related to such Proposed Modification and will provide each such question and its response to each member of the Separation Committee. The Separation Committee Parties will, if requested by any member of the Separation Committee, cause a meeting of the Separation Committee to be held as promptly as practicable (and in any event within five Business Days after receipt of the applicable Modification Notice) to discuss a Proposed Modification and, in no event, will any Separation Committee Party negotiate with another Separation Committee Party with respect to approval of a Proposed Modification without disclosing the substance of such negotiations to each member of the Separation Committee Party, including the representatives of the Separation Committee Party proposing such Proposed Modification. If the Separation Committee, acting by majority vote of its members other than (i) representatives of the Separation Committee Party proposing a Proposed Modification, and (ii) representatives of Total, does not approve (or is not deemed to approve) such Proposed Modification, such Proposed Modification will not be made or effected.

(d) Any Proposed Modification approved, or deemed to be approved, by majority vote of the Separation Committee's members other than (i) representatives of the Separation Committee Party proposing such Proposed Modification, and (ii) representatives of Total (each an "Approved Modification") will be deemed to be incorporated into the relevant schedule of the Separation Agreement or the Transition Services Agreement (as applicable) in substitution for (and to the exclusion of) any provision in the schedule modified as a result of such approval or deemed approval.

(e) A Separation Committee Party may, from time to time, remove or replace any of its representatives, or appoint a representative, to the Separation Committee by notice to the other members of the Separation Committee for any reason or no reason, provided that no Separation Committee Party will have more than two representatives on the Separation Committee at any time. Only the Separation Committee Party designating a representative to the Separation Committee will be entitled to remove, replace or fill a vacancy for such representative.

(f) All notices to be provided under this Section 5.2 to the members of the Separation Committee will be in writing and will be deemed to have been given and received if sent by electronic mail (with confirmation of receipt by the recipient, which confirmation will be promptly delivered by the recipient if so requested by the sender in the applicable notice or other communication) to such email addresses as may be notified by each member to the other members of the Separation Committee from time to time. Any such communication will be deemed to have been received: (i) if such notice is sent prior to 5:00 P.M. in the time zone of the receiving party, on the date sent or, if such date is not a Business Day, on the Business Day after the date on which such notice is sent; or (ii) if such notice is sent after 5:00 P.M. in the time zone of the receiving party, on the next Business Day after the date on which such notice is sent.

ARTICLE VI

ADDITIONAL AGREEMENTS

Section 6.1 Public Announcements. The Parties and Total will each use reasonable best efforts to develop a joint communications plan and each Party and Total will use reasonable best efforts to ensure that all press releases and other public statements with respect to the transactions contemplated herein and in the Separation Transaction Agreements will be consistent with such joint communications plan. Without prejudice to the foregoing, (a) the press release announcing the execution of this Agreement and/or the consummation of the Investment will be issued only in such form and at such time as will be mutually agreed in writing by the Parties and Total and (b) except as may be required by applicable Law, Parent, SpinCo, Total and Investor will consult with each other before issuing any press release, having any communications with the press (whether or not for attribution), making any other public statement or scheduling any press conference or conference call with investors, stockholders or analysts with respect to this Agreement, the other Investment Transaction Agreements, or the Separation Transaction Agreements or the transactions contemplated hereby and thereby, and will not, without the prior written consent of the other Parties or Total, as applicable, issue any such press release, have any such communication, make any such other public statement or schedule any such press conference or conference call prior to such consultation; provided that notwithstanding anything herein to the contrary, Parent, Investor and SpinCo will be permitted to make public disclosures relating to this Agreement, the other Investment Transaction Agreements, the Separation Transaction Agreements and the transactions contemplated hereby and thereby in one or more of their respective filings with the SEC, China Securities Regulatory Commission or the Shenzhen Stock Exchange (as applicable) as required by applicable Law, provided that, Parent, Investor or SpinCo, as applicable, will use reasonable efforts to provide Total and the other Parties a reasonable opportunity to comment on such public disclosure in advance of such filing. After the initial press release, no information may be included in any press release relating to Investor, Total, their respective Affiliates, or any of their respective directors, officers or employees, without the prior written consent of Investor or Total, as applicable (such consent of Investor or Total, as applicable, not to be unreasonably withheld, conditioned or delayed); provided that no such consent will be required for any such information that is consistent with information or statements previously publicly disclosed and consented to by Investor or Total, as applicable.

Section 6.2 Access to Information. From the date of this Agreement until the earlier of the Closing and the termination of this Agreement in accordance with its terms, each of Parent and SpinCo will (and each will cause its respective Subsidiaries to) (a) notify Investor of any material development relating to the Distribution (including the status thereof), (b) furnish promptly to Investor such financial and operating data and other information relating to the SpinCo Business as Investor may reasonably request, and (c) upon reasonable notice, afford to Investor and its officers, directors, employees, accountants, counsel, technical consultants and financial advisors reasonable access, during normal business hours, to the properties, books and records relating to the SpinCo Business (excluding any Tax Returns of Parent or any member of

the RemainCo Group and related notes, worksheets, files and documents relating thereto other than any of the foregoing that relate solely to one or more members of the SpinCo Group) and, the senior management Employees; provided, however, that Parent or SpinCo may restrict the foregoing access to the extent that (i) any applicable Laws or Material Contract requires Parent, SpinCo or any of their respective Subsidiaries to restrict or prohibit access to any such properties or information or (ii) disclosure of such information would violate confidentiality obligations to a third party. Investor will hold any such information obtained pursuant to this Section 6.2 in confidence in accordance with, and will otherwise be subject to the provisions of, the Nondisclosure Agreement dated August 23, 2018 among Parent, Investor and Total and the Side Agreement to Nondisclosure Agreement dated December 10, 2018 between Parent and Investor (collectively, as each may be amended or supplemented, the "Confidentiality Agreements"). Notwithstanding anything in the Confidentiality Agreements or this Agreement to the contrary, following the Closing, (A) any disclosure of information (other than any information relating to Parent or its Subsidiaries (excluding, for the avoidance of doubt, members of the SpinCo Group)) that is not prohibited by the Shareholders Agreement will not be deemed to be a breach of this Section 6.2 or the Confidentiality Agreements, and (B) except as provided in clause (A), nothing in this Section 6.2 shall be construed to limit or otherwise modify the provisions or term of the Confidentiality Agreements, which shall survive any termination of this Agreement. Any investigation by Investor will not affect the representations and warranties contained herein or the conditions to the respective obligations of the Parties to consummate the Investment.

Section 6.3 Reasonable Best Efforts.

(a) Each Party, and Total where required by applicable Foreign Antitrust Laws, will use its reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable Law to consummate the transactions contemplated by this Agreement and the Separation Transaction Agreements to which it is a party as promptly as practicable, including (i) preparing and filing as promptly as practicable with any Governmental Authority or other third party all documentation to effect all necessary filings, notices, petitions, statements, registrations, submissions of information, applications and other documents and (ii) obtaining and maintaining all approvals, consents, registrations, permits, authorizations and other confirmations required to be obtained from any Governmental Authority or other third party that are necessary, proper or advisable to consummate the transactions contemplated by this Agreement and the Separation Transaction Agreements to which it is a party.

(b) In furtherance and not in limitation of the foregoing, each Party, and Total where required by applicable Foreign Antitrust Laws, will (i) make or cause to be made an appropriate filing or filings pursuant to any Foreign Antitrust Laws with respect to the transactions contemplated hereby as promptly as practicable, and (ii) supply as promptly as practicable any additional information and documentary material that may be requested pursuant to any Foreign Antitrust Law and use their reasonable best efforts to take all other actions necessary to cause the expiration or termination of the applicable waiting periods under any Foreign Antitrust Law, as applicable, as soon as practicable.

(c) In furtherance and not in limitation of the provisions of the foregoing, each Party, and Total where required by applicable Foreign Antitrust Laws, will use its reasonable best efforts to (i) cooperate in all respects with each other Party and Total in connection with any filing or submission with a Governmental Authority in connection with the transactions contemplated by this Agreement and in connection with any investigation or other inquiry by or before a Governmental Authority relating to the transactions contemplated by this Agreement, including any proceeding initiated by a private party, and (ii) keep the other Parties and Total informed in all material respects and on a reasonably timely basis of any material communication received by such Party or Total from, or given by such Party or Total to, any Governmental Authority and of any material communication received or given in connection with any proceeding by a private party, in each case regarding any of the transactions contemplated by this Agreement. Subject to applicable Law relating to the exchange of information, each Party and Total will have the right (A) to review in advance, and to the extent practicable each Party and Total will consult with the other Parties and Total on, any filing made with, or written materials submitted to, any third party and/or any Governmental Authority in connection with the transactions contemplated by this Agreement and (B) to participate in any material meeting or discussion, either in person or by telephone, with any Governmental Authority in connection with the transactions contemplated by this Agreement to the extent reasonably practicable and to the extent not prohibited by such Governmental Authority.

(d) In furtherance and not in limitation of the provisions of the foregoing, each Party, and Total where applicable, will use its reasonable best efforts to resolve such objections, if any, as may be asserted by a Governmental Authority or other Person with respect to the transactions contemplated by this Agreement. Notwithstanding the foregoing, nothing in this Section 6.3 will require any Party or Total or any of their respective Subsidiaries to take any action or enter into any settlement or other agreement or binding arrangement that limits such Party's or Total's freedom of action with respect to or that requires such Party or Total to sell, hold separate or otherwise dispose of or restrict access to any businesses, product lines, assets or properties of Parent, SpinCo, Investor, Total or any of their Subsidiaries including the capital stock of any such Subsidiary.

(e) In furtherance and not in limitation of the foregoing, Investor will:

(i) make all appropriate filings required in connection with the PRC Approvals (except for the foreign exchange filing with the relevant bank authorized by SAFE) as promptly as practicable within the applicable period required by applicable Law and in any event within 30 Business Days of the date hereof and, with respect to the foreign exchange filing with the relevant bank authorized by SAFE (if required), make all appropriate filings with such bank as promptly as practicable after obtaining the approvals of NDRC and MOFCOM for the PRC overseas direct investment by Investor as contemplated by this Agreement, and supply as promptly as practicable any additional information and documentary material that may be requested pursuant to applicable Law of the PRC in connection with the PRC Approvals;

(ii) use reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable to obtain the PRC Approvals as soon as practicable, including using reasonable best efforts to take all such action as reasonably may be necessary to resolve such objections, if any, as any PRC Governmental Authority or Person may assert under any applicable Laws of the PRC or order of a PRC Governmental Authority with respect to the PRC Approvals; and

(iii) keep Parent, SpinCo and Total reasonably informed on a timely basis and in reasonable detail of the status of the PRC Approvals.

(f) Each of the Parties and Total will cooperate with one another (i) in determining whether any action by or in respect of, or filing with, any Governmental Authority not contemplated by this Agreement is required, or any actions, consents, approvals or waivers are required to be obtained from parties to any material contracts, in connection with the consummation of the transactions contemplated by this Agreement and (ii) in taking such actions or making any such filings, furnishing information required in connection therewith and seeking timely to obtain any such actions, consents, approvals or waivers. To the extent required by applicable Law, Parent and SpinCo will use reasonable best efforts to (and will cause any of their applicable Subsidiaries to) inform, consult or more generally involve any relevant employee representative bodies, in connection with the transactions contemplated by this Agreement and the Separation Agreement, and will provide Investor and Total with copies of any material employee representative information documents, opinions, decisions or similar relevant justification documents provided to such relevant employee representative bodies in connection therewith to the extent permitted by applicable Law.

Section 6.4 Fees and Expenses. Without in any way limiting Section 6.12 or Section 8.2, whether or not the transactions contemplated by this Agreement or the Separation Agreement are consummated, (i) all Expenses incurred by Investor will be paid by Investor, (ii) all Expenses incurred by Parent or SpinCo prior to the Closing Date will be paid by Parent or SpinCo in accordance with Section 10.9 of the Separation Agreement, and (iii) all Expenses incurred by Total prior to the Closing Date will be paid by Total; provided, however, that notwithstanding any other provision of this Agreement, SpinCo will be liable for all Expenses incurred by Parent, SpinCo, Total, Investor or any of their respective Subsidiaries in connection with the Debt Financing and the Additional Financing. All Expenses of any Party or Total incurred after the Closing Date will be paid by such Person.

Section 6.5 Notification of Changes. Each Party will, as promptly as reasonably practicable after receipt of written notice thereof, advise the other Parties of (a) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this

Agreement or the Separation Transaction Agreements where such receiving Party reasonably believes that the failure to obtain such consent would reasonably be expected to (i) result in a material Action relating to the transactions contemplated by this Agreement or the Separation Transaction Agreements or (ii) be materially adverse to SpinCo, (b) any Actions commenced or, to its Knowledge, threatened relating to the transactions contemplated by this Agreement or the Separation Transaction Agreements, or (c) the occurrence, or non-occurrence, of any event, condition, fact or circumstance (including the breach of any representation, warranty, covenant or obligation set forth in this Agreement) (i) having, or which would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on SpinCo, Parent or Investor, as applicable, or (ii) which has resulted, or which could reasonably be expected to result, in any of the conditions set forth in Article VII not being satisfied; provided, however, that no such notification will alter or affect in any manner the representations, warranties, covenants or agreements of the Parties or the conditions to the obligations of the Parties under this Agreement.

Section 6.6 Transaction Waiver.

(a) Prior to the Distribution, Parent and SpinCo shall use commercially reasonable efforts to obtain a waiver from the SIC with respect to the applicability of the Singapore Code to SpinCo in all cases except in the case of a tender offer (within the meaning of the Exchange Act) where the Tier I Exemption is available and SpinCo relies on the Tier I Exemption to avoid full compliance with the tender offer rules promulgated under the Exchange Act (a "General Waiver"), including by furnishing such information and/or providing such confirmations as may be reasonably requested or required to obtain such General Waiver. Each of Total and Investor will provide all timely cooperation reasonably requested by Parent and SpinCo in connection with obtaining such General Waiver, as applicable, including by furnishing such information and/or providing such confirmations as may be reasonably requested or required to obtain such General Waiver, as applicable.

(b) In the event that it becomes reasonably apparent that the General Waiver will not be granted prior to the Distribution Date and, based on the advice of counsel, the Parties and Total reasonably determine that the Distribution and/or the Investment is expected to trigger the mandatory general offer provisions under Rule 14 of the Singapore Code ("Offer Obligation"), the Parties and Total shall use commercially reasonable efforts to, and will cooperate with each other Party and Total to, obtain ruling(s) from the SIC such that an Offer Obligation will not be triggered as a result of the Distribution and/or the Investment, as applicable (a "Ruling"), or, if the SIC rules that an Offer Obligation would be triggered by the Distribution and/or the Investment, as applicable, a waiver from such Offer Obligation (each a "Specific Waiver"), including by furnishing such information and/or providing such confirmations as may be reasonably requested or required to obtain such Specific Waiver, as applicable.

(c) In furtherance and not in limitation of the provisions of the foregoing, (i) Parent and SpinCo shall keep Total and Investor informed in all material respects and on a reasonably timely basis of any material communication received from or given to the SIC regarding any General Waiver, (ii) Total and TZS shall have the right to review in advance, and to the extent practicable Parent and SpinCo will consult with Total and Investor on, any filing made with, or written materials submitted to, the SIC in connection with any General Waiver, (iii) the relevant Parties shall keep each other Party informed in all material respects and on a reasonably timely basis of any material communication received from or given to the SIC regarding any applicable Ruling and/or Specific Waiver, and (iv) each other Party shall have the right to review in advance, and to the extent practicable, the relevant Party will consult with each other Party on, any filing made with, or written materials submitted to, the SIC in connection with any Ruling and/or Specific Waiver.

Section 6.7 Obligations under Separation Agreement. Parent and SpinCo will use reasonable best efforts to consummate the Separation and the Distribution as soon as practicable following the date of this Agreement.

Section 6.8 Non-Competition; Non-Solicitation.

(a) *Non-Competition*.

(i) For a period of three years after the Closing, neither Investor nor Total will conduct, participate or engage in, or bid for or otherwise pursue, a business (whether as a principal, partner, joint venture, or owner of any debt or equity interest in any person or business) that conducts, participates or engages in, or bids for or otherwise pursues a business that is engaged in, high-efficiency n-type solar cells (including research and development or manufacturing activities relating thereto, and such business, the "N-Type Cell Business").

(ii) For a period of ten years after the Closing, neither Investor nor Total will conduct, participate or engage in, or bid for or otherwise pursue, a business (whether as a principal, partner, joint venture, or owner of any debt or equity interest in any person or business) that conducts, participates or engages in, or bids for or otherwise pursues a business that is engaged in, interdigitated back contact solar cells (including research and development or manufacturing activities relating thereto, and such business, the "IBC Business" and together with the N-Type Cell Business, the "Competing Businesses").

(iii) Neither Section 6.8(a)(i) or Section 6.8(a)(ii) will be deemed breached as a result of (A) the ownership by Investor, Total or their respective Affiliates, employees, officers and directors of less than an aggregate of 5% of any class of capital stock of a Person engaged, directly or indirectly, in a Competing Business; provided, however, that such capital stock is listed or quoted on a national securities exchange or the Nasdaq National Market, (B) Investor, Total or any of their respective Affiliates, employees, officers and directors acquiring control of any Person or business that derives a portion of its revenues from a Competing Business so long as it will use its reasonable best efforts to divest all of such Competing Business as promptly as practicable and in any event within 12 months after the consummation of such acquisition of control, (C) Investor, Total or any of

their respective Affiliates, employees, officers and directors owning an interest in a strategic partnership that derives no more than 5% of its revenues from a Competing Business in the most recently completed fiscal year preceding the later of (1) the Closing and (2) the date of the acquisition of such interest, (D) Investor, Total or any of their respective Affiliates, employees, officers and directors participating in another activity involving the N-Type Cell Business or the IBC Business, so long as no more than 5% of such activity involves, in the aggregate, the Competing Businesses, (E) business, holdings, strategic partnerships or other activities that Investor, TZS, Total or any of their respective Affiliates, employees, officers and directors have or were engaged in immediately prior to December 17, 2018, to the extent such activities are described on Schedule 6.8(a)(iii)(E), or (F) Investor's holdings, strategic partnerships or activities that are primarily focused on the supply of silicon wafers, provided that such silicon wafers supplied by Investor or at Investor's direction, as is and when supplied by Investor or at Investor's direction and not taking into account any subsequent modifications by any Persons (other than Investor) or any effects of such modifications, are not themselves high-efficiency n-type solar cells or interdigitated back contact solar cells.

(iv) Notwithstanding the foregoing, the restrictions set forth in this Section 6.8(a) shall terminate with respect to (A) Investor, on the date that is the earlier of (x) the expiration of the periods set forth in Section 6.8(a)(i) and Section 6.8(a)(ii), respectively; and (y) the end of a 5-year period beginning on the date that Investor no longer (1) holds at least 10% of the outstanding SpinCo Shares, and (2) has any board representation rights on the Board of Directors of SpinCo or any other governance rights in SpinCo as set forth in the Shareholders Agreement; and (B) Total on the date that is the earlier of (x) the expiration of the periods set forth in Section 6.8(a)(i) and Section 6.8(a)(ii), respectively; and (y) the end of a 5-year period beginning on the date that Total no longer (1) holds at least 10% of the outstanding SpinCo Shares, and (2) has any board representation rights on the Board of Directors of SpinCo or any other governance rights in SpinCo as set forth in the Shareholders Agreement.

(v) Investor, Parent, SpinCo and Total agree that the covenants included in this Section 6.8(a) are reasonable in their geographic and temporal coverage, and that none of Investor, Parent, SpinCo or Total will raise any issue of geographic or temporal reasonableness in any proceeding to enforce such covenants; provided, however, that if the provisions of this Section 6.8(a) should ever be deemed to exceed the time or geographic limitations or any other limitations permitted by applicable Law in any jurisdiction, then such provisions will be deemed reformed in such jurisdiction to the minimum extent required by applicable Law to cure such issue. Notwithstanding any other provision of this Agreement, it is understood and agreed that monetary damages would be inadequate in the case of any breach of the covenants contained in this Section 6.8(a), and that Investor will be entitled to seek equitable relief, including the remedy of specific performance, with respect to any breach or attempted breach of such covenants.

(b) *Non-Solicitation*.

(i) For a period of three years after the Closing, Investor will not, and will direct its Affiliates and any of its employees, officers and directors acting at Investor's direction not to, solicit for employment or hire any member of senior management employed by Parent or its Affiliates or otherwise induce any such individual to terminate his or her employment by Parent or its Affiliates; provided that, the foregoing will not prohibit Investor and any of its Affiliates, employees, officers and directors from engaging in general solicitation for employment and hiring any person who responds thereto; provided that such general solicitation is not targeted at employees of Parent.

(ii) For a period of three years after the Closing, Investor will not, and will direct its Affiliates and any of its employees, officers and directors acting at Investor's direction not to, take any action aimed at causing any customer or potential customer or partner of Parent, SpinCo or the SpinCo Business to sever its business relationship with Parent, SpinCo or the SpinCo Business, as applicable.

(iii) For a period of three years after the Closing, each of Parent and SpinCo will not, and will direct their respective Affiliates and any of their respective employees, officers and directors acting at Parent's or SpinCo's direction (as applicable) not to, take any action aimed at causing any customer or potential customer or partner of Investor to sever its business relationship with Investor or its Affiliates.

Section 6.9 SpinCo Financing; Closing Debt; Closing Cash.

(a) *Debt Financing Efforts.* Parent and SpinCo shall use their reasonable best efforts to take, or cause to be taken, all actions and do, or cause to be done, as promptly as possible, all things necessary, proper or advisable to arrange and obtain the Debt Financing on the Closing Date from the Proposed Financing Source and/or other Debt Financing Sources, including using reasonable best efforts to, at or prior to the Distribution, (i) negotiate and enter into definitive agreements with respect to the Debt Financing on terms and conditions that are acceptable to the Debt Financing Sources and which are the best terms and conditions then available to SpinCo, which terms shall, in any event, be no less favorable to SpinCo than the Acceptable Financing Terms and (ii) satisfy, or cause to be satisfied (or, if deemed advisable by Parent, seek the waiver of), on a timely basis all conditions precedent to the utilization of the Debt Financing that are required to be satisfied by Parent, SpinCo and their respective Subsidiaries. Parent and SpinCo will keep Investor informed on a reasonably current basis in reasonable detail of the status of its efforts to arrange the Debt Financing and will provide copies of all documents related to the Debt Financing to Investor.

(b) *Replacement Financing.* If any portion of the Debt Financing (as contemplated in the Debt Term Sheet) becomes, or would reasonably be expected to become, unavailable , Parent and SpinCo shall as promptly as practicable following the occurrence of such event (i) notify Investor (which notification shall, in any case, be made within two Business Days after the occurrence of such event), (ii) use their

reasonable best efforts to arrange to obtain alternative debt financing from internationally recognized financing sources (including alternative sources) to be funded at Closing in an amount sufficient to replace any unavailable portion of the Debt Financing on the best terms and conditions then available to SpinCo, which terms shall, in any event, be no less favorable to SpinCo than the Acceptable Financing Terms (the "Replacement Financing"), and (iii) keep Investor informed, on a reasonably current basis, of the status of their efforts to arrange Replacement Financing, including the terms and conditions of any proposed Replacement Financing, and will promptly provide copies of all material documents relating to the Replacement Financing to Investor. The provisions of Sections 6.9(a) and 6.9(d) shall be applicable to any Replacement Financing with terms no less favorable to SpinCo than the Acceptable Financing Terms and, for the purposes of this Agreement, all references to the Debt Financing shall be deemed to include such Replacement Financing and all references to the Debt Financing Sources shall include the Persons providing or arranging such Replacement Financing.

(c) *Additional Financing*. Parent and SpinCo shall use their reasonable best efforts to take, or cause to be taken, all actions and do, or cause to be done, as promptly as possible, all things necessary, proper or advisable to arrange and obtain a revolving credit facility of not less than $100,000,000, available to be drawn by SpinCo immediately after Closing on terms and conditions reasonably satisfactory to Investor and the Boards of Directors of Parent and SpinCo (the "Additional Financing"), and shall use their reasonable best efforts to, (i) as promptly as possible negotiate and enter into definitive agreements with respect to the Additional Financing and (ii) at or prior to the Distribution, satisfy, or cause to be satisfied (or, if deemed advisable by Parent, seek the waiver of), on a timely basis all conditions precedent to the utilization of the Additional Financing that are required to be satisfied by Parent, SpinCo and their respective Subsidiaries. Parent and SpinCo will keep Investor informed on a reasonably current basis in reasonable detail of the status of their efforts to arrange the Additional Financing and will provide copies of all documents related to the Additional Financing to Investor. If any portion of the Additional Financing becomes, or would reasonably be expected to become, unavailable on the terms and conditions contemplated by the definitive agreements with respect thereto, Parent and SpinCo shall promptly notify Investor.

(d) *Financing Cooperation*. Prior to the Distribution, each of Investor, Total and Parent agree to jointly pursue, and to cause its Affiliates and its and their respective officers, employees, independent auditors, counsel and other representatives to provide, all timely cooperation reasonably requested by Parent and SpinCo in connection with the arrangement of the Debt Financing loan facilities contemplated in the Debt Term Sheet and the arrangement of the Additional Financing, including, in each case, (i) participation in meetings with banks, due diligence sessions and road shows, (ii) assisting with the preparation of materials for bank information memoranda and similar documents required in connection with the Debt Financing contemplated in the Debt Term Sheet and the Additional Financing, and (iii) furnishing SpinCo and its financing sources with financial and other pertinent information regarding Investor or Total, as applicable, as may be reasonably requested by Parent, SpinCo or its financing

sources; provided, however, that none of Investor, Total or their respective Affiliates or any of its or their respective officers or employees shall be required to provide any financial information in a format not customarily prepared by Investor or Total, as applicable, or to provide any non-public, confidential or proprietary information or to execute any document in connection with this Section 6.9(d), and none of Investor, Total, their respective Affiliates or its or their respective officers or employees shall be required to expend out-of-pocket money in connection with this Section 6.9(d).

(e) *Closing Debt Amount; Closing Cash Amount.*

(i) Parent and SpinCo will take such actions as are reasonably necessary to ensure that, immediately following the Distribution and immediately prior to the Closing, SpinCo shall (A) not have Financial Indebtedness in an amount that is more than the Target Debt Amount and (B) hold Available Cash in an amount that is not less than the Target Cash Amount.

(ii) As promptly as practicable, but in any event no later than 30 Business Days after the Distribution Effective Time, SpinCo will deliver to Parent a written notice setting forth its good faith calculation of the Closing Cash Amount, the Closing Debt Amount and the Adjustment Amount, along with a summary showing in reasonable detail SpinCo's calculation of each component thereof (the "Closing Statement"). Parent shall notify SpinCo in writing within 30 Business Days following Parent's receipt of the Closing Statement (the "Review Period") if Parent objects to any matter set forth in the Closing Statement, which notice shall describe the basis for such objection in reasonable detail (the "Notice of Disagreement"); provided that SpinCo and Parent shall be deemed to have agreed upon all items and amounts that are not so disputed by Parent in the Notice of Disagreement. If no Notice of Disagreement is received by SpinCo prior to the expiration of the Review Period, then the Closing Statement shall be deemed to have been accepted by each of SpinCo and Parent and shall become final and binding upon each of SpinCo and Parent. If, at the expiration of the Review Period, SpinCo and Parent have been unable to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement, SpinCo and Parent shall each promptly submit all matters that remain in dispute with respect to the Notice of Disagreement (along with a copy of the Closing Statement marked to indicate those line items that are not in dispute) to KPMG LLP or, if that firm declines to act as provided in this Section 6.9(e)(ii), to another internationally recognized firm of independent public accountants, selected promptly by and mutually reasonably acceptable to SpinCo and Parent (the "Independent Accounting Firm"). The Independent Accounting Firm shall be instructed to make, within 30 days after its selection pursuant to the preceding sentence, a final determination in accordance with this Agreement, binding upon SpinCo and Parent, solely with respect to the appropriate amount of each line item in the Closing Statement which remains in dispute as indicated in the Notice of Disagreement submitted to the Independent Accounting Firm, and to promptly notify SpinCo and Parent in writing of its determination. All determinations and calculations by the Independent Accounting Firm pursuant to this Section 6.9(e)(ii) will (A) consider only those items that are set forth in the Notice of

Disagreement and remain in dispute, (B) be based solely on written submissions by Parent and SpinCo, and not by independent review, (C) will be a value, with respect to each item in dispute, that is not higher or lower than the highest and lowest values submitted for such item by Parent or SpinCo, and (D) not consider in any respect or for any purpose any settlement discussions or settlement offer made by or on behalf of Parent or SpinCo. In making such determination, the Independent Accounting Firm shall function as an expert and not as an arbitrator. A judgment on the determination made by the Independent Accounting Firm pursuant to this Section 6.9(e)(ii) may be enforced by any arbitral tribunal in accordance with Section 9.10. The fees and expenses of the Independent Accounting Firm will be allocated to and borne by Parent and SpinCo in proportion to the net amounts by which the proposals of Parent and SpinCo differed from the Independent Accounting Firm's final determination. During the review by the Independent Accounting Firm, each of SpinCo and Parent will each provide the Independent Accounting Firm with such access to their respective books, records, accountants and relevant employees as may be reasonably required by the Independent Accounting Firm to fulfill its obligations under this Section 6.9(e)(ii).

(iii) If the Final Adjustment Amount is a positive amount, then SpinCo, or a member of the SpinCo Group, shall pay by wire transfer of immediately available funds to Parent, or a member of the RemainCo Group designated in writing by Parent, the amount of the Final Adjustment Amount, within five Business Days after the Final Statement becomes final and binding.

(iv) If the Final Adjustment Amount is a negative amount, then Parent, or a member of the RemainCo Group, shall pay by wire transfer of immediately available funds to SpinCo, or a member of the SpinCo Group designated in writing by SpinCo, the amount of the absolute value of the Final Adjustment Amount, within five Business Days after the Final Statement becomes final and binding.

(v) SpinCo will provide Investor with a reasonable period of time to review and comment on the Closing Statement prior to its delivery to Parent and will consider in good faith all comments to the Closing Statement reasonably proposed by Investor in good faith. SpinCo will notify Investor promptly (and in any event within two Business Days) following receipt of a Notice of Disagreement, will provide Investor with a reasonable period of time to review and comment on any submission to the Independent Accounting Firm and will consider in good faith all comments to any such submission reasonably proposed by Investor in good faith. SpinCo will keep Investor informed, on a reasonably current basis, of any discussions or correspondence with Parent or the Independent Accounting Firm regarding the Notice of Disagreement, the Closing Statement or the matters contemplated therein, and will notify Investor promptly (and in any event within two Business Days) following the Independent Accounting Firm's final determination contemplated by Section 6.9(e)(ii) and provide a copy of such final determination to Investor.

(vi) Notwithstanding anything to the contrary set forth in this Agreement, from the Closing until such time as the Final Adjustment Amount has been finally determined in accordance with Section 6.9(e)(ii), SpinCo will (and will cause its Subsidiaries to), upon reasonable notice during normal business hours, make available to Investor and its accountants: (A) the work papers and supporting records which SpinCo, its Subsidiaries and their accountants prepared in connection with the Closing Statement and any submission to the Independent Accounting Firm and any relevant supporting documentation relating thereto (including complete and accurate copies thereof); and (B) those persons responsible for the preparation of the Closing Statement and any submission to the Independent Accounting Firm, including the accountants of SpinCo and its Subsidiaries, for discussion thereof.

(f) *Financial Statements Remedies.*

(i) In the event that the Net Aggregated Impact on Changes of Pro Forma Balance Sheet reflects a decrease in net assets of more than $10,000,000 but less than $50,000,000, then the Target Cash Amount will increase by an amount equal to the absolute value of such decrease in excess of $10,000,000.

(ii) In the event that the Net Aggregated Impact on Changes of Pro Forma Balance Sheet reflects an increase in net assets of more than $10,000,000, then an amount of Specific Assets, and/or receivables due to Parent from the SpinCo Group and/or any other assets of the SpinCo Group (which are not critical to the operation of the SpinCo Business) will be reallocated to Parent before the Distribution in an amount equal to the amount of such increase in excess of $10,000,000, but such amount not to exceed $50,000,000 (with such reallocation to be mutually agreed in good faith by the Parties prior to the Distribution).

(iii) If Parent and SpinCo reasonably determine, prior to the Form 20-F Effective Date, that the Net Aggregated Impact on Changes of Pro Forma Balance Sheet is reasonably likely to exceed $50,000,000 when the Form 20-F is declared effective by the SEC, then (i) Parent and Spinco will promptly notify Investor, and (ii) for a period of 45 days the Parties will discuss in good faith potential amendments to this Agreement (including any applicable condition to the Closing), the other Investment Transaction Agreements and the Separation Transaction Agreements to remediate such event; provided, that no Party will be obligated to agree to any such amendment.

(iv) For the avoidance of doubt, in no event will any of the items contemplated in clauses (i) through (ii) be duplicative.

Section 6.10 Other Investment Transaction Agreements. SpinCo, Total and Investor will take all necessary action to, immediately prior to the Closing, execute the Shareholders Agreement and the Registration Rights Agreement.

Section 6.11 NASDAQ Listing. Each of Parent and SpinCo will use its reasonable best efforts to cause the SpinCo Shares to be approved for listing on NASDAQ, subject to official notice of issuance, prior to the Closing Date.

Section 6.12 Solvency Firm. Parent will engage a valuation or appraisal firm of national reputation (the "Solvency Firm") and use its reasonable best efforts to obtain from the Solvency Firm (a) if Parent requests, an opinion dated the date the Board of Directors of Parent declares and effects the Distribution in form and substance reasonably satisfactory to the Board of Directors of Parent and addressed to the members of the Board of Directors Parent as to the surplus of Parent in connection with the declaration of the Distribution, (b) an opinion dated the date the Board of Directors of Parent declares the Distribution in form and substance reasonably satisfactory to the Board of Directors of Parent and addressed to the members of the Board of Directors of Parent as to the solvency of Parent and its Subsidiaries immediately after giving effect to the transactions contemplated by this Agreement and the Separation Transaction Agreements and (c) an opinion dated the date the Board of Directors of Parent declares the Distribution in form and substance reasonably satisfactory to the Board of Directors of Parent and addressed to the members of the Board of Directors of SpinCo as to the solvency of SpinCo and the SpinCo Subsidiaries immediately after giving effect to the transactions contemplated by this Agreement and the Separation Transaction Agreements (the opinion in clause (a), only if requested by Parent, and the opinions in clauses (b) and (c) collectively, the "Surplus and Solvency Opinions"). Each of Parent and SpinCo will be responsible for the payment of 50% of the fees and expenses of the Solvency Firm in connection with the opinions contemplated by this Section 6.12. If the Board of Directors of Parent makes the Solvency Condition Determination, Parent shall promptly (and in any event within one Business Day thereafter) provide written notice thereof to Investor.

Section 6.13 Preparation of the Form 20-F. As promptly as practicable following the date hereof, (i) Parent and SpinCo will prepare a registration statement on Form 20-F to effect the registration of the SpinCo Shares pursuant to Section 12(b) of the Exchange Act in connection with the Distribution, in consultation with Investor, and (ii) SpinCo will file the Form 20-F with the SEC. Parent and SpinCo will use their reasonable best efforts to ensure that the Form 20-F will comply in all material respects with the requirements of the Exchange Act and the Securities Act, as applicable, and the rules and regulations of the SEC promulgated thereunder. Parent and SpinCo will use their reasonable best efforts to have the Form 20-F declared effective by the SEC as promptly as practicable after filing with the SEC. Parent and SpinCo will use their reasonable best efforts to cause the Form 20-F to be mailed to Parent's stockholders as promptly as practicable after the Form 20-F is declared effective by the SEC. Parent and SpinCo will, as promptly as practicable after receipt thereof, provide to Investor copies of, consult with Investor and prepare written responses with respect to, any written comments received from the SEC or its staff with respect to the Form 20-F and advise Investor of any oral comments with respect to the Form 20-F received from the SEC or its staff. Notwithstanding any other provision herein to the contrary, prior to filing or mailing the Form 20-F (or in each case, any amendment or supplement thereto) or responding to any comments of the SEC or its staff with respect thereto, Parent and SpinCo (i) will provide Investor with a reasonable period of time to review and comment on such document or response and (ii) will consider in good faith all additions, deletions or changes reasonably proposed by Investor in good faith. Parent and SpinCo will advise Investor, promptly after receiving notice thereof, of the time when the Form 20-F

has become effective, the issuance of any stop order with respect to the Form 20-F or any request by the SEC for amendment of the Form 20-F. If at any time prior to the Closing any information relating to Investor, Parent or SpinCo, or any of their respective Affiliates, officers or directors, is discovered by Investor, Parent or SpinCo which should be set forth in an amendment or supplement to the Form 20-F so that it would not include any misstatement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the Party which discovers such information will promptly notify the other Parties and, to the extent required by Applicable Laws, an appropriate amendment or supplement describing such information will be promptly filed by SpinCo with the SEC and disseminated to the stockholders of Parent.

Section 6.14 No Solicitation of Transactions.

(a) From the date hereof until the Closing or the earlier termination of this Agreement in accordance with Article VIII, Parent and SpinCo shall not, and shall cause their respective Subsidiaries and each of their respective Affiliates, directors, officers, employees, representatives and agents (collectively, "Representatives") not to, in each case, directly or indirectly, (i) solicit, initiate or knowingly facilitate or encourage any inquiry with respect to or the making of any proposal or offer (including any proposal or offer to Parent's stockholders) that constitutes, or could reasonably be expected to lead to, an Alternative Transaction, (ii) enter into, engage in, initiate or otherwise participate in discussions or negotiations with any Person or group of Persons regarding an Alternative Transaction, (iii) provide or furnish, or cause to be provided or furnished, to any Person or group of Persons, any non-public information concerning the business, operations, properties or assets of the SpinCo Business, Parent, SpinCo or any of their respective Subsidiaries in connection with an Alternative Transaction, (iv) agree to, approve, endorse, recommend or consummate any Alternative Transaction or enter into any letter of intent, memorandum of understanding or other agreement contemplating or otherwise relating to any Alternative Transaction, (v) to the extent related to a potential Alternative Transaction, grant any waiver, amendment or release under any standstill or similar agreement or Takeover Statute (and Parent and SpinCo shall promptly take all action necessary to terminate or cause to be terminated any such waiver previously granted with respect to any provision of any such standstill or similar agreement or Takeover Statute), (vi) otherwise cooperate in any way with, or assist or participate in, facilitate or encourage, any effort or attempt by any other Person to do or seek any of the foregoing, or (vii) authorize or permit any of their respective Subsidiaries, Affiliates or Representatives to take any action set forth in clauses (i) through (vi) of this Section 6.14(a). Parent and SpinCo shall, and shall cause their respective controlled Affiliates, Subsidiaries and Representatives to, immediately cease and terminate all existing discussions or negotiations with any Persons conducted heretofore with respect to an Alternative Transaction.

(b) Parent shall notify Investor as promptly as practicable (and in any event within 48 hours after Parent or SpinCo have knowledge thereof), orally and in writing, of any proposal, offer or inquiry from or with any Person or group of Persons with respect to an Alternative Transaction specifying (x) the material terms and conditions thereof

(including any subsequent amendment or proposed amendment to such terms and conditions), and (y) the identity of the Person or group of Persons making such proposal, offer or inquiry. Parent shall keep Investor reasonably informed of any material changes, developments, discussion or negotiations regarding any proposal, offer or inquiry with respect to an Alternative Transaction and of any material changes in the status and terms of any such proposal, offer or inquiry (including the terms and conditions thereof), in each case, on a reasonably prompt basis (and in any event within 48 hours thereof). Parent and SpinCo agree that none of Parent, SpinCo or any of their respective Affiliates or Subsidiaries will enter into any Acceptable Confidentiality Agreement or any other Contract with any Person subsequent to the date hereof which prohibits Parent or SpinCo from providing any information to Investor pursuant to this Section 6.14.

(c) Notwithstanding anything to the contrary contained in Section 6.14(a), if at any time prior to the date that the Form 20-F shall have been declared effective by the SEC (the "Form 20-F Effective Date") Parent or any of its Representatives receives an unsolicited, written bona fide proposal or offer for a Parent Transaction from any Person or group of Persons, which proposal or offer did not result from any breach of this Section 6.14, (i) Parent and its Representatives may contact such Person or group of Persons to clarify the terms and conditions thereof, and (ii) if the Board of Directors of Parent or any duly constituted and authorized committee thereof determines in good faith, after consultation with its financial advisor and outside legal counsel, that such proposal or offer for a Parent Transaction constitutes or could reasonably be expected to result in a Superior Proposal, then Parent and its Representatives may (x) furnish, pursuant to an Acceptable Confidentiality Agreement, information (including non-public information) with respect to Parent and its Subsidiaries and its and their businesses to the Person or group of Persons who made such proposal or offer for a Parent Transaction, provided that Parent concurrently provides to Investor any written non-public information concerning SpinCo or any of its Subsidiaries or the SpinCo Business that is provided to any Person or group of Persons and was not previously provided to Investor or its Representatives and (y) subject to the requirements of Section 6.14(b), engage in or otherwise participate in discussions or negotiations with such Person or group of Persons making such proposal or offer for a Parent Transaction.

(d) Except as expressly permitted by this Section 6.14(d), neither the Board of Directors of Parent nor any committee thereof shall (i) (A) make any recommendation or public statement in connection with any Alternative Transaction, (B) if a tender offer or exchange offer that constitutes an Alternative Transaction is commenced, fail to recommend against the acceptance by Parent's stockholders of such tender offer or exchange offer (including, for these purposes, by disclosing that it is taking no position with respect to the acceptance by Parent's stockholders of such tender offer or exchange offer, which disclosure shall constitute a failure to recommend against the acceptance by Parent's stockholders of such tender offer or exchange offer) within 10 Business Days after the commencement thereof; provided, however, that a customary "stop, look and listen" communication pursuant to Rule 14d-9(f) under the Exchange Act shall not be prohibited, or (C) adopt, approve or recommend, or publicly propose to adopt, approve or recommend to Parent's stockholders an Alternative Transaction (the

actions described in this clause (i) being referred to as an "Alternative Transaction Recommendation"), or (ii) authorize, cause or permit Parent, SpinCo or any of their Subsidiaries to enter into any letter of intent, memorandum of understanding, agreement in principle, merger agreement, acquisition agreement or other similar agreement with respect to any Alternative Transaction (other than an Acceptable Confidentiality Agreement entered into in compliance with Section 6.14(c)) (each, an "Acquisition Agreement"). Notwithstanding the foregoing, prior to the Form 20-F Effective Date, the Board of Directors of Parent may, in response to an unsolicited, written bona fide proposal or offer for a Parent Transaction, which proposal or offer did not result from any breach of this Section 6.14, (I) make an Alternative Transaction Recommendation with respect to such Parent Transaction, or (II) authorize Parent to terminate this Agreement in accordance with Section 8.1(h) in order to concurrently enter into an Acquisition Agreement providing for such Parent Transaction if, in either case, the Board of Directors of Parent or any duly constituted and authorized committee thereof has determined in good faith, after consultation with its financial advisor and outside legal counsel, that (x) the failure to take such action would be inconsistent with the fiduciary duties of the Board of Directors of Parent under applicable Law and (y) such proposal or offer for such Parent Transaction constitutes a Superior Proposal, but subject to the satisfaction of each of the following conditions: (1) Parent shall have complied with the requirements of Section 6.14(a) through Section 6.14(c), (2) Parent shall have given Investor at least three Business Days' (the "Superior Proposal Notice Period") prior written notice (a "Notice of Superior Proposal") advising Investor that Parent has received a Superior Proposal, specifying the material terms and conditions of such Superior Proposal, identifying the Person or group of Persons making such Superior Proposal and indicating that the Board of Directors of Parent intends to make an Alternative Transaction Recommendation with respect to such Superior Proposal or authorize Parent to terminate this Agreement in accordance with Section 8.1(h); (3) if Investor requests, Parent shall have negotiated, and caused its Representatives to negotiate, in good faith with Investor and its Representatives (and with Total and its Representatives, to the extent Total desires to do so) to make such adjustments in the terms and conditions of this Agreement and the Separation Transaction Agreements (as applicable) such that it would cause such Parent Transaction to no longer constitute a Superior Proposal; (4) following the end of such Superior Proposal Notice Period, the Board of Directors of Parent or any duly constituted and authorized committee thereof shall have considered in good faith and taken into account any changes to this Agreement and the Separation Transaction Agreements (as applicable) proposed by Investor in response to the Notice of Superior Proposal or otherwise, and shall have determined in good faith, after consultation with its financial advisor and outside legal counsel, that the proposal or offer for a Parent Transaction giving rise to the Notice of Superior Proposal continues to constitute a Superior Proposal; and (5) in the event of any modification to the material terms or conditions of the proposal or offer that was determined to be a Superior Proposal, Parent shall, in each case, have delivered a new Notice of Superior Proposal to Investor and shall have again complied with the requirements of this Section 6.14(d), provided that the Superior Proposal Notice Period shall be at least one Business Day (rather than the three Business Days otherwise contemplated by clause (2) of this Section 6.14(d)).

(e) Nothing contained in this Section 6.14 shall prohibit Parent or the Board of Directors of Parent from taking and disclosing to its stockholders a position contemplated by Rule 14e-2(a) or Rule 14d-9 promulgated under the Exchange Act or from making any other disclosure to Parent's stockholders if, the Board of Directors of Parent determines in good faith after consultation with outside legal counsel that the failure so to disclose would be inconsistent with its obligations under applicable Law; provided, however, that the Board of Directors of Parent shall not make an Alternative Transaction Recommendation except in accordance with Section 6.14(d).

ARTICLE VII

CONDITIONS PRECEDENT

Section 7.1 Conditions to Each Party's Obligation to Effect the Transactions. The respective obligations of Investor, Parent and SpinCo to effect the Closing are subject to the satisfaction on or prior to the Closing Date (or waiver on or prior to the Closing Date to the extent permitted by applicable Law) of the following conditions:

(a) *No Injunctions or Restraints, Illegality*. No applicable Laws shall have been adopted, promulgated or enforced by any Governmental Authority, and no temporary restraining order, preliminary or permanent injunction or other order issued by a court or other Governmental Authority of competent jurisdiction (an "Injunction") shall be in effect, having the effect of making the Investment illegal or otherwise prohibiting consummation of the Investment.

(b) *No Pending Governmental Actions*. No proceeding initiated by any Governmental Authority seeking, and which is reasonably likely to result in the granting of, an Injunction having the effect of making the Investment illegal or otherwise prohibiting consummation of the Investment shall be pending.

(c) *PRC Approvals*. The PRC Approvals shall have been obtained.

(d) *Foreign Antitrust Laws*. All notifications and filings required under any Foreign Antitrust Laws to be made prior to the Closing Date to any Governmental Authority, and all consents, approvals and authorizations required by applicable Laws to be obtained prior to the Closing Date under Foreign Antitrust Laws in order to effect the Investment shall have been made or obtained, and all waiting periods applicable to the Investment under any Foreign Antitrust Laws, shall have expired or been terminated other than those notifications, filings, consents, approvals and authorizations the failure of which to make or obtain would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on SpinCo, or a material adverse effect on the RemainCo Group (as defined in the Separation Agreement), Total or TZS, in each case, taken as a whole.

(e) *Effectiveness of the Form 20-F*. The Form 20-F shall have been declared effective by the SEC and shall not be subject to any order suspending the effectiveness of the Form 20-F or any stop order; and no proceedings for such purposes shall have been pending before or threatened by the SEC.

(f) *Mailing of the Form 20-F*. Copies of the Form 20-F shall have been mailed to the Record Holders (as defined in the Separation Agreement).

(g) *NASDAQ Listing*. The SpinCo Shares shall have been approved for listing on the NASDAQ (or other mutually acceptable national securities exchange), subject to official notice of issuance.

(h) *Surplus and Solvency Opinions*. The Board of Directors of Parent and the Board of Directors of SpinCo, as applicable, shall have received the Surplus and Solvency Opinions contemplated by clauses (b) and (c) of Section 6.12 and such opinions shall not have been withdrawn, modified or rescinded.

(i) *Other Agreements*. (i) The Escrow Agreement and each of the Separation Transaction Agreements contemplated to be in effect at such time shall be in full force and effect and each party thereto shall have performed or complied with, in all material respects, the obligations required to be performed or complied with by it under such agreement at or prior to the Closing Date, and (ii) each of the Shareholders Agreement and the Registration Rights Agreement shall have been executed by all parties thereto and shall become effective immediately upon Closing in accordance with their respective terms.

(j) *Internal Restructuring, Separation and Distribution*. Each of (i) the Internal Restructuring, (ii) the Separation and (iii) the Distribution shall have been consummated on the terms and conditions set forth in the Separation Agreement.

(k) *Incorporation of SpinCo*. SpinCo shall have been duly incorporated and shall have been converted from a private company to a public company under the Companies Act, Chapter 50 of Singapore.

(l) *Securities Filings*. The actions and filings necessary or appropriate under applicable U.S. federal, U.S. state or other securities Laws or blue sky Laws (and any comparable Laws under any foreign jurisdiction) and the rules and regulations thereunder will have been taken or made, and, where applicable, will have become effective or been accepted.

(m) *Governmental Approvals*. Any Governmental Approvals (as defined in the Separation Agreement) required for the consummation of the Separation and the Distribution shall have been obtained.

(n) *Debt Financing*. SpinCo and the other parties thereto shall have entered into definitive agreements with respect to the Debt Financing and shall have delivered to Investor evidence reasonably satisfactory to Investor that (i) all conditions precedent to the utilization of the Debt Financing have been satisfied or waived and (ii) the Debt Financing has not been utilized.

(o) *Additional Financing*. SpinCo and the other parties thereto shall have either (i) entered into definitive agreements with respect to the Additional Financing and shall have delivered to Investor evidence reasonably satisfactory to Investor that (A) all conditions precedent to the utilization of the Additional Financing have been satisfied or waived and (B) the Additional Financing has not been utilized, or (ii) put into place (A) the alternative working capital arrangements set forth in Schedule 7.2(o) and (B) the Supply Agreement (including Section 5(b) thereof), in each case, such that they will be effective concurrent with the Closing.

(p) *Relevant Employee Consulting*. If, and to the extent required by applicable Law, Parent shall have, and shall have procured that any applicable Subsidiary of Parent shall have, informed, consulted or more generally involved any relevant employee representative bodies, in connection with the transactions contemplated by this Agreement and the Separation Agreement, and shall have provided Investor and Total with copies of such employee representative information documents, opinions, decisions or similar relevant justification documents, as applicable.

(q) *Transaction Waiver*.

(i) If (A) a General Waiver has not been obtained from the SIC pursuant to Section 6.6(a), and (B) based on the advice of counsel, the Parties and Total reasonably determine that the Investment is expected to trigger the mandatory general offer provisions under Rule 14 of the Singapore Code, then a Ruling or a Specific Waiver (in each case, applicable to the Investment) shall have been obtained from the SIC on conditions reasonably satisfactory to the Parties and Total.

(ii) If (A) a General Waiver has not been obtained from the SIC pursuant to Section 6.6(a), and (B) based on the advice of counsel, Parent, SpinCo and Total reasonably determine that the Distribution is expected to trigger the mandatory general offer provisions under Rule 14 of the Singapore Code, then a Ruling or a Specific Waiver (in each case, applicable to the Distribution) shall have been obtained from the SIC on conditions reasonably satisfactory to Parent, SpinCo and Total.

Section 7.2 Additional Conditions to Obligations of Investor. The obligations of Investor to effect the Closing are subject to the satisfaction on or prior to the Closing Date (or waiver by Investor on or prior to the Closing Date to the extent permitted by applicable Law) of the following additional conditions:

(a) *Representations and Warranties*. (i) Each of the representations and warranties set forth in Section 4.2(a)(i) (Organization; Authority; Subsidiaries), Section 4.2(b) (Capital Structure) (other than Section 4.2(b)(iv) and Section 4.2(b)(vii)), Section 4.2(c)(i) (No Conflicts), Sections 4.2(d)(ii), 4.2(d)(iii), 4.2(d)(iv) and 4.2(d)(v) (Reports and Financial Statements) and Section 4.2(f) (Brokers or Finders) shall be true and correct in all respects (except, solely with respect to Section 4.2(b), for de minimis inaccuracies), in each case, as of the date of this Agreement and as of the Closing as

though made on and as of the date of this Agreement and the Closing (except to the extent that such representations and warranties speak only as of another date or dates in which case, only as of such date(s)), and (ii) each of the other representations and warranties set forth in Section 4.2 shall be true and correct (without giving effect to any limitations as to materiality or Material Adverse Effect set forth therein), in each case as of the date of this Agreement and as of the Closing as though made on and as of the date of this Agreement and the Closing (except to the extent that such representations and warranties speak only as of another date or dates in which case, only as of such date(s)), except where the failure of such other representations and warranties to be true and correct (without giving effect to any limitation as to materiality or Material Adverse Effect set forth therein), individually or in the aggregate, has not had and would not, reasonably be expected to have a Material Adverse Effect on SpinCo.

(b) *Performance of Obligations of Parent and SpinCo*. Each of SpinCo and Parent shall have performed or complied in all material respects with all agreements and covenants required by this Agreement to be performed or complied with by it on or prior to the Closing.

(c) *Material Adverse Effect*. Since the date of this Agreement, there shall not have been any Material Adverse Effect on SpinCo.

(d) *Available Cash; Financial Indebtedness*. SpinCo (i) shall hold Available Cash in an amount that is not less than the Target Cash Amount and (ii) shall not have Financial Indebtedness in an amount that is more than the Target Debt Amount, in each case, immediately prior to the Closing, and SpinCo shall have delivered to Investor written evidence thereof in form and substance reasonably satisfactory to Investor and certified to be true and correct as of the Closing Date by the chief financial officer of SpinCo.

(e) *Officer Certificate*. Parent and SpinCo shall have delivered to Investor a certificate, dated as of the Closing Date, duly executed by a senior executive officer of Parent and a senior executive officer of SpinCo, certifying as to the satisfaction of the conditions specified in Section 7.2(a)-(c) and (e).

Section 7.3 Additional Conditions to Obligations of Parent and SpinCo. The obligations of Parent and SpinCo to effect the Closing are subject to the satisfaction on or prior to the Closing Date (or waiver by Parent and SpinCo on or prior to the Closing Date to the extent permitted by applicable Law) of the following additional conditions:

(a) *Representations and Warranties*. Each of the representations and warranties of Investor set forth in Section 4.1(a) (Organization; Authority), Section 4.1(b)(i) (No Conflicts), Section 4.1(d) (Brokers or Finders), Section 4.1(f) (Acquisition for Investment), Section 4.1(g) (No Investment Company), Section 4.1(h) (Ownership of Stock) and Section 4.1(i) (Sufficient Funds) shall be true and correct in all respects, in each case, as of the date of this Agreement and as of the Closing as though made on and as of the date of this Agreement and the Closing (except to the extent that such representations and warranties speak only as of another date or dates in which case, only as of such date(s)), and each of the other representations and warranties of

Investor set forth in this Agreement shall be true and correct (without giving effect to any limitation as to materiality or Material Adverse Effect set forth therein), in each case as of the date of this Agreement and as of the Closing as though made on and as of the date of this Agreement and the Closing (except to the extent that such representations and warranties speak only as of another date or dates in which case, only as of such date(s)), except where the failure of such representations and warranties to be true and correct (without giving effect to any limitation as to materiality or Material Adverse Effect set forth therein) has not had and would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Investor.

(b) *Performance of Obligations of Investor*. Investor shall have performed or complied in all material respects with all agreements and covenants required by this Agreement to be performed or complied with by it on or prior to the Closing.

(c) *Officer Certificate*. Investor shall have delivered to Parent and SpinCo a certificate, dated as of the Closing Date, duly executed by a senior executive officer of Investor, certifying as to the satisfaction of the conditions specified in Section 7.3(a)-(b).

(d) *Representation Letter Supporting Tax-Free Distribution of SpinCo*. Investor shall have delivered to Parent a representation letter, in substantially the form set forth on Schedule 7.3(d), that will be used to support a Tax opinion from Parent's counsel that the Distribution satisfies the requirements of Section 355 of the Code (the "Investor Representation Letter").

ARTICLE VIII

TERMINATION AND AMENDMENT

Section 8.1 Termination. This Agreement may be terminated at any time prior to the Closing Date, by action taken or authorized by the Board of Directors of the terminating Party or Parties as provided below:

(a) by the mutual written consent of Parent and Investor;

(b) by either Parent or Investor if the Closing shall not have occurred on or before August 8, 2020 (as such date may be extended pursuant to the following provisos, the "Termination Date"); provided, that the Termination Date shall be extended by 45 days if the Parties engage in discussions pursuant to Section 6.9(f)(iii); provided, further that if, on August 8, 2020 (or September 22, 2020 if the Termination Date has been extended pursuant to the preceding proviso), the condition set forth in Section 7.1(d) shall not have been satisfied and no event shall have occurred that has resulted, or could reasonably be expected to result, in any other condition set forth in Article 7 not being satisfied, then the Termination Date may be extended to November 8, 2020 (or December 23, 2020 if the Termination Date has been extended pursuant to the preceding proviso) if either Parent or Investor notifies the other Parties in writing prior to the initial Termination Date (as extended pursuant to the preceding proviso, if applicable) of its election to so extend the Termination Date; provided, further, that the

right to terminate this Agreement pursuant to this Section 8.1(b) shall not be available to any Party that has breached in any material respect any of its obligations under this Agreement where such breach was the cause of, or resulted in, the failure of the Closing Date to occur on or before the Termination Date;

(c) by either Parent or Investor if any Governmental Authority shall have issued an order, decree or ruling or taken any other action permanently restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement, and such order, decree, ruling or other action shall have become final and nonappealable; provided, however, that the right to terminate this Agreement pursuant to this Section 8.1(c) shall not be available to any Party if it has breached in any material respect any of its obligations under this Agreement where such breach was the cause of, or resulted in, the issuance of, or the failure to be resolved or lifted of, such order, decree, ruling or other action;

(d) by either Parent or Investor if the PRC Approvals shall not have been obtained prior to the Termination Date; provided, however, that the right to terminate this Agreement pursuant to this Section 8.1(d) shall not be available to any Party if it has breached in any material respect any of its obligations under this Agreement where such breach was the cause of, or resulted in, the failure to obtain such PRC Approvals;

(e) by Parent, if Investor shall have breached or failed to perform any of its representations, warranties, covenants or other agreements contained in this Agreement, such that the conditions set forth in Section 7.3(a) or Section 7.3(b) are not capable of being satisfied on or before the Termination Date;

(f) (i) by Parent, if the Board of Directors of Parent in good faith concludes (after consultation with its outside legal counsel and the Solvency Firm) that the conditions set forth in Section 7.1(h) related to the Surplus and Solvency Opinions contemplated by Sections 6.12 are not reasonably capable of being satisfied on or before the Termination Date based on facts available to the Board of Directors of Parent at the time of such conclusion (the "Solvency Condition Determination") or (ii) by Investor, if (A) the Board of Directors of Parent has made the Solvency Condition Determination and (B) Parent has not terminated this Agreement pursuant to the foregoing clause (i) within five Business Days after making such Solvency Condition Determination;

(g) by Investor, if Parent or SpinCo shall have breached or failed to perform any of their representations, warranties, covenants or other agreements contained in this Agreement, such that the conditions set forth in Section 7.2(a) or Section 7.2(b) are not capable of being satisfied on or before the Termination Date;

(h) by Parent prior to the Form 20-F Effective Date, if (i) the Board of Directors of Parent shall have authorized Parent to terminate this Agreement in order to concurrently enter into an Acquisition Agreement with respect to a Superior Proposal, and (ii) Parent concurrently with the termination of this Agreement pursuant to this Section 8.1(h) enters into an Acquisition Agreement with respect to such Superior Proposal referred to in the foregoing clause (i); provided that Parent shall not be entitled to terminate this

Agreement pursuant to this Section 8.1(h) unless Parent has complied with Section 6.14 with respect to such Superior Proposal and shall have paid (or caused to be paid) in full the Parent Transaction Fee due under (and in accordance with) Section 8.2(b)(ii) prior to or concurrently with terminating this Agreement pursuant to this Section 8.1(h), and any purported termination pursuant to this Section 8.1(h) shall be void and of no force or effect if Parent shall not have paid (or caused to be paid) in full the Parent Transaction Fee due under (and in accordance with) Section 8.2(b)(ii); or

(i) by Investor prior to the Form 20-F Effective Date, if the Board of Directors of Parent shall have made an Alternative Transaction Recommendation.

Section 8.2 Effect of Termination.

(a) In the event of termination of this Agreement by either Parent or Investor as provided in Section 8.1, this Agreement shall become void and there shall be no liability or obligation on the part of Investor, Parent, SpinCo, Total or their respective Subsidiaries, officers or directors under this Agreement, except that the second sentence of Section 6.2, Section 6.4, this Section 8.2 and Article IX (other than Section 9.11) shall survive such termination.

(b) If this Agreement is terminated by:

(i) Investor pursuant to Section 8.1(b), Section 8.1(c), or Section 8.1(g), in each case, as a result of any intentional breach by Parent, then (A) Parent shall (1) pay (or cause to be paid), or instruct the Escrow Agent to release from the Parent Escrow Fund, to Investor an amount equal to the Parent Termination Fee, and (2) instruct the Escrow Agent to release to Investor the Investor Escrow Fund, and (B) the Parties shall jointly instruct the Escrow Agent to release (1) to Investor, if applicable, the Purchase Price Escrow Fund and (2) to Parent the remainder of the Parent Escrow Fund, after taking into account any release or payment pursuant to clause (A)(1) of this Section 8.2(b)(i);

(ii) Parent pursuant to Section 8.1(h), then (A) Parent shall (1) pay (or cause to be paid), or instruct the Escrow Agent to release from the Parent Escrow Fund, to Investor an amount equal to the funds held in the Parent Escrow Fund, (2) pay (or cause to be paid) to Investor an amount equal to (x) the Parent Transaction Fee *less* (y) the amount of funds held in the Parent Escrow Fund paid to Investor pursuant to the foregoing clause (A)(1), and (3) instruct the Escrow Agent to release to Investor the Investor Escrow Fund, and (B) the Parties shall jointly instruct the Escrow Agent to release to Investor, if applicable, the Purchase Price Escrow Fund; provided that all payments and releases of funds contemplated by the foregoing clauses (A)(1) and (A)(2) shall occur prior to or concurrently with the termination of this Agreement by Parent pursuant to Section 8.1(h);

(iii) Investor pursuant to Section 8.1(i) and such Alternative Transaction Recommendation relates to a Parent Transaction, then (A) Parent shall (1) pay (or cause to be paid), or instruct the Escrow Agent to release from the Parent Escrow Fund, to Investor an amount equal to the funds held in the Parent Escrow Fund, (2) pay (or cause to be paid) to Investor an amount equal to (x) the Parent Transaction Fee *less* (y) the amount of funds held in the Parent Escrow Fund paid to Investor pursuant to the foregoing clause (A)(1), and (3) instruct the Escrow Agent to release to Investor the Investor Escrow Fund, and (B) the Parties shall jointly instruct the Escrow Agent to release to Investor, if applicable, the Purchase Price Escrow Fund; or

(iv) Investor pursuant to Section 8.1(i) and such Alternative Transaction Recommendation relates to an Alternative Transaction that is not a Parent Transaction, then (A) Parent shall (1) pay (or cause to be paid), or instruct the Escrow Agent to release from the Parent Escrow Fund, to Investor an amount equal to the Parent Termination Fee, and (2) instruct the Escrow Agent to release to Investor the Investor Escrow Fund, and (B) the Parties shall jointly instruct the Escrow Agent to release (1) to Investor, if applicable, the Purchase Price Escrow Fund and (2) to Parent the remainder of the Parent Escrow Fund, after taking into account any release or payment pursuant to clause (A)(1) of this Section 8.2(b)(iv).

(c) If this Agreement is terminated by:

(i) Investor or Parent pursuant to Section 8.1(d), provided that, Parent and SpinCo shall have timely performed their obligations pursuant to Section 5.1(c)(i), (A) Investor shall (1) pay (or cause to be paid), or instruct the Escrow Agent to release from the Investor Escrow Fund, to Parent an amount equal to the Investor Termination Fee, and (2) instruct the Escrow Agent to release to Parent the Parent Escrow Fund, and (B) the Parties shall jointly instruct the Escrow Agent to release (1) to Investor the remainder of the Investor Escrow Fund, after taking into account any release or payment pursuant to clause (A)(1) of this Section 8.2(c)(i), and (2) to Investor, if applicable, the Purchase Price Escrow Fund; or

(ii) Parent pursuant to Section 8.1(b), Section 8.1(c), or Section 8.1(e), in each case, as a result of any intentional breach by Investor, (A) Investor shall (1) pay (or cause to be paid), or instruct the Escrow Agent to release from the Investor Escrow Fund, to Parent an amount equal to the Investor Termination Fee, and (2) instruct the Escrow Agent to release to Parent the Parent Escrow Fund, and (B) the Parties shall jointly instruct the Escrow Agent to release (1) to Investor the remainder of the Investor Escrow Fund, after taking into account any release or payment pursuant to clause (A)(1) of this Section 8.2(c)(ii), and (2) to Investor, if applicable, the Purchase Price Escrow Fund.

(d) If this Agreement is terminated by:

(i) Parent or Investor pursuant to Section 8.1(b) and (A) prior to such termination any Person or group of Persons submits a proposal or offer for an Alternative Transaction that is not a Parent Transaction, which Alternative Transaction shall not have been withdrawn as of such termination, and (B) at any time on or prior to the date that is seven months following such termination, Parent,

SpinCo or any of their Subsidiaries consummates, or enters into a definitive agreement for, any Alternative Transaction that is not a Parent Transaction (in each case, whether or not such Alternative Transaction was the same Alternative Transaction referred to in clause (A) hereof), Parent shall pay to (or cause to be paid to) Investor the Parent Termination Fee by wire transfer (to an account designated by Investor) in immediately available funds prior to or concurrently with the consummation of, or entry into a definitive agreement for, such Alternative Transaction; provided that, solely for purposes of this Section 8.2(d)(i), the term "Alternative Transaction" shall have the meaning set forth in clauses (a), (b), or (c) of the definition of Alternative Transaction except that all references to 20% shall be deemed references to 50%; or

(ii) Parent or Investor pursuant to Section 8.1(b) and (A) prior to such termination any Person or group of Persons submits a proposal or offer for a Parent Transaction which shall not have been withdrawn as of such termination, and (B) at any time on or prior to the date that is seven months following such termination, Parent or any of its Subsidiaries consummates, or enters into a definitive agreement for, any Parent Transaction (in each case, whether or not such Parent Transaction was the same Parent Transaction referred to in clause (A) hereof), Parent shall pay to (or cause to be paid to) Investor the Parent Transaction Fee by wire transfer (to an account designated by Investor) in immediately available funds prior to or concurrently with the consummation of, or entry into a definitive agreement for, such Parent Transaction.

(e) If this Agreement is terminated for any reason other than as described in Sections 8.2(b) or 8.2(c), then the Parties will jointly instruct the Escrow Agent to (i) release to Investor the Investor Escrow Fund and, if applicable, the Purchase Price Escrow Fund and (ii) release to Parent the Parent Escrow Fund.

(f) The Parties acknowledge that the agreements contained in this Section 8.2 are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, the Parties would not enter into this Agreement; accordingly, (i) if Investor fails promptly to pay, or to instruct the Escrow Agent to release to, Parent any amount due from Investor pursuant to this Section 8.2, and, in order to obtain such payment, Parent commences a suit which results in a judgment against Investor for payment of the fee set forth in this Section 8.2, Investor will pay to Parent its reasonable attorneys' fees and expenses incurred in connection with such suit, together with interest on the amount of such fee from the date such payment is required to be made until the date such payment is actually made and (ii) if Parent fails promptly to pay, or to instruct the Escrow Agent to release, to Investor any amount due from Parent pursuant to this Section 8.2, and, in order to obtain such payment, Investor commences a suit which results in a judgment against Parent for payment of the fee set forth in this Section 8.2, Parent will pay to Investor its reasonable attorneys' fees and expenses incurred in connection with such suit, together with interest on the amount of such fee from the date such payment is required to be made until the date such payment is actually made. Interest under this Section 8.2(f) will accrue at the annual rate published by The Wall Street Journal as the U.S. prime rate plus 2.0% on the date such payment was required to be made (compounded monthly).

(g) The Parties hereby agree that the amounts payable by Investor pursuant to Section 8.2 will be the sole and exclusive remedy of Parent or SpinCo against Investor or any of its Affiliates or any stockholders, partners, members, directors, officers, employees or agents of any of the foregoing for any losses or damages suffered by Parent or SpinCo as a result of the failure of the transactions contemplated by this Agreement to be consummated, and upon payment of the amounts payable by Investor pursuant to this Section 8.2, none of Investor, any of its Affiliates or any stockholders, partners, members, directors, officers, employees or agents of any of the foregoing, as the case may be, shall have any further liability or obligation relating to or arising out of this Agreement or the transactions contemplated hereby. The Parties agree that the amounts payable by Parent pursuant to this Section 8.2 will be the sole and exclusive remedy of Investor and its stockholders, partners, members, directors, officers, employees or agents against Parent, SpinCo and their respective Subsidiaries, stockholders, partners, members, directors, officers or agents for any losses or damages suffered by Investor, any of its Affiliates or any of their respective stockholders, partners, members, directors, officers, employees or agents as a result of the failure of the transactions contemplated by this Agreement to be consummated, and upon payment of the amounts payable by Parent pursuant to this Section 8.2, none of Parent, SpinCo, or any of their respective Subsidiaries, stockholders, partners, members, directors, officers, employees or agents, as the case may be, shall have any further liability or obligation relating to or arising out of this Agreement or the transactions contemplated by this Agreement. Notwithstanding anything in this Agreement to the contrary, each Party shall be permitted and entitled to seek both a grant of specific performance and payment of the Parent Termination Fee, the Parent Transaction Fee or the Investor Termination Fee, as applicable; provided that (i) under no circumstance shall any Party be permitted or entitled to receive both (A) a grant of specific performance and (B) payment of the Parent Termination Fee, the Parent Transaction Fee or the Investor Termination Fee, as applicable, and (ii) upon the payment of the Parent Termination Fee, the Parent Transaction Fee or the Investor Termination Fee, as applicable, the remedy of specific performance shall not be available against Parent or Investor or their respective Affiliates. Notwithstanding anything to the contrary in this Agreement, the maximum aggregate liability of Parent for breach of this Agreement (whether willfully, intentionally, unintentionally or otherwise) shall not exceed the amount of the Parent Termination Fee, except in connection with the events described in Section 8.2(b)(ii), Section 8.2(b)(iii) or Section 8.2(d)(ii), in which case, the maximum aggregate liability of Parent for breach of this Agreement (whether willfully, intentionally, unintentionally or otherwise) shall not exceed the Parent Transaction Fee. Notwithstanding anything to the contrary in this Agreement, the maximum aggregate liability of Investor for breach of this Agreement (whether willfully, intentionally, unintentionally or otherwise) shall not exceed the amount of the Investor Termination Fee.

(h) For purposes of this Section 8.2, each of the Parties acknowledges that this Agreement may only be deemed to be terminated by a Party pursuant to a single subsection of Section 8.1.

(i) Except as otherwise expressly provided in this Article VIII, all payments and releases of funds pursuant to this Article VIII will be made (or caused to be made) by the applicable Party as promptly as reasonably practicable (and, in any event, within three Business Days) following the date of termination of this Agreement pursuant to this Article VIII by wire transfer of immediately available funds.

(j) Notwithstanding anything to the contrary set forth in this Agreement, if any amount should be released from the Parent Escrow Fund, the Investor Escrow Fund or the Purchase Price Escrow Fund pursuant to Section 2.3, Section 2.4 or this Section 8.2, Investor and Parent shall execute and deliver such instructions to the Escrow Agent (including any joint instructions to the extent required by the Escrow Agreement or the Escrow Agent) and take such other action as may be required to give full effect to such provisions of Section 2.3, Section 2.4 or this Section 8.2 and cause such amount to be released in accordance with the terms of the Escrow Agreement.

ARTICLE IX

GENERAL PROVISIONS

Section 9.1 Total Representations and Warranties. Total represents and warrants to Parent, SpinCo and Investor as follows: (a) it is a company duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, with all requisite corporate or other power and authority to execute, deliver and perform this Agreement and each other Investment Transaction Agreement and to consummate the transactions contemplated hereby and thereby and otherwise to carry out its obligations hereunder or thereunder; (b) this Agreement has been, and upon its execution each other Investment Transaction Agreement will have been, duly executed and delivered by it and constitutes a valid and binding agreement of it enforceable in accordance with the terms hereof, except as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other Laws of general application affecting enforcement of creditors' rights generally; and (c) the execution and delivery of each of the Investment Transaction Agreements by it and the consummation by it of the transactions contemplated hereby or thereby have been duly authorized by all necessary internal action on its part.

Section 9.2 Non-Survival of Representations, Warranties, Covenants and Agreements. This *Article IX* and the representations, warranties, covenants and agreements of Parent, SpinCo, Total and Investor, as applicable, contained in Section 4.2(b) (Capital Structure), Section 6.4 (Fees and Expenses), Section 6.8 (Non-Competition; Non-Solicitation), and Section 6.9(e) (Closing Debt Amount; Closing Cash Amount) will survive the Closing; provided that the representations and warranties contained in Section 4.2(b) will survive the Closing only until the 24-month anniversary of the Closing Date. All other representations, warranties, covenants and agreements in this Agreement will not survive the Closing, other than (for the avoidance of doubt) as set forth on Schedule 9.2.

Section 9.3 Counterparts.

(a) This Agreement may be executed in one or more counterparts (including by facsimile, PDF or other electronic transmission), all of which will be considered one and the same agreement.

(b) This Agreement, the Shareholders Agreement, the Registration Rights Agreement, the Escrow Agreement and the Separation Transaction Agreements contain the entire agreement among the Parties and Total with respect to the subject matter hereof, and supersede all previous agreements, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter.

Section 9.4 Governing Law. This Agreement and, unless expressly provided therein, the Escrow Agreement will be governed by and construed and interpreted in accordance with the Laws of Singapore without regard to rules of conflicts of laws.

Section 9.5 Binding Effect; Assignability. This Agreement will be binding upon and inure to the benefit of the Parties, Total and their respective successors and permitted assigns. No Party or Total may assign any of its rights or assign or delegate any of its obligations under this Agreement without the express prior written consent of the other Parties and Total, as applicable, except that Investor may prior to the Closing, upon notice to Parent and SpinCo, designate its Affiliate (the "Investor Designee") to purchase the Purchased Shares and to execute the Shareholders Agreement and the Registration Rights Agreement at the Closing; provided, that, such designation shall not relieve Investor of its obligations hereunder or enlarge, alter or change any obligation of any other Party or Total or due to any Party or Total. Any purported assignment, delegation or transfer not permitted by this Section 9.5 is null and void.

Section 9.6 No Third Party Beneficiaries. No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act, Chapter 53B of Singapore by a person that is not a party to this Agreement.

Section 9.7 Notices. All notices, requests, claims, demands or other communications under this Agreement will be in writing and will be given or made (and will be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service or by email (followed by delivery of an original via overnight courier service) to the respective Parties or Total at the following addresses (or at such other address for a Party or Total, as applicable, as will be specified in a notice given to the other Parties and Total, as applicable, in accordance with this Section 9.7):

If to Parent, to:

SunPower Corporation
51 Rio Robles
San Jose, California 95134
USA
Attention: General Counsel
Email: LegalNoticeSunPower@sunpowercorp.com

with copies (which will not constitute notice) to:

Jones Day
250 Vesey Street
New York, New York 10281
USA
Attention: Randi C. Lesnick
Email: rclesnick@JonesDay.com

and

Jones Day
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
USA
Attention: Erin S. de la Mare
Email: esdelamare@JonesDay.com

If to SpinCo to:

Maxeon Solar Technologies, Pte. Ltd.
8 Marina Boulevard #05-02
Marina Bay Financial Center, 018981
Singapore
Attention: Jeff Waters, Chief Executive Officer
Email: Jeff.Waters@sunpower.com

If to Investor, to:

Tianjin Zhonghuan Semiconductor Co., Ltd
No. 12 East Haitai Road, Huayuan Industrial Park,
Hi-tech Industrial Zone, Tianjin, PR China
Attention: JIANG Yuan (Head of Investment Dept.); ZHAN Huimei (Head of Finance Dept.)
Email: jiangyuan@tjsemi.com; zhanhuimei@tjsemi.com

with copies (which will not constitute notice) to:

Weil, Gotshal & Manges LLP
3001-3003, Tower 2,
Jing An Kerry Centre 1539 Nan Jing Road(W),
Shanghai 200040, PR China
Attention: Charles Ching; Chris Welty
Email: charles.ching@weil.com; chris.welty@weil.com

If to Total, to:

Total Solar INTL
2 place Jean Millier-Arche Nord Coupole/Regnault
92078 Paris La Défense Cedex
France
Attention: Jean-Charles Arrago
Email: Jean-charles.arrago@total.com

with copies (which will not constitute notice) to:

Latham & Watkins LLP
45, rue Saint-Dominique
Paris, France 75007
Attention: Olivier du Mottay
Ryan Maierson
Email: Olivier.duMottay@lw.com
Ryan.Maierson@lw.com

A Party or Total, as applicable, may, by notice to the other Parties and Total, as applicable, change the address to which such notices are to be given

Section 9.8 Severability. If any provision of this Agreement or the application thereof to any Person or circumstance is determined by an arbitrator or by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid, void or unenforceable, will remain in full force and effect and will in no way be affected, impaired or invalidated thereby. Upon such determination, the Parties (and Total, with respect to any Total Provision) will negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect, as closely as possible, the original intent of the Parties (and Total, with respect to any Total Provision).

Section 9.9 Headings. The article, section and paragraph headings contained in this Agreement are for reference purposes only and will not affect in any way the meaning or interpretation of this Agreement.

Section 9.10 Submission to Jurisdiction; Waivers. (a) Each Party and Total irrevocably agrees that any legal action or proceeding with respect to this Agreement, the transactions contemplated by this Agreement, any provision hereof, the breach, performance, validity or invalidity hereof or for recognition and enforcement of any judgment in respect hereof brought by any Party or Total or its successors or permitted assigns (each such action or proceeding, a "Dispute") shall be referred to and finally resolved by binding arbitration administered by the Singapore International Arbitration Centre in accordance with the Arbitration Rules of the Singapore International

Arbitration Centre (the "Administered Rules") for the time being in force (which rules are deemed to be incorporated by reference in this Section 9.10), except as modified herein. (b) Any Dispute to be decided pursuant to this Section 9.10 will be decided by a tribunal of three arbitrators (the "Tribunal"). The Tribunal will be chosen as follows: (i) within 15 days from the date a written notice of arbitration is delivered to respondent(s), claimant(s), on the one hand regardless of number, and respondent(s), on the other hand regardless of number, will each nominate one arbitrator; and (ii) the two arbitrators nominated by the parties to the Dispute will thereafter, within 30 days from the date on which the second of the two arbitrators is appointed in accordance with the Administered Rules, nominate a third arbitrator who will act as chairperson of the Tribunal. In the event that any party to the Dispute fails to nominate an arbitrator within the time permitted by this Agreement, then that arbitrator will be appointed pursuant to the Administered Rules. In the event that the two arbitrators appointed in accordance with this Agreement fail to appoint the third arbitrator within the time permitted by this Agreement, then the third arbitrator will be appointed pursuant to the Administered Rules. (c) The arbitration will be conducted in English. (d) Any document that a Party or Total seeks to use that is not in English will be provided along with an English translation of its relevant parts. (e) The seat of arbitration will be Singapore. (f) The Parties and Total agree that they shall treat the existence of any Dispute and the arbitration proceedings as confidential, and the Tribunal shall have the power to enter appropriate orders of confidentiality enforcing the Parties' and Total's agreement that any Dispute and resulting arbitration shall be and remain confidential. This agreement regarding confidentiality, however, shall not restrict any Party's or Total's ability to pursue enforcement of any partial or final award by the Tribunal in a court having jurisdiction thereof, and it shall not restrict any Party's or Total's ability to make such disclosures that are required by Law.

Section 9.11 Enforcement. The Parties and Total agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms. It is accordingly agreed that, subject to Section 8.2(g), the Parties shall be entitled to pursue specific performance of the terms hereof, this being in addition to any other remedy to which they are entitled at law or in equity.

Section 9.12 Parent Disclosure Schedule. The mere inclusion of an item in the relevant Parent Disclosure Schedule as an exception to a representation, warranty or covenant shall not be deemed an admission by a Party that such item represents a material exception or material fact, event or circumstance or that such item has had or would have a Material Adverse Effect with respect to SpinCo or Parent, as applicable.

Section 9.13 Amendments; Waivers. No provisions of this Agreement may be waived, amended, supplemented or modified, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the Party or Total against whom it is sought to enforce such waiver, amendment, supplement or modification and provided that the condition set forth in Section 7.1(g) may not be waived, amended, supplemented or modified unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of each Party and Total.

Section 9.14 Interpretation. In this Agreement (unless otherwise expressly provided therein), (a) words in the singular will be deemed to include the plural and vice versa and words of one gender will be deemed to include the other genders as the context requires; (b) the terms "hereof," "herein," and "herewith" and words of similar import will, unless otherwise stated, be construed to refer to this Agreement as a whole (including all of the Schedules and Exhibits hereto) and not to any particular provision of this Agreement; (c) Article, Section, Schedule and Exhibit references are to the Articles, Sections, Schedules and Exhibits to this Agreement unless otherwise specified; (d) unless otherwise stated, all references to any agreement (including the Investment Transaction Agreements and the Separation Transaction Agreements) will be deemed to include the exhibits, schedules and annexes to such agreement; (e) references to "$" will mean U.S. dollars; (f) the word "including" and words of similar import when used in this Agreement will mean "including, without limitation," unless otherwise specified; (g) the word "or" will not be exclusive; (h) unless otherwise specified in a particular case, the word "days" refers to calendar days; (i) references to "written" or "in writing" include in electronic form; (i) "to the extent" means the degree to which a subject or other thing extends, and such phrase does not mean simply "if"; (k) references herein to this Agreement or any other agreement contemplated herein will be deemed to refer to this Agreement or such other agreement as of the date on which it is executed and as it may be amended, modified or supplemented thereafter, unless otherwise specified; (l) unless expressly stated to the contrary in this Agreement, all references to "the date hereof," "the date of this Agreement" and words of similar import will all be references to November 8, 2019; (m) "intentional breach" means a breach that results from an action or inaction of a Party that such Party knows will or would reasonably be expected to result in a breach of this Agreement; and (n) from and after the Distribution, references to "SpinCo" will mean "Maxeon Solar Technologies, Ltd."

Section 9.15 Mutual Drafting. This Agreement will be deemed to be the joint work product of the Parties and, with respect to the Total Provisions, Total, and any rule of construction that a document will be interpreted or construed against a drafter of such document will not be applicable.

Section 9.16 Language. This Agreement is made and executed in English and Chinese and both languages shall have equal force and effect.

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IN WITNESS WHEREOF, the Parties and Total have caused this Agreement to be signed by their respective officers thereunto duly authorized, all as of the date first written above.

SUNPOWER CORPORATION

By: /s/ Thomas H. Werner
Name: Thomas H. Werner
Title: Chief Executive Officer

MAXEON SOLAR TECHNOLOGIES, PTE. LTD.

By: /s/ Jeff Waters
Name: Jeff Waters
Title: President

TOTAL SOLAR INTL SAS, solely for purposes of Sections 5.2, 6.1, 6.3, 6.4, 6.6, 6.8, 6.9(d), 6.10, 8.2(a) and Article IX

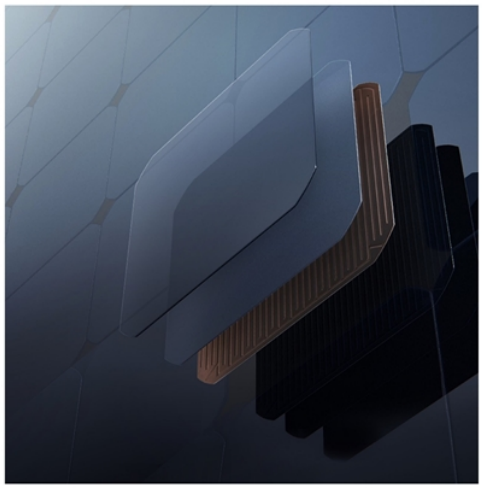
By: /s/ Noémie Le Baut
Name: Noémie Le Baut
Title: Directeur Général

TIANJIN ZHONGHUAN SEMICONDUCTOR CO., LTD.
天津中环半导体股份有限公司

By: /s/ Shen HaoPing
Name: Shen HaoPing
Title: General Manager, Chairman

Exhibit 99.1

SUNPOWER®



Separation / Investment Announcement

November 11, 2019

Safe Harbor Statement

This presentation contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, including, but not limited to, statements regarding: (a) our expectations regarding pricing trends, demand, opportunities in storage and services, margins and margin expansion, growth projections, and trends in our sales channels; (b) anticipated product launch timing, including with respect to new storage and financial products, and our expectations regarding ramp, customer acceptance, upsell and expansion opportunities; (c) our expectations and plans for short- and long-term strategy, including our anticipated areas of focus and investment, market expansion, product and technology focus, and projected growth and profitability; (d) our upstream technology outlook, including anticipated fab utilization and expected ramp and production timelines for our Next Generation Technology and Performance Series, expected cost reduction, and future performance; (e) our strategic goals and plans, including partnership discussions with respect to our Next Generation Technology, and our ability to achieve them; (f) our financial plans, including target business models for each of our business units and our ability to generate operating cash in the second half of 2019; (g) our expectation that the separation transaction takes place as contemplated or at all; and (h) full year fiscal 2019 guidance and future period projections, including GAAP and non-GAAP revenue, operational expenditures, Adjusted EBITDA, capital expenditures, and gigawatts deployed, and assumptions underlying such guidance, as well as expected quarterly improvement. Factors that could cause or contribute to such differences include, but are not limited to: (1) challenges in executing transactions key to our strategic plans, including regulatory and other challenges that may arise; (2) the success of our ongoing research and development efforts and our ability to commercialize new products and services, including products and services developed through strategic partnerships; (3) competition in the solar and general energy industry and downward pressure on selling prices and wholesale energy pricing; (4) our liquidity, substantial indebtedness, and ability to obtain additional financing for our projects and customers; (5) changes in public policy, including the imposition and applicability of tariffs; (6) regulatory changes and the availability of economic incentives promoting use of solar energy; (7) fluctuations in our operating results; (8) appropriately sizing our manufacturing capacity and containing manufacturing and logistics difficulties that could arise; and (9) challenges managing our acquisitions, joint ventures and partnerships, including our ability to successfully manage acquired assets and supplier relationships. In addition, the proposed separation may not be consummated within the anticipated period or at all and the ultimate results of any separation depend on a number of factors, including the development of final plans and the impact of local regulatory requirements. A detailed discussion of these factors and other risks that affect our business is included in filings we make with the Securities and Exchange Commission (SEC) from time to time, including our most recent reports on Form 10-K and Form 10-Q, particularly under the heading “Risk Factors,” and any subsequent filings we make with the SEC. Copies of these filings are available online from the SEC or on the SEC Filings section of our Investor Relations website at investors.sunpower.com. All forward-looking statements in this presentation are based on information currently available to us, and we assume no obligation to update these forward-looking statements in light of new information or future events.

Summary of Strategic Announcement

- **Separate into two industry leading solar companies**
  - Creates two independent, pure play solar companies, facilitates TZS investment in Maxeon Solar
  - SunPower– leading North American energy services provider
  - Maxeon Solar Technologies – advanced solar panel technologies deployed globally at scale
- **TZS investment in Maxeon Solar Technologies - $298m**
  - Enables scale of Maxeon-5 production / Maxeon-6 development
  - Accelerates conversion of Maxeon-2 to higher efficiency, lower cost Maxeon-5 technology
  - TZS supply chain provides significant model leverage

Strategic Rationale: Creates Two Strategically Positioned, Pure-Play Companies

SUNPOWER®

Maxeon Solar Technologies

Global Solar Panel Business

- TZS investment accelerates Maxeon-5, Maxeon-6 expansion
- Converting Maxeon-2 to Maxeon-5 - significant cost savings
- Increasing innovation combined with low cost supply chain
- Downstream – established channels focused on DG

SunPower

North America DG Energy Services

- #1 share leader in US DG business, strong GTM channels
- Expanding TAM through storage and services offerings
- Capital / opex light model
- Committed to American manufacturing and R&D

Maxeon Solar Technologies Spin-Off and TZS Investment

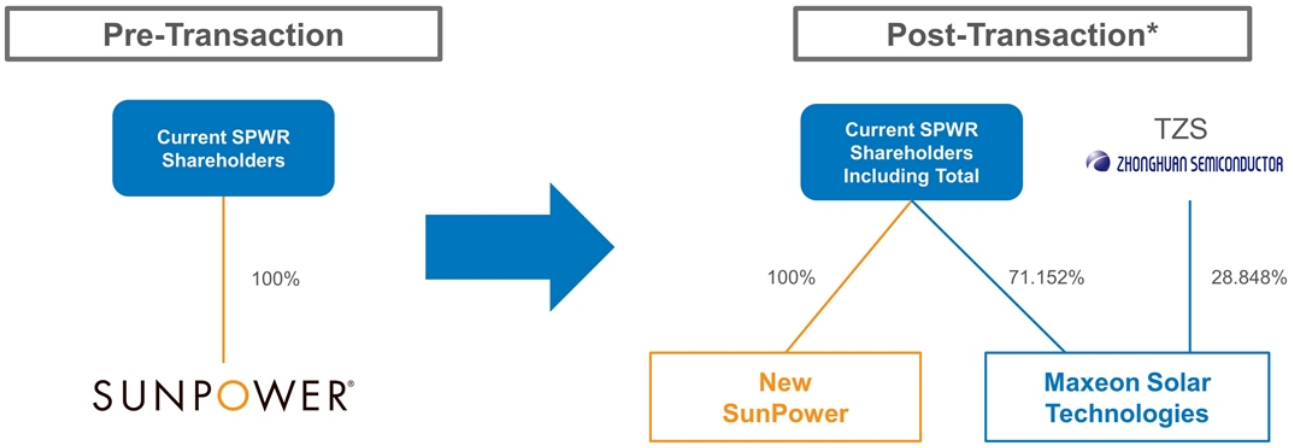
Transaction Structure	• **Spin-off of Maxeon Solar Technologies ("Maxeon Solar") to SunPower shareholders**
	  • Maxeon Solar to be headquartered in Singapore and listed on NASDAQ
	  • Distribution intended to be tax-free to SunPower shareholders

TZS Investment	• **Concurrent investment of $298 million by TZS**
	  • TZS will own ~28.848% of Maxeon Solar upon closing, implies post-money equity value of $1,033 million
	  • Builds on existing TZS relationship: 7 joint ventures, partners since 2012

Other Deal Points	• **Transaction and TZS investment unanimously approved by SunPower's Board of Directors** • **Exclusive supply agreement with SunPower for US/Canada DG market**
Timing	• **Spin-off and TZS investment expected to close in Q2 2020***

** Transaction closing subject to satisfaction of certain conditions, the satisfaction of certain TZS investment requirements (which are specified in the transaction agreements), the execution of intercompany and transition agreements, the filing and effectiveness of a registration statement with the SEC, and certain market, regulatory, and other conditions. The failure to satisfy all of the required conditions could delay the completion of the spin-off transaction for a significant period of time or prevent it from occurring at all. In addition, the spin-off transaction may not be able to be completed should TZS decide not to provide its contemplated investment.*

Existing SunPower Shareholders Will Receive New Shares in Maxeon Solar



* Based on current shareholdings

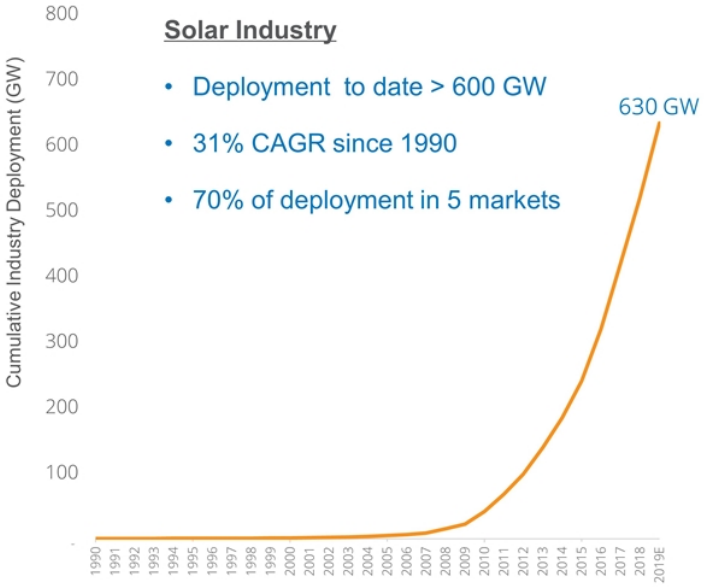
SUNPOWER

Maxeon Solar Technologies

Maxeon Solar Technologies

Advanced solar technologies…
deployed at scale.

The Past 30 Years - SunPower Drives a New Industry



Solar Industry

- Deployment to date > 600 GW
- 31% CAGR since 1990
- 70% of deployment in 5 markets

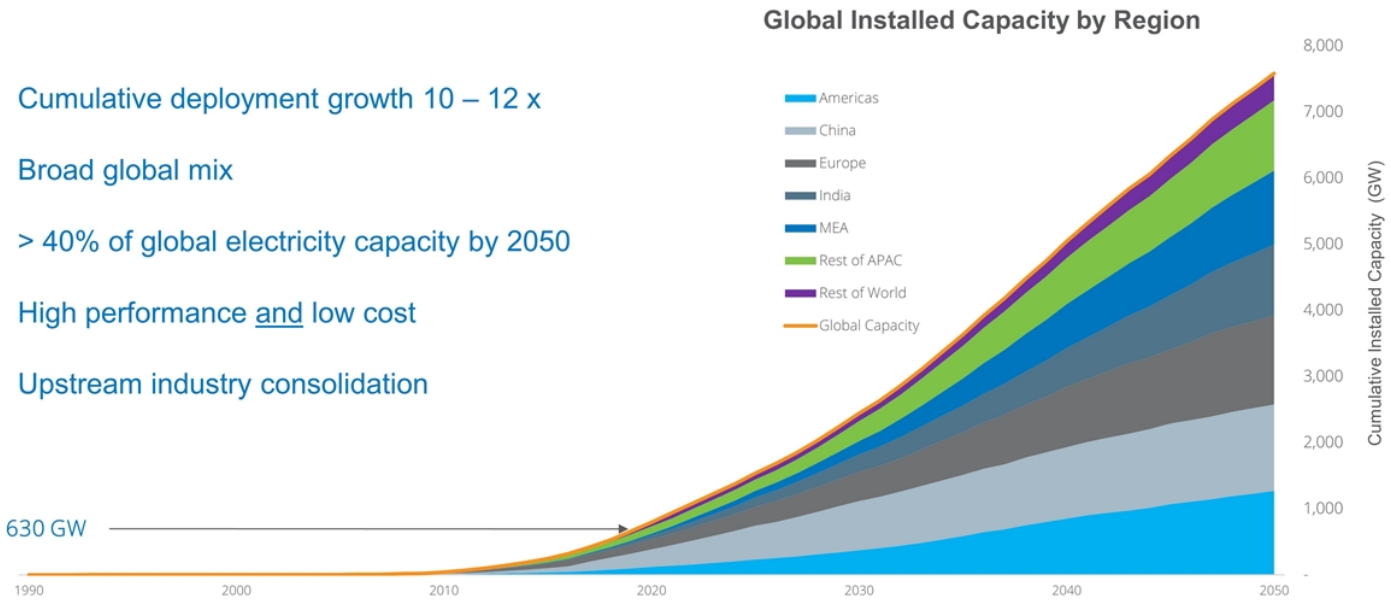
SunPower

- 35-years of technology innovation
- Deployment to date ≈ 13 GW
- ~50/50 US vs. international
- Highest performance premium products
- Well-established channels to market

Source: Company estimates, Wood MacKenzie 2001-2019, IEEE 2001

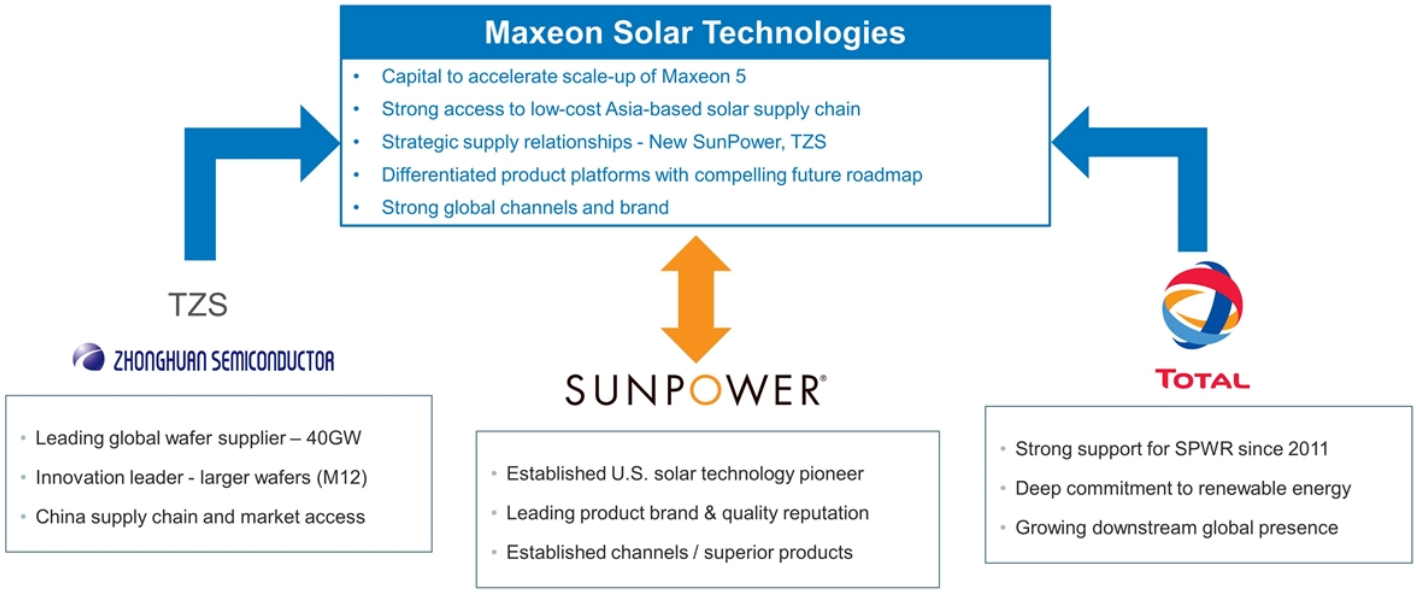
The Next 30 Years - Maxeon Solar Technologies and “The Solar Era”

- Cumulative deployment growth 10 – 12 x
- Broad global mix
- > 40% of global electricity capacity by 2050
- High performance and low cost
- Upstream industry consolidation



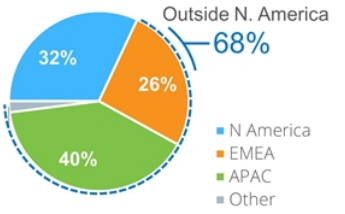
Source: BNEF New Energy Outlook 2018 and 2019

Maxeon Solar – Creating a Global Solar Industry Leader



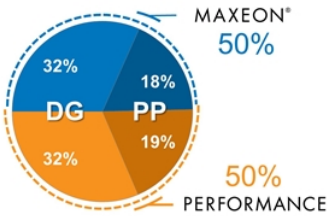
Diversified Global Reach and Portfolio

MW by Region[2]



[2] Q3 2019

MW by Product[1]



[1] YTD 2019

- Global factory footprint – Asia, Europe, Mexico
- Diverse sales base
  - Direct sales to 80+ countries, across 6 continents - exclusive supply to SunPower in US and Canada
  - DG and PP markets served by balance of Maxeon and Performance Series products

Two Proprietary Technology Platforms - Different Market Segments

MAXEON® IBC technology

Fundamentally different. And better.

Target Market

RES & Small COM - Value Drivers

- High Efficiency
- Aesthetics
- Brand recognition
- Safety (hot-spot resistant)

PERFORMANCE Shingled cell technology

Making the conventional, exceptional.

Target Market

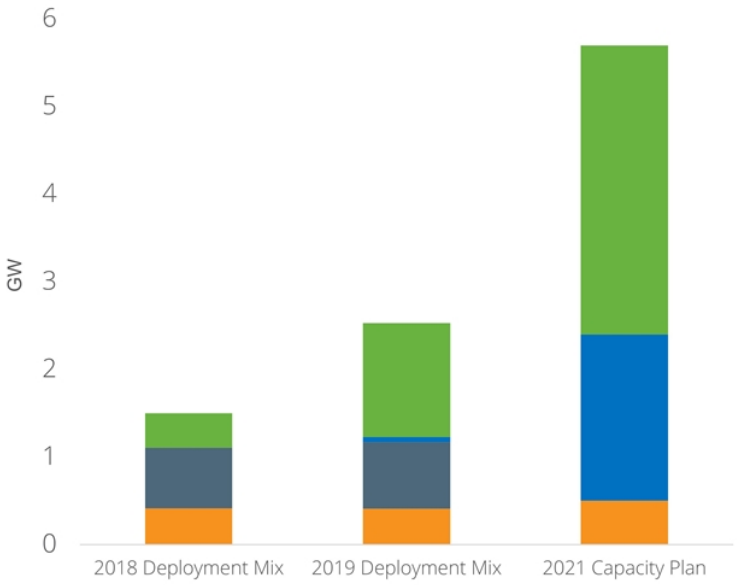
Large COM & PP Value Drivers

- Lowest LCOE
- Bankability

Residential & Small Com.	Large Commercial & Power Plant	Power Plant

Source: 2020 forecast: Company projections, Wood Mackenzie, IHS, RTS, SunWiz, PV InfoLink

Ramping Capacity Across Both Product Platforms



PERFORMANCE
- 3 GW expansion of DZS JV
- SPWR allocation is 66% of JV capacity

MAXEON® 5
- 1.9 GW new Max 5 capacity at Fab 3
- Max-5 Highest power residential solar panel

MAXEON® 3
- Highest efficiency panel on market
- Expanding capacity at Fab 4 to 500 MW

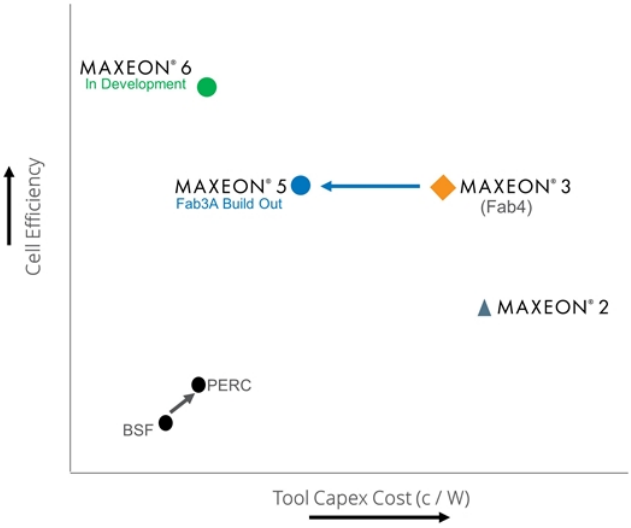
MAXEON® 2
- Technology end-of-life at Fab 3
- Converting Maxeon-2 capacity to Maxeon-5

*Capacity estimates as of November 11, 2019

The Next Generation of IBC Innovation: Maxeon® 6

- Novel low cost metallization
- Radical process simplification
- Production cell efficiency up to 26%
- Inherently safe operation (no hotspots)
- Strong fundamental patents
- Potential to scale to 8” wafers

Improved Efficiency, Process, and Capex



Maxeon Solar Long-Term Financial Model*

Equity investment from TZS fuels build out of Maxeon 5

- Twice the capacity with ½ the CapEx per watt - 50% lower cost per watt

Momentum drives future Maxeon 6 growth

- World's best efficiency with world-class CapEx costs

P-Series JV with TZS enables differentiation in Power Plant

- Premium product with CapEx efficient approach to GW's of new capacity

Diversified sales and Asia domicile builds steady business model

Revenue Growth	10-20%
Gross Margin	>15%
Operating Expenses	<7%
EBITDA	>10%

* Information derived from Company forecasts

SUNPOWER

SunPower

Re-introducing SunPower

A pure-play, DG energy services company leveraging the world's best solar platform

SunPower Uniquely Positioned to Capitalize on Distributed Solar

Residential and Commercial Channels

Residential Dealers

- Largest Residential/Small Commercial franchise
- >$1B annual revenue, 400-500MW
- >300k customers, >1.7-GW installed base, >40 states

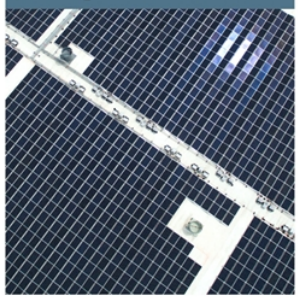
Commercial Dealers

- > 500 dealers, >200 dealers 100% loyal
- #1 New Homes Market Share - >50%

New Home Builders

Commercial Direct

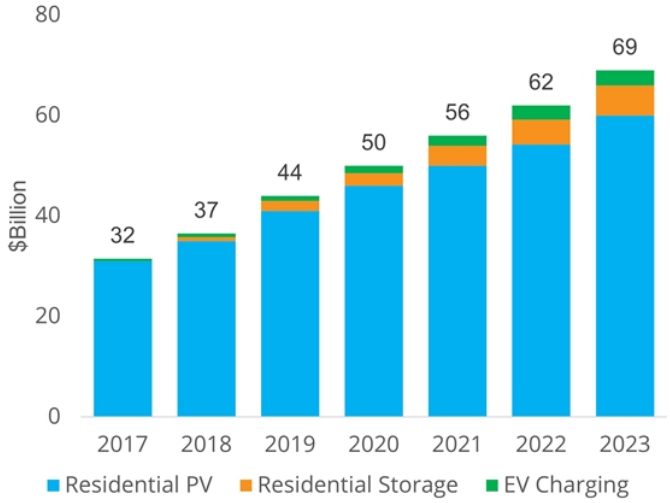
Large C&I Customers



- >$250M annual revenue, 100-150MW
- #1 US Market share for 3rd year in a row
- $3B pipeline, 35% storage attach

SunPower Primed for Success in Growing Industry

- Increasing demand in electrified world
- Solar economics surpassing all other sources
- Improved financing options of solar assets
- Storage adds resiliency, full availability
- Increasing customer control of energy use
- Digitization of everything

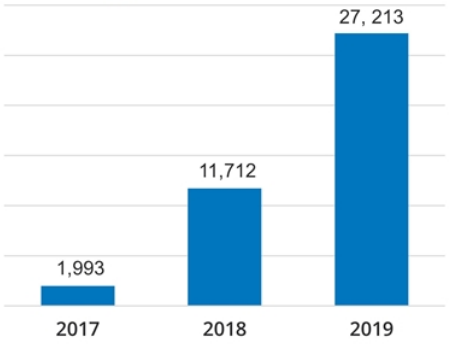


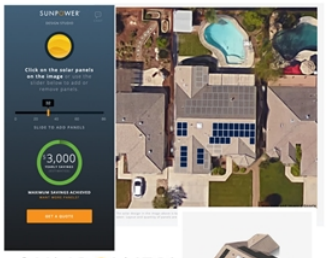
Well positioned to capitalize on key distributed energy trends

* Wood Mackenzie September 2018

Powerful Solar Energy Platform

Customer Acquisition Engine: # Appts Set for our Dealers





SUNPOWER®
DESIGN STUDIO

Expanding platform drives higher margin and increased customer and dealer loyalty

*Data as of November 11, 2019

Unmatched Residential and Commercial Dealer Network

45%
Sold and installed by 32 branded Master Dealers

>30%
Partner Sales from SunPower generated appointments

>40
States covered by US dealers

500+
Residential and Commercial Dealers Nationwide

Dealer Loyalty	SPWR	Competitor
Cumulative Customers	317,000	72,000
Cumulative Residential MW Deployed	>1.7GW	526MW
Cumulative CVAR MW Deployed	>800MW	0
Revenue Mix (cash,loan / lease)	67% / 33%	13% / 87%
# of Exclusive Dealers	197	~10
% of Volume with Largest Dealer	4%	40%

*Data as of November 11, 2019

Commanding Position in New Homes

SunPower is the solar of choice for top homebuilders—including storage in 2020

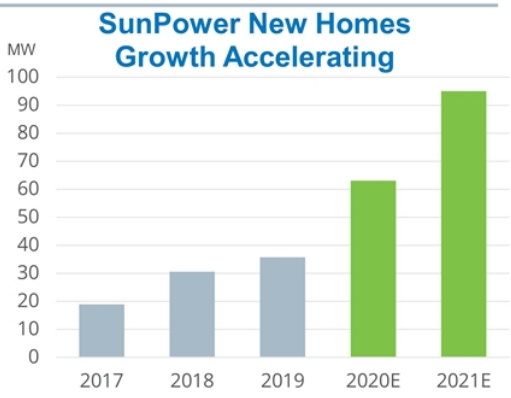
>50%
New Homes Market Share

40,000+
New Homes Contracted Backlog

18 out of 20
Top CA Builders Under Contract

250+
Communities opened in 2019

*Data as of November 11, 2019
Information from Company forecasts



*Company forecast

Commanding Position in C&I Solar and Storage

>$500m
of awards to date
for projects to be completed 2020+

8 out of 10
Top corporate buyers
are SunPower customers

65%
repeat customers
projects booked in 2017 & 2018

>30%
storage attached
with Helix intelligent software

172MW
9 sites in 4 states

65MW
110+ sites in 5 states

30MW
13 sites in 5 universities

Walmart

23MW
21 sites in Illinois

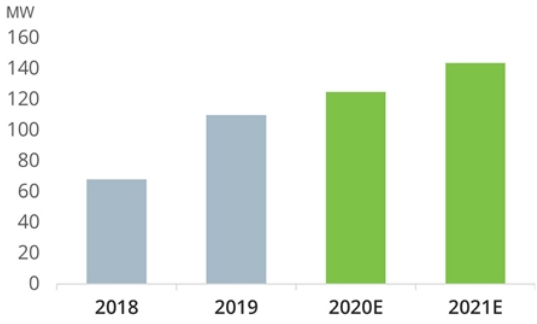
101MW
16 sites in 8 states

TOYOTA

16MW
6 sites in 3 states

*Data as of November 11, 2019
Information from Company forecasts

Leading position in Behind-the-Meter with Additional Growth Opportunities in Community Solar



*Company forecast

Best in Class Residential & Commercial Storage Solutions

Proprietary Commercial Helix® Storage Solution

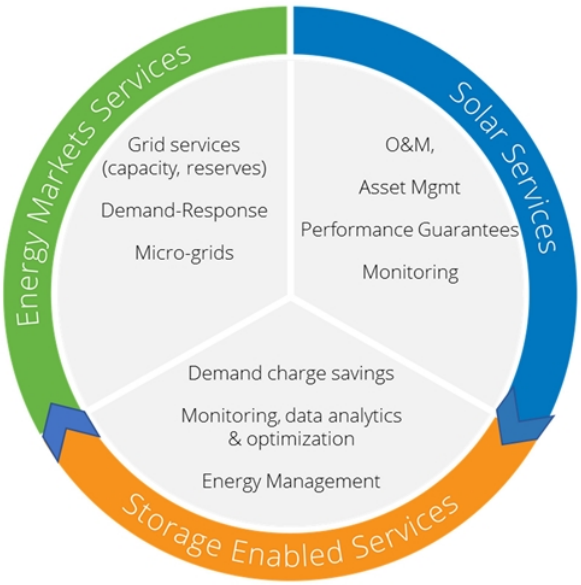
- 80% of projects booked in Q3 in CA included storage
- Extensive Storage Pipeline (30MW awards; 145MW pipeline)
- Opportunity to upsell across 1.5GW
- 35% attach rate and growing

Proprietary Residential Equinox® Storage Solution

- Opportunity to Increases revenue per customer (30-50%)
- Upsell opportunity at 300K customers
- California outages increasing demand
- Expect attach rates as high as 25% in 2020

*Data as of the end of Q3 2019

SunPower Solar + Storage Platform Enables Services Model



Expand beyond solar market with Solar + Storage + Services platform

Unlock additional value for customers, dealers, asset owners

Access to $160B in annual C&I energy spend (procurement, efficiency, management)

Scalable SunStrong Platform

- Captures retained value and refinancing upsides
- Access to capital with platform to rapidly scale services to new assets
- Maintain ownership of customer relationships
- Ability to sell additional products and energy services
- Independent, de-consolidated entity for SunPower[1]

SunStrong Asset Portfolio[2]	
Number of Customers	**64 k**
Total MW of Systems	**526 MW**
Gross Retained Value	**$1,170 M**
Net Retained Value	**$378 M**
Contracted Portion	**$155 M**
Residual Portion	**$222 M**
Contracted Service Revenue	**$329 M**

1. Joint venture with Hannon Armstrong, SunPower has 51% economic equity interest / 50% voting rights
2. Defintions included in appendix

SunPower Long-Term Financial Model

Well positioned for revenue growth

- Expanding channel footprint, new homes accelerating, adding storage

Differentiated products, sales channels deliver a premium

- A-Series ramp, addition of storage and services improve margins

Capex / asset light model improves cash flow

- Opex reductions driven by growth, digitization, dealer structure

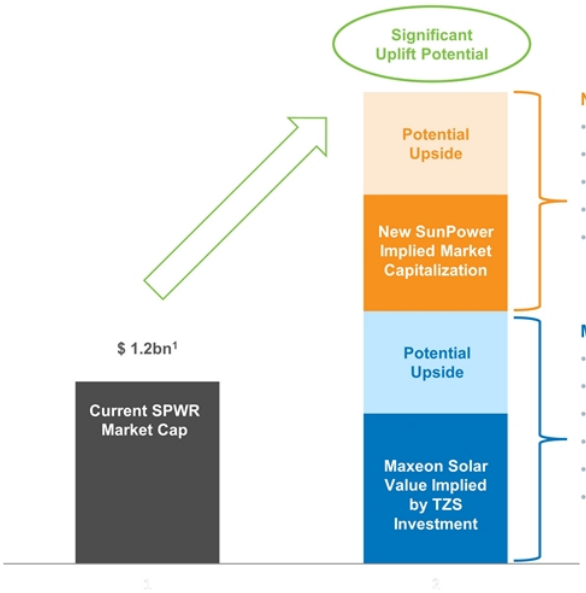
Simple, cash based P+L - easy to model

Revenue Growth	10-20%
Gross Margin	>20%
Operating Expenses	<10%
EBITDA	>10%

SUNPOWER

Unlocking the Value of the Platforms

Opportunity to Unlock Shareholder Value



New SunPower (excl. Maxeon Solar)

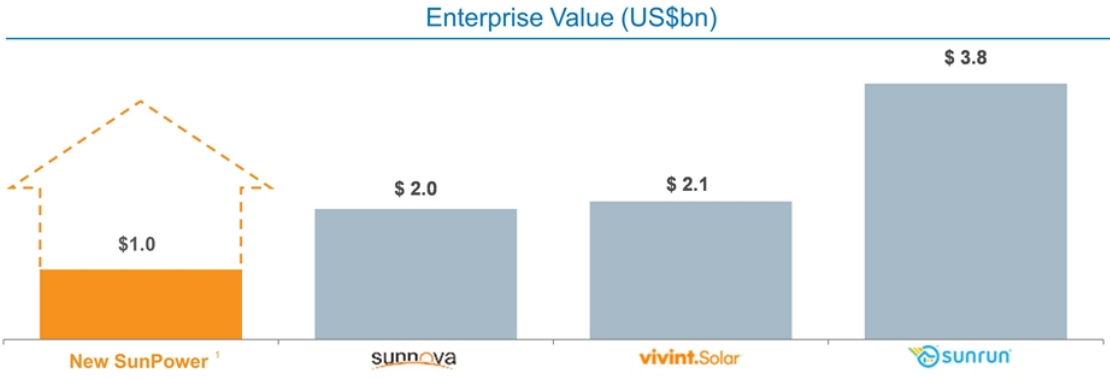
- Significant embedded value based on relative valuation
- Number 1 platform and origination engine
- Large TAM as SPWR focuses on growing energy services
- Capex, opex and working capital lite
- Simple, transparent cash based financials

Maxeon Solar

- Spin will facilitate TZS investment, expected to unlock unrealized value
- SunPower shareholders will receive approximately 71.152% of Maxeon Solar post TZS investment
- Advanced technology deployed globally at scale
- TZS investment builds out Maxeon 5 capacity – better performance, lower cost than Maxeon 2
- JV to add 3GW more Performance-Series capacity by 2021
- Strong channels / brand drive sales to 80+ countries, exclusively to SunPower in US/CAN

[1] Based on S&P Capital IQ data as of 08-Nov-2019 and diluted shares outstanding (as per 10-Q3 2019 filing, including conversion of RSUs)

Significant Embedded Value Based on Relative Valuation



	New SunPower [1]	sunnova	vivint.Solar	sunrun
LTM Residential MW[2]	267	122	221	403
Cash/Loan % of LTM MW Deployed	***75 %***	*26 %*	*15 %*	*16 %*
LTM Commercial MW	175	None	None	None
LTM MW (Total)	**442**	**122**	**221**	**403**
2020E EBITDA Estimate[3]	$ 65 – 85mm	$ 58mm	$(1)mm	$ 39mm

[1] Based on SPWR enterprise value (SPWR Market Cap of $1.2B, and YE 2019 net debt estimates at $0.5B) less enterprise value of Maxeon solar as implied by TZS investment

[2] Based on latest disclosed LTM residential MW deployed. Reflects Q3 2019 for New SPWR, NOVA and VSLR, and Q2 2019 for RUN

[3] 2020E EBITDA for New SPWR based on company guidance. 2020E EBITDA of peers based on median IBES broker consensus estimates as of 08-Nov-2019

Summary Financials

	Maxeon Solar			New SunPower		
	2019PF	2020PF	Target Model	2019PF	2020PF	Target Model
Revenue [1] ($billion)	$1.0 – $1.2	$1.0 – $1.2	10% – 20% growth	$1.0 – $1.2	$1.2 – $1.4	10% – 20% growth
Gross Margin (% of Sales)	10% – 12%	9% – 12%	> 15%	11% – 13%	14% – 17%	>20%
Adjusted [2] EBITDA ($mm)	$75 – $85	$65 – $85	-	$25 – $35	$65 – $85	-
Adjusted EBITDA Margin	6% – 8%	6% – 8%	> 10%	2% – 4%	4% – 7%	>10%

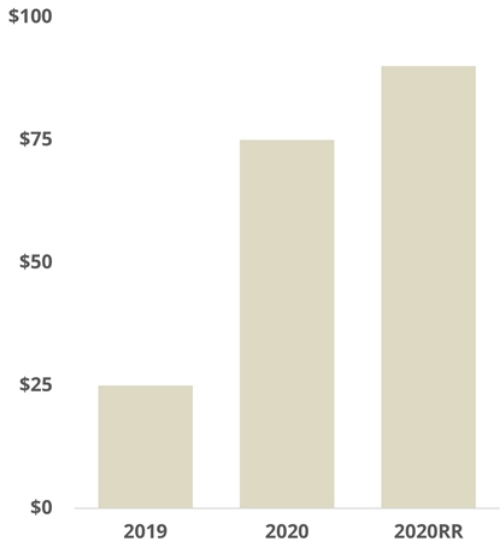
[1] Maxeon Solar revenues includes full impact of sales to New SPWR including 2019 safe harbor sales

[2] $10 million of 2019 Corporate opex allocated to Maxeon Solar; legacy power plant project sales and Oregon operations remains in New SunPower

[3]PF figures are estimates and target model achievement anticipated by the end of FY 2021 – additional information on proforma presentations in appendix

2020 New SPWR Margin Drivers

Adjusted EBITDA
(in $ millions)



Significant visibility to margin expansion

	2019	2020	2020 RR
Helix storage pipeline attach rates	30%	>40%	>50%
Equinox attach rates	0%	5%-10%	Up to 25%
New Homes deployment (MW)	>30	>50	>70
A series deployment (MW)	Up to 100	>150	>250
Better cost of capital	lease	loan + lease	loan/Lease/C&I
System cost (% of 2018)[1]	95%	<90%	<85%
Opex (% of sales)	~13%	~10%	<10%

Note 1: Cost data representative of improvements in Residential systems; actuals may vary based on system specifications
Note 2: 2020E RR represents run rate based on Company projections

Balance sheet

	Maxeon Solar	New SunPower
Key Debt and Other Liabilities	▪ New debt facility at spin ▪ Legacy liabilities	▪ Existing 2021/2023 convertible debt
Available Liquidity	▪ $50 million legacy SPWR cash ▪ TZS Equity investment of $298 million ▪ New revolver at spin	▪ All other legacy cash remains with SPWR ▪ Repayment of $100 million note from Maxeon Solar ▪ $55 million revolver ▪ 6.5 million Enphase shares, proceeds from asset sales ▪ Continue to evaluate additional sources of funding

Summary

- **Creates two independently focused, pure-play solar companies**
- **TZS investment accelerates ramp of industry leading Maxeon-5 technology to scale**
- **Drives long term margin expansion through focused approach to each core business**
- **#1 in market share in North American DG – expanding storage / services TAM**
- **Established DG channels for Maxeon Solar to drive continued growth**
- **Robust financial position post transaction - confidence in long-term model achievement**

Appendix

Additional Information

Proforma disclosure: Management has provided in this presentation forecasted [Non-GAAP] metrics of Maxeon Solar and New SunPower on a pro forma basis giving effect to the spin-off as if it had occurred on December 31, 2018. The pro forma measures generally reflect the allocation of consolidated SunPower guidance among Maxeon Solar and New SunPower, in certain instances adjusted to reflect circumstances or events that management believes to be reasonable. The forecasted amounts reflect the use of variables, estimates and assumptions that are inherently uncertain and may be beyond the control of SunPower

Gross Retained Value Represents the remaining net contracted cash flows expected to be received during the contracted lease term (typically 20 years), plus an estimate of the residual value at the completion of the contracted period. Net contracted cash flows during the contracted period are net of distributions to tax equity partners and servicing costs. For the residual value, the assumption is 100% of lease customers renew for a 10 year period at a payment equal to 90% of the lease payment at the end of the contract period and deduct estimated servicing costs. All figures are calculated on a net present value basis using a 6% discount rate.

Net Retained Value Gross Retained Value less non-recourse debt.

Contracted Service Revenue Estimated payments from SunStrong to SunPower, acting as the asset servicer, over the remaining contracted term on a nominal basis.

Use of Non-GAAP Financial Measures

To supplement its consolidated financial results presented in accordance with United States Generally Accepted Accounting Principles ("GAAP"), the company uses non-GAAP measures that are adjusted for certain items from the most directly comparable GAAP measures.

The specific non-GAAP measures used are: revenue; gross margin; net loss; net loss per diluted share; and adjusted earnings before interest, taxes, depreciation and amortization (“Adjusted EBITDA”). Management believes that each of these non-GAAP measures are useful to investors, enabling them to better assess changes in each of these key elements of the company's results of operations across differentreporting periods on a consistent basis, independent of certain items as described below. Thus, each of these non-GAAP financial measures provide investors with another method to assess the company's operating results in a manner that is focused on its ongoing, core operating performance, absent the effects of these items. Management uses these non-GAAP measures internally to assess the business, its financial performance, current and historical results, as well as for strategic decision-making and forecasting future results. Many of the analysts covering the company also use these non-GAAP measures in their analysis. Given management's use of these non-GAAP measures, the company believes these measures are important to investors in understanding the company's operating results as seen through the eyes of management. These non-GAAP measures are not prepared in accordance with GAAP or intended to be a replacement for GAAP financial data; and therefore, should be reviewed together with the GAAP measures and are not intended to serve as a substitute for results under GAAP, and may be different from non-GAAP measures used by other companies.

Non-GAAP revenue includes adjustments relating to 8point3, legacy utility and power plant projects, legacy sale-leaseback transactions and construction services for residential customer contracts, each of which is described below. In addition to the above adjustments, non-GAAP gross margin includes adjustments relating to impairment and sale of residential lease assets, impairment of property, plant, and equipment, cost of above-market polysilicon, stock-based compensation, amortization of intangible assets, and depreciation of idle equipment, each of which is described below. In addition to the above adjustments, non-GAAP net loss and non-GAAP net loss per diluted share are adjusted for adjustments relating to gain on business divestiture, transaction-related costs, business reorganization costs, non-cash interest expense, restructuring expense, the tax effect of these non-GAAP adjustments, and other items, each of which is described below. In addition to the above adjustments as non-GAAP net loss, Adjusted EBITDA includes adjustments relating to cash interest expense (net of interest income), provision for income taxes, and depreciation.

Non-GAAP Adjustments Based on IFRS

The company's non-GAAP results include adjustments under International Financial Reporting Standards ("IFRS") that are consistent with the adjustments made in connection with the company's internal reporting process as part of its status as a consolidated subsidiary of Total S.A., our controlling shareholder and a foreign public registrant that reports under IFRS. Differences between GAAP and IFRS reflected in the company's non-GAAP results are further described below. In these situations, management believes that IFRS enables investors to better evaluate the company's performance, and assists in aligning the perspectives of the management with those of Total S.A.

- Legacy utility and power plant projects: The company included adjustments related to the revenue recognition of certain utility and power plant projects based on percentage-of-completion accounting and, when relevant, the allocation of revenue and margin to our project development efforts at the time of initial project sale. Under IFRS, such projects are accounted for when the customer obtains control of the promised goods or services which generally results in earlier recognition of revenue and profit than U.S. GAAP. Over the life of each project, cumulative revenue and gross margin will eventually be equivalent under both GAAP and IFRS; however, revenue and gross margin will generally be recognized earlier under IFRS.

- Mark-to-market (gain) loss in equity investments: The company recognizes adjustments related to the fair value of equity investments with readily determinable fair value based on the changes in the stock price of these equity investments at every reporting period. Under GAAP, mark-to-market gains and losses due to changes in stock prices for these securities are recorded in earnings while under IFRS, an election can be made to recognize such gains and losses in other comprehensive income. Such an election was made by Total S.A. Further, we elected the Fair Value Option ("FVO") for some of our equity method investments, and we adjust the carrying value of those investments based on their fair market value calculated periodically. Such option is not available under IFRS, and equity method accounting is required for such investments. Management believes that excluding these adjustments on equity investments is consistent with our internal reporting process as part of its status as a consolidated subsidiary of Total S.A. and better reflects our ongoing results.

Other Non-GAAP Adjustments

- Business process improvement costs: During our quarter ended June 30, 2019, the company initiated a project to improve its manufacturing and related processes to improve gross margin in coming years and engaged third party experts to consult on business process improvements. Management believes it is appropriate to exclude these consulting expenses from our Non-GAAP financial measures as they are non-recurring in nature, and are not reflective of the company's ongoing operating results
- Loss (gain) on sale and impairment of residential lease assets: In the third quarter of fiscal 2019, in continuation of our intention to deconsolidate all the residential lease assets owned by us, we sold the remainder of residential lease assets still owned by us, that were not previously sold. Such activity is excluded from the company's non-GAAP financial measures as it is non-cash in nature and not reflective of ongoing non-GAAP results.
- Construction revenue on solar services contracts: Upon adoption of the new lease accounting guidance ("ASC 842") in the first quarter of fiscal 2019, revenue and cost of revenue on solar services contracts with residential customers are recognized ratably over the term of those contracts, once the projects are placed in service. For non-GAAP results, the company recognizes revenue and cost of revenue upfront based on the expected cash proceeds to align with the legacy lease accounting guidance. Management believes it is appropriate to recognize revenue and cost of revenue upfront based on total expected cash proceeds, as it better reflects the company's ongoing results as such method aligns revenue and costs incurred most accurately in the same period.
- Cost of above-market polysilicon: The company has entered into multiple long-term, fixed-price supply agreements to purchase polysilicon for periods of up to 10 years. The prices in select legacy supply agreements, which incorporate a cash portion and a noncash portion attributable to the amortization of prepayments made under the agreements, significantly exceed current market prices.
- Additionally, in order to reduce inventory and improve working capital, the company has periodically elected to sell polysilicon inventory in the marketplace at prices below the company's purchase price, thereby incurring a loss. Management believes that it is appropriate to exclude the impact of its above-market cost of polysilicon, including the effect of above-market polysilicon on product costs, losses incurred on sales of polysilicon to third parties, and inventory reserves and project asset impairments from the company's non-GAAP financial measures as they are not reflective of ongoing operating results and do not contribute to a meaningful evaluation of a company's past operating performance.

Other Non-GAAP Adjustments (cont.)

- Stock-based compensation: Stock-based compensation relates primarily to the company's equity incentive awards. Stock-based compensation is a non-cash expense that is dependent on market forces that are difficult to predict. Management believes that this adjustment for stock-based compensation provides investors with a basis to measure the company's core performance, including compared with the performance of other companies, without the period-to-period variability created by stock-based compensation.
- Amortization of intangible assets: The company incurs amortization of intangible assets as a result of acquisitions, which includes patents, purchased technology, project pipeline assets, and in-process research and development. Management believes that it is appropriate to exclude these amortization charges from the company's non-GAAP financial measures as they arise from prior acquisitions, are not reflective of ongoing operating results, and do not contribute to a meaningful evaluation of a company's past operating performance.
- Gain on business divestiture: In the second quarter of fiscal 2019, the company entered into a transaction pursuant to which it sold membership interest in certain of its subsidiaries that own leasehold interests in projects subject to sale-leaseback financing arrangements. In connection with this sale, the company recognized a gain relating to this business divestiture. Management believes that it is appropriate to exclude these gains from the company's non-GAAP results as it is not reflective of ongoing operating results.
- Transaction-related costs: In connection with material transactions such as acquisition or divestiture of a business, the company incurred transaction costs including legal and accounting fees. Management believes that it is appropriate to exclude these costs from the company's non-GAAP financial measures as they would not have otherwise been incurred as part of its business operations and are therefore not reflective of ongoing operating results.
- Business reorganization costs: In connection with the reorganization of our business into an upstream and downstream business unit structure, the company incurred and expects to continue incurring expenses in the upcoming quarters associated with reorganization of corporate functions and responsibilities to the business units, updating accounting policies and processes and implementing systems. The company also incurred and expects to incur costs in financing its Next Generation Technology ("NGT") business. The company believes that it is appropriate to exclude these from our segment results as they would not have otherwise been incurred as part of its business operations and are therefore not reflective of ongoing operating results.
- Non-cash interest expense: The company incurs non-cash interest expense related to the amortization of items such as original issuance discounts on its debt. The company excludes non-cash interest expense because the expense does not reflect its financial results in the period incurred. Management believes that this adjustment for non-cash interest expense provides investors with a basis to evaluate the company's performance, including compared with the performance of other companies, without non-cash interest expense.

Other Non-GAAP Adjustments (cont.)

- Restructuring expenses: The company incurs restructuring expenses related to reorganization plans aimed towards realigning resources consistent with the company's global strategy and improving its overall operating efficiency and cost structure. Restructuring charges are excluded from non-GAAP financial measures because they are not considered core operating activities and such costs have historically occurred infrequently. Although the company has engaged in restructuring activities in the past, each has been a discrete event based on a unique set of business objectives. As such, management believes that it is appropriate to exclude restructuring charges from the company's non-GAAP financial measures as they are not reflective of ongoing operating results or contribute to a meaningful evaluation of a company's past operating performance.
- Tax effect: This amount is used to present each of the adjustments described above on an after-tax basis in connection with the presentation of non-GAAP net income (loss) and non-GAAP net income (loss) per diluted share. The company's non-GAAP tax amount is based on estimated cash tax expense and reserves. The company forecasts its annual cash tax liability and allocates the tax to each quarter in a manner generally consistent with its GAAP methodology. This approach is designed to enhance investors' ability to understand the impact of the company's tax expense on its current operations, provide improved modeling accuracy, and substantially reduce fluctuations caused by GAAP to non-GAAP adjustments, which may not reflect actual cash tax expense.
- Adjusted EBITDA adjustments: When calculating Adjusted EBITDA, in addition to adjustments described above, the company excludes the impact of the following items during the period:
  - Cash interest expense, net of interest income
  - Provision for income taxes
  - Depreciation

For more information about these non-GAAP financial measures, please see the table captioned "GAAP and Non-GAAP Estimates" following this slide.

GAAP and Non-GAAP Reconciliation

(in millions)	Maxeon Solar 2019 PF	Maxeon Solar 2020 PF	New SunPower 2019 PF	New SunPower 2020 PF
GAAP net (loss) income attributable to stockholders	**$ (167)**	**$ (164)**	**$ 179**	**$ 14**
Interest expense, net of interest income	3	23	48	31
Provision for income taxes	22	8	1	7
Depreciation and amortization	64	61	16	2
EBITDA	**$ (78)**	**$ (72)**	**$ 244**	**$ 54**
1 Cost of above-market polysilicon	139	111	-	-
2 IFRS-based adjustments	-	-	(128)	-
3 Non-cash items	9	14	20	29
4 Gain on business divestitures	-	-	(143)	(21)
5 Other non-recurring items	10	22	37	13
6 **Adjusted EBITDA**	**$ 80**	**$ 75**	**$ 30**	**$ 75**

1. Adjustment relates to cost of above-market cost of polysilicon, including the effect on product costs, as well as, loss on direct sales to third parties
2. Adjustments made to align IFRS, the accounting framework followed by our majority stockholder, TOTAL S.A. Adjustments primarily relate to change in fair value of marketable equity investments that is recorded in equity under IFRS, instead of earnings under GAAP
3. Adjustments for non-cash charges primarily relate to stock-based compensation expense
4. Adjustment relate to the gain on sale of commercial sale-leaseback portfolio offset by loss on sale and impairment of residential lease portfolio
5. Adjustments relate to business process improvements, business reorganization, and transaction-related costs
6. Adjusted EBITDA for Maxeon Solar and New SunPower represents the mid-point of guidance for all periods presented

Note: The forecasted non-GAAP metrics reflect the allocation of consolidated SunPower guidance among Maxeon Solar and New SunPower based on estimates and assumptions that management believe to be reasonable. However, such estimates and assumptions are inherently uncertain and actual results may differ.

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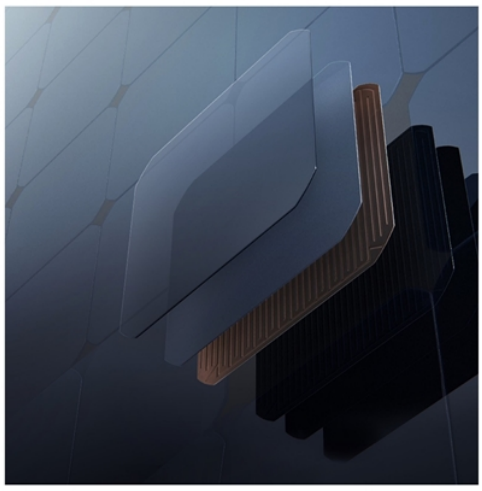

Separation / Investment Announcement

November 11, 2019

Exhibit 99.2

FOR IMMEDIATE RELEASE

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SunPower To Create Two Independent, Industry-Leading, Publicly-Traded Companies

$298 Million New Strategic Capital Investment to Support Scale-Up of Maxeon 5

Investor's Call Today at 5:30 a.m. Pacific

SAN JOSE, Calif., Nov. 11, 2019 – SunPower (NASDAQ:SPWR) today announced plans to separate into two independent, complementary, strategically-aligned and publicly-traded companies – SunPower and Maxeon Solar Technologies (Maxeon Solar). Each company will focus on distinct offerings built on extensive experience across the solar value chain.

- SunPower will continue as the leading North American distributed generation, storage and energy services company.
- Newly-formed Maxeon Solar will be the leading global technology innovator, manufacturer and marketer of premium solar panels.

Concurrent with the transaction, an equity investment of $298 million will be made in Maxeon Solar by long-time partner Tianjin Zhonghuan Semiconductor Co., Ltd. (TZS), a premier global supplier of silicon wafers, to help finance the scale-up of Maxeon® 5 production capacity.

"We believe that the solar industry is entering a period of extended growth where success will be driven by value chain specialization, technology innovation and economies of scale," said Tom Werner, president and CEO of SunPower. "This new structure and investment will create two focused businesses, each with unique expertise to excel in their part of the value chain."

SunPower: Pure Play, Focused DG Energy Services Company Leveraging the World's Best Solar Platform

Tom Werner will continue as CEO and chairman of the board of SunPower and the company will maintain its corporate headquarters in Silicon Valley (Calif.), as well as its employee and economic investment footprint across the U.S. and Canada, and its large, exclusive dealer network.

SunPower will focus on product innovation, downstream high-efficiency solar systems plus high-growth storage and energy services. The company also will continue its commitment to American manufacturing with its Hillsboro, Ore., Performance Series module assembly facility. At the time of the separation, SunPower and Maxeon Solar will have entered into a multi-year exclusive supply agreement covering sales within the U.S. and Canada of products manufactured by Maxeon Solar. Under the new structure, SunPower will continue to develop its dealer network, which represents the largest residential and light commercial franchise in the industry.

The two companies will cooperate to develop and commercialize next generation solar panel technologies, with early stage research conducted by SunPower's Silicon Valley-based research and development group, and deployment-focused innovation and scale-up carried out by Maxeon Solar.

Maxeon Solar: Advanced Technologies Deployed at Scale

Jeff Waters, currently chief executive officer of SunPower's Technologies business unit, has been named Maxeon Solar's CEO. Maxeon Solar has been incorporated and will be headquartered in Singapore and its ordinary shares are expected to be traded on NASDAQ. Maxeon Solar will own and operate solar cell and panel manufacturing facilities located in France, Malaysia, Mexico and the Philippines. It will also maintain its R&D, marketing and sales footprint outside of the U.S. and Canada.

Maxeon Solar will focus on continuing to bring its industry leading panel technology to high volume scale. It will market its high-efficiency solar panels under the SunPower brand into the global marketplace, and into the U.S. and Canada via a multi-year exclusive supply agreement to be entered into with SunPower at the time of separation. Maxeon Solar will maintain 20 percent ownership of the Performance Series manufacturing joint venture (Huansheng Photovoltaic [Jiangsu] Company, Ltd.) and will continue to market those panels globally.

Investment to Accelerate Next Generation Solar Panel Technology

“TZS’s $298 million investment into Maxeon Solar will catalyze continued scale-up of Maxeon 5® capacity at our manufacturing facility in Malaysia, allowing us to increase our distributed generation market share and accelerate profit growth,” said Jeff Waters, Maxeon Solar CEO. “This investment validates our industry-leading technology, brand and global channels to market.”

“TZS was chosen as the best investment partner for Maxeon following an exhaustive three-year independent search,” Waters said. “They bring not only the capital necessary to fast-track scale-up our Maxeon® 5 technology, but also have deep experience across the upstream Asia supply chain. SunPower has a long strategic relationship with TZS, having cooperated on seven joint ventures and joint development projects since 2012.”

“In the past eight years, TZS and SunPower have established a great and long-term partnership and the rapid scale-up of Performance Series technology to multi-gigawatt capacity has already demonstrated the power and synergy of our cooperation,” said Haoping Shen, chairman and general manager of TZS. We share with Total the consensus on business philosophy and are happy to become a shareholder of Maxeon Solar Technologies and look forward to supporting the scale-up of Maxeon technologies and the deployment of future technology innovations.”

“During the last years, SunPower has successfully adapted the company and its products in a challenging global solar market,” said Patrick Pouyanné, Total CEO. “As the main shareholder of SunPower, we support this transaction which will bring clarity and focus for both entities on their respective activities. We welcome TZS as partner in Maxeon Solar Technologies, which will be able to further develop its highly differentiated PV technology platforms and SunPower will focus on developing its leadership position in distributed generation in Northern America. Total intends to remain a shareholder of both SunPower and Maxeon Solar Technologies.”

The separation is expected to occur through a spin-off of all of the shares of Maxeon Solar held by SunPower to SunPower shareholders, followed by the TZS investment. It is intended to be tax-free to SunPower shareholders. After the completion of the transactions, TZS will own approximately 28.848 percent of the diluted ordinary shares of Maxeon Solar with approximately 71.152 percent will be owned by SunPower shareholders, as of the record date of the spin-off. SunPower expects to complete the separation and Maxeon Solar capital injection in the second quarter of 2020, subject to the satisfaction of various closing conditions.

SunPower's Board of Directors and a special committee of independent directors unanimously approved this transaction.

Investors Conference Call Today - Monday, Nov. 11, 2019 at 5:30 a.m. Pacific

SunPower will host a conference call for investors to discuss today's announcement at 5:30 a.m., Pacific Time. The dial-in for the call is (877) 371-5747, passcode SunPower. It also will be webcast and can be accessed from SunPower's website at http://investors.sunpower.com/events.cfm. The slide presentation can be accessed at this same site beginning at 4 a.m. Pacific time.

About SunPower

As one of the world's most innovative and sustainable energy companies, SunPower Corporation (NASDAQ: SPWR) provides a diverse group of customers with complete solar solutions and services. Residential customers, businesses, governments, schools and utilities around the globe rely on SunPower's more than 30 years of proven experience. From the first flip of the switch, SunPower delivers maximum value and superb performance throughout the long life of every solar system. Headquartered in Silicon Valley, SunPower has dedicated, customer-focused employees in Africa, Asia, Australia, Europe, North and South America. For more information about how SunPower is changing the way our world is powered, visit www.sunpower.com.

About TZS

Tianjin Zhonghuan Semiconductor Co., Ltd. (TZS) is a Tianjin-based company listed in Shenzhen Stock Exchange (Stock code: 002129.SZ), with a registered capital of RMB 724,244,412. TZS is an integrated high-tech enterprise with research, production, operation and venture capital functions, and is committed to the manufacturing of monocrystalline silicon materials and other related products. As one of the first monocrystalline silicon wafer manufacturers in the solar industry in China, TZS has been engaged in the research and production of monocrystalline silicon wafer since 1981. As of June 30th, 2019, TZS has 30GW annual production capacity of monocrystalline silicon wafer. With ongoing development of major facilities, TZS will expand its monocrystalline silicon wafer capacity to over 56GW. Beside solar products, TZS's other products are also widely applied in smart grid transmission, new-energy vehicles, high-speed railways, inverters for wind power, integrated circuits, consumer electronics, aerospace, and other areas.

About Total

Total is a major energy player that produces and markets fuels, natural gas and low-carbon electricity. Our 100,000 employees are committed to better energy that is safer, more affordable, cleaner and accessible to as many people as possible. Active in more than 130 countries, our ambition is to become the responsible energy major.

SunPower's Forward-Looking Statements

This press release contains "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995, including, but not limited to, (a) statements regarding the anticipated separation of our international SunPower Technologies business into a new stand-alone company and the associated benefits and costs to the newly separated companies, (b) the expected timetable for completing the transaction, the equity investment by TZS into Maxeon Solar and the use of proceeds from such investment and (c) the business prospects of the resulting companies; and (d) the future prospects and growth of the solar industry. These forward-looking statements are based on our current assumptions, expectations, and beliefs and involve substantial risks and uncertainties that may cause results, performance, or achievement to materially differ from those expressed or implied by these forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to: (1) challenges in executing transactions key to our strategic plans, including completing the separation, including regulatory and other challenges that may arise; (2) the success of our ongoing research and development efforts and our ability to commercialize new products and services, including products and services developed through strategic partnerships; (3) competition in the solar and general energy industry and downward pressure on selling prices and wholesale energy pricing; (4) our liquidity, substantial indebtedness, and ability to obtain additional financing for our projects and customers; (5) changes in public policy, including the imposition and applicability of tariffs; (6) regulatory changes and the availability of economic incentives promoting use of solar energy; (7) fluctuations in our operating results; (8) appropriately sizing our manufacturing capacity and containing manufacturing and logistics difficulties that could arise; and (9) challenges managing our acquisitions, joint ventures and partnerships, including our ability to successfully manage acquired assets and supplier relationships. In addition, the proposed and the associated investment by TZS in Maxeon Solar may not be consummated within the anticipated period or at all and the ultimate results of any separation depend on a number of factors, including the development of final plans and the impact of local regulatory requirements. A detailed discussion of the factors noted herein and other risks that affect our business is included in filings we make with the Securities and Exchange Commission (SEC) from time to time, including our most recent reports on Form 10-K and Form 10-Q, particularly under the heading "Risk Factors." Copies of these filings are available online from the SEC or on the SEC Filings section of our Investor Relations website at investors.sunpower.com. All forward-looking statements in this press release are based on information currently available to us, and we assume no obligation to update these forward-looking statements in light of new information or future events.

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