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**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): April 25, 2023

**PORTLAND GENERAL ELECTRIC COMPANY**

(Exact name of registrant as specified in its charter)

Oregon  
(State or other jurisdiction  
of incorporation)

001-5532-99  
(Commission  
File Number)

93-0256820  
(I.R.S. Employer  
Identification No.)

121 SW Salmon Street, Portland, Oregon 97204  
(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code: (503) 464-8000

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

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

(Title of class)  
Common Stock, no par value

(Trading Symbol)  
POR

(Name of exchange on which registered)  
New York Stock Exchange

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

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. [ ]

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**Item 2.02 Results of Operations and Financial Condition.**

The following information is furnished pursuant to Item 2.02.

On April 28, 2023, Portland General Electric Company (the Company) issued a press release announcing its financial results for the three months ended March 31, 2023. The press release is furnished herewith as Exhibit 99.1 to this Report.

After a competitive bidding and negotiating process, PGE has entered an agreement to construct a 200 MW PGE-owned lithium-ion battery energy storage system (BESS) and entered into a storage capacity agreement for a 200 MW BESS. BESS projects will be emission-free dispatchable capacity resources directly interconnected to PGE's system.

**Item 5.02 Departure of Chief Financial Officer.**

On April 25, 2023, James A. Ajello, Senior Vice President Finance, Chief Financial Officer, Treasurer and Corporate Compliance Officer, informed the Company that he is retiring from his positions effective June 30, 2023. Beginning July 1, 2023, Mr. Ajello will become a senior advisor to the Company through August 31, 2023. The Company has initiated a search for a Chief Financial Officer. The Company will provide Mr. Ajello with \$250,000 in additional restricted stock units vesting on August 31, 2023. In addition, Mr. Ajello will receive a pro-rata payout under the Company's Annual Cash Incentive Plan in 2024 for the 2023 performance period.

**Item 7.01 Regulation FD Disclosure.**

The following information is furnished pursuant to Item 7.01.

At 11:00 a.m. ET on Friday, April 28, 2023, the Company will hold its quarterly earnings call and webcast, and will use a slide presentation in conjunction with the earnings call. A copy of the slide presentation is furnished herewith as Exhibit 99.2 to this Report.

**Item 8.01 Other Events.**

In conjunction with the agreements for the BESS projects outlined above, on April 28, 2023, the Company entered into an equity distribution agreement (the "equity distribution agreement") with Wells Fargo Securities, LLC, Barclays Capital Inc., and BofA Securities, Inc. (each, an "agent" and, collectively, the "agents"), and the forward purchasers (as defined below), providing for the offer and sale of shares of the Company's common stock, no par value per share (the "common stock"), having an aggregate gross sales price of up to \$300 million through the agents, as its sales agents or, if applicable, as forward sellers (as defined below), or directly to the agents acting as principals.

Sales of shares of its common stock, if any, made through the agents, as the Company's sales agents or, if applicable, as forward sellers pursuant to the equity distribution agreement, may be made in sales deemed to be "at-the-market offerings" as defined in Rule 415 under the Securities Act of 1933, as amended (the "Securities Act"), including (1) by means of ordinary brokers' transactions on the New York Stock Exchange at market prices prevailing at the time of sale, in negotiated transactions or as otherwise agreed by the Company, the applicable agent and the applicable investor, (2) to or through any market maker, or (3) on or through any other national securities exchange or facility thereof, trading facility of a securities association or national securities exchange, alternative trading system, electronic communication network or other similar market venue.

The agents are not required to sell any specific number or dollar amount of shares of the Company's common stock but will use their commercially reasonable efforts consistent with the Company's normal trading and sales practices as its sales agents or as forward sellers and subject to the terms of the equity distribution agreement and, in the case of shares offered through such agents as forward sellers, the relevant forward sale agreement to sell the shares of the

Company's common stock, as instructed by the Company and, in the case of shares offered through such agents as forward sellers, the relevant forward purchaser. The shares of the Company's common stock offered and sold through the agents, as its sales agents or as forward sellers, pursuant to the equity distribution agreement will be offered and sold through only one agent on any given day.

Each agent will receive from the Company a commission that will not exceed, but may be lower than, 2.0% of the gross sales price of shares of the Company's common stock sold through it as its sales agent. Under the terms of the equity distribution agreement, the Company may also sell shares of its common stock to each of the agents, as principal, at a price agreed upon at the time of sale. If the Company sells shares of its common stock to any agent as principal, the Company will enter into a separate terms agreement with the applicable agent, setting forth the terms of such transaction, and the Company will describe the agreement in a separate prospectus supplement or pricing supplement. In connection with each forward sale agreement, the Company will pay the applicable agent, acting as forward seller, a commission, in the form of a reduction to the initial forward price under the related forward sale agreement, at a mutually agreed rate that will not (except as provided below) exceed, but may be lower than, 2.0% of the gross sales price per share of the borrowed shares of its common stock sold through such agent, as forward seller, during the applicable forward selling period for such shares (subject to certain possible adjustments to such gross sales price for daily accruals and any quarterly dividends having an "ex-dividend" date during such forward selling period).

The equity distribution agreement contemplates that, in addition to the issuance and sale by the Company of shares of its common stock to or through the agents, the Company may enter into separate forward sale agreements under separate master forward sale confirmations and related supplemental confirmations, with each of Wells Fargo Bank, National Association, Barclays Bank PLC, and Bank of America, N.A. or one of their respective affiliates (in such capacity, each, a "forward purchaser" and, collectively, the "forward purchasers"). If the Company enters into a forward sale agreement with any forward purchaser, the Company expects that such forward purchaser (or its affiliate) will attempt to borrow from third parties and sell, through the relevant agent, acting as sales agent for such forward purchaser, shares of its common stock to hedge such forward purchaser's exposure under such forward sale agreement. The Company will not initially receive any proceeds from any sale of shares of its common stock borrowed by a forward purchaser (or its affiliate) and sold through a forward seller.

The Company currently expects to fully physically settle each forward sale agreement, if any, with the relevant forward purchaser on one or more dates specified by the Company on or prior to the maturity date of such forward sale agreement, although the Company will generally have the right, subject to certain exceptions, to elect cash settlement or net share settlement instead of physical settlement for any of the shares the Company has agreed to sell under such forward sale agreement. If the Company elects or is deemed to have elected to physically settle any forward sale agreement by delivering shares of its common stock, the Company will receive an amount of cash from the relevant forward purchaser equal to the product of (1) the forward price per share under such forward sale agreement and (2) the number of shares of common stock as to which the Company has elected or is deemed to have elected physical settlement, subject to the price adjustment and other provisions of such forward sale agreement. Each forward sale agreement will provide that the forward price will be subject to adjustment on a daily basis based on a floating interest rate factor equal to a specified daily rate less a spread. In addition, the forward price will be subject to decrease on certain dates specified in the relevant forward sale agreement by the amount per share of quarterly dividends the Company expects to declare on its common stock during the term of such forward sale agreement. If the specified daily rate is less than the applicable spread on any day, the interest rate factor will result in a daily reduction of the forward price.

The Company intends to use any net proceeds it receives from the issuance and sale by the Company of any shares of its common stock to or through the agents and any net proceeds it receives pursuant to any forward sale agreements with the relevant forward purchasers for general corporate purposes and investments in renewable energy and non-emitting dispatchable capacity.

Any shares of common stock that may be offered and sold pursuant to the equity distribution agreement will be offered and sold pursuant to an effective shelf registration statement filed with the Securities and Exchange Commission (File Nos. 333-266454) and a prospectus supplement dated April 28, 2023.

This Current Report shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any state in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state.

The equity distribution agreement and the forward sale agreements are filed as exhibits to this Current Report. The description of certain provisions of the equity distribution agreement and the forward sale agreement appearing in this Current Report is not complete and is subject to, and qualified in its entirety by reference to, the equity distribution agreement and the forward sale agreements filed herewith as exhibits to this Current Report and incorporated herein by reference.

**Item 9.01 Financial Statements and Exhibits.**

<b>(d)</b>	<b>Exhibits.</b>
1.1*	<a href="#">Equity Distribution Agreement, dated as of April 28, 2023, by and among Portland General Electric Company and Wells Fargo Securities, LLC, Barclays Capital Inc., and BofA Securities, Inc., as sales agents, principals and/or forward sellers, and Wells Fargo Bank, National Association, Barclays Bank PLC, and Bank of America, N.A., as forward purchasers.</a>
1.2*	<a href="#">Confirmation of Registered Forward Transaction, dated April 28, 2023, by and between Portland General Electric Company and Wells Fargo Bank, National Association.</a>
1.3*	<a href="#">Confirmation of Registered Forward Transaction, dated April 28, 2023, by and between Portland General Electric Company and Barclays Bank PLC.</a>
1.4*	<a href="#">Confirmation of Registered Forward Transaction, dated April 28, 2023, by and between Portland General Electric Company and Bank of America, N.A.</a>
5.1*	<a href="#">Opinion of Angelica Espinosa, Vice President and General Counsel, regarding the legality of the common stock being registered.</a>
23.1	Consent of Angelica Espinosa, Vice President and General Counsel (included in Exhibit 5.1 hereto).
99.1	<a href="#">First Quarter Financial Results Press Release Issued by Portland General Electric Company dated April 28, 2023</a>
99.2	<a href="#">Portland General Electric Company First Quarter 2023 Slides dated April 28, 2023.</a>
99.3	Form of forward sale agreement, between the Company and a forward purchaser (included in Exhibit 1.1 hereto).
99.4*	<a href="#">CFO Retirement Press Release Issued by Portland General Electric Company dated April 28, 2023.</a>
104	Cover page information from Portland General Electric Company's Current Report on Form 8-K filed April 28, 2023, formatted in iXBRL (Inline Extensible Business Reporting Language).

\* Filed herewith

**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 thereunto duly authorized.

PORTLAND GENERAL ELECTRIC COMPANY  
(Registrant)

Date: \_\_\_\_\_ April 28, 2023 \_\_\_\_\_

By: \_\_\_\_\_ /s/ James A. Ajello \_\_\_\_\_  
James A. Ajello  
*Senior Vice President Finance CFO, Treasurer & Corporate Compliance Officer*

**PORTLAND GENERAL ELECTRIC COMPANY**

Up to \$300,000,000 of shares of common stock, no par value

**EQUITY DISTRIBUTION AGREEMENT**

April 28, 2023

Wells Fargo Securities, LLC  
500 West 33<sup>rd</sup> Street, 14<sup>th</sup> Floor  
New York, New York 10001

Wells Fargo Bank, National Association  
500 West 33<sup>rd</sup> Street, 14<sup>th</sup> Floor  
New York, New York 10001

Barclays Capital Inc.  
745 Seventh Avenue  
New York, New York 10019

Barclays Bank PLC  
745 Seventh Avenue  
New York, New York 10019

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

Bank of America, N.A.  
One Bryant Park, 8<sup>th</sup> Floor  
New York, New York 10036

In their separate capacities as Agents and Forward Sellers

In their capacities as Forward Purchasers

Ladies and Gentlemen:

Portland General Electric Company, an Oregon corporation (the "Company"), confirms its agreement with each of Wells Fargo Bank, National Association, Barclays Bank PLC and Bank of America, N.A. (each, a "Forward Purchaser" and collectively, the "Forward Purchasers") and Wells Fargo Securities, LLC, Barclays Capital Inc. and BofA Securities, Inc., each in its capacity as sales agent and/or principal in connection with the offering and sale of Issuance Securities (as defined below) (each, an "Agent" and collectively, the "Agents") and each in its capacity as agent for its affiliated Forward Purchaser in connection with the offering and sale of any Forward Hedge Securities (as defined below) (each, a "Forward Seller" and together, the "Forward Sellers"), with respect to the offering and sale or offering, as the case may be, from time to time by the Company, in the manner and subject to the terms and conditions described in this Equity Distribution Sales Agreement (this "Agreement"), of Issuance Securities or Forward Hedge Securities (together, as applicable, the "Securities") of common stock, no par value (the "Common Stock"), of the Company having an aggregate gross sales price of up to \$300,000,000 (the "Authorized Aggregate Gross Sales Price"). The Authorized Aggregate Gross Sales Price may be increased from time to time by the Company pursuant to Section 7(cc) hereof. Notwithstanding anything to the contrary contained herein, the parties hereto agree that compliance with the limitations set forth herein regarding the number and aggregate sale price of the Securities offered and sold under this Agreement shall be the sole responsibility of the Company, and the Agents, the Forward Purchasers and the Forward Sellers shall have no obligation in connection with such compliance.

Section 1. Description of Securities.

The offer and sale of the Securities will be effected pursuant to the Registration Statement (as defined below) filed by the Company and declared effective by the Securities and Exchange Commission (the "Commission"), although nothing in this Agreement shall be construed as requiring the Company to use the Registration Statement to offer and sell the Securities. The Company agrees that whenever it determines to offer and sell Issuance Securities directly to an Agent as principal it will enter into a separate written agreement containing the terms and conditions of such sale.

The Company has filed, in accordance with the provisions of the Securities Act of 1933, as amended, and the rules and regulations thereunder (collectively, the "Securities Act"), with the Commission a registration statement on Form S-3 (File No. 333-266454), including a base prospectus, relating to certain securities, including the Securities to be offered from time to time by the Company, and which incorporates by reference documents that the Company has filed or will file in accordance with the provisions of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (collectively, the "Exchange Act"). The Company has prepared a prospectus supplement specifically relating to the Securities (the "Prospectus Supplement") to the base prospectus included as part of such registration statement. The Company will furnish to the Agents and the Forward Sellers, for use by the Agents and the Forward Sellers, copies of the base prospectus included as part of such registration statement, as supplemented by the Prospectus Supplement, relating to the Securities. The "Registration Statement", as of any time, means such registration statement as amended by any post-effective amendments thereto at such time, including the exhibits and any schedules thereto at such time, the documents incorporated or deemed to be incorporated by reference therein at such time pursuant to Item 12 of Form S-3 under the Securities Act and the documents and information otherwise deemed to be a part thereof as of such time pursuant to Rule 430B of the Securities Act ("Rule 430B"); *provided, however*, that the "Registration Statement" without reference to a time means such registration statements as amended by any post-effective amendments thereto as of the time of the first contract of sale for the Securities, which time shall be considered the "new effective date" of the Registration Statement with respect to the Securities within the meaning of

paragraph (f)(2) of Rule 430B, including the exhibits and schedules thereto at such time, the documents and information incorporated or deemed to be incorporated by reference therein at such time pursuant to Item 12 of Form S-3 under the Securities Act and the documents otherwise deemed to be a part thereof as of such time pursuant to Rule 430B. The base prospectus, including all documents incorporated therein by reference, included in the Registration Statement, as it may be supplemented by the Prospectus Supplement, in the form in which such prospectus and/or Prospectus Supplement have most recently been filed by the Company with the Commission pursuant to Rule 424(b) under the Securities Act is herein called the “Prospectus.” Any reference herein to the Registration Statement, the Prospectus or any amendment or supplement thereto shall be deemed to refer to and include the documents incorporated by reference therein, and any reference herein to the terms “amend,” “amendment” or “supplement” with respect to the Registration Statement or the Prospectus shall be deemed to refer to and include the filing after the execution hereof of any document with the Commission deemed to be incorporated by reference therein. For purposes of this Agreement, all references to the Registration Statement, the Prospectus or to any amendment or supplement thereto shall be deemed to include any copy filed with the Commission pursuant to EDGAR.

## Section 2. Placements

Each time that the Company wishes to offer and, if applicable, sell the Securities hereunder (each, a “Placement”), it will notify the applicable Agent or Forward Seller, as applicable (the “Designated Party”) by email notice (or other method mutually agreed to in writing by the parties) containing the parameters in accordance with which it desires the Securities to be offered and, if applicable, sold, which shall at a minimum include the number of Securities to be offered (the “Placement Securities”), the time period during which sales are requested to be made, any limitation on the number of Securities that may be offered and sold in any one day and any minimum price below which sales may not be made (a “Placement Notice”), a form of which containing such minimum sales parameters necessary is attached hereto as Exhibit A. The Placement Notice shall originate from any of the individuals from the Company set forth on Exhibit B (with a copy to each of the other individuals from the Company listed on such schedule), and shall be addressed to each of the individuals from the Designated Party set forth on Exhibit B, as such Exhibit B may be amended from time to time. If the Designated Party wishes to accept such proposed terms included in the Placement Notice (which it may decline to do so for any reason in its sole discretion) or, following discussion with the Company, wishes to accept amended terms, the Designated Party will, prior to 4:30 p.m. (New York City time) on the business day following the business day on which such Placement Notice is delivered to the Designated Party, issue to the Company a notice by email (or other method mutually agreed to in writing by the parties) addressed to all of the individuals from the Company and the Designated Party set forth on Exhibit B setting forth the terms that the Designated Party is willing to accept. Where the terms provided in the Placement Notice are amended as provided for in the immediately preceding sentence, such terms will not be binding on the Company or the Designated Party until the Company delivers to the Designated Party an acceptance by email (or other method mutually agreed to in writing by the parties) of all of the terms of such Placement Notice, as amended (the “Acceptance”), which email shall be addressed to all of the individuals from the Company and the Designated Party set forth on Exhibit B. The Placement Notice (as amended by the corresponding Acceptance, if applicable) shall be effective upon receipt by the Company of the Designated Party’s acceptance of the terms of the Placement Notice or upon receipt by the Designated Party of the Company’s Acceptance, as the case may be, unless and until (i) the entire amount of the Placement Securities has been sold, (ii) in accordance with the notice requirements set forth in the second sentence of this paragraph, the Company suspends sales under or terminates the Placement Notice for any reason in its sole discretion, (iii) the Company issues a subsequent Placement Notice with parameters superseding those on the earlier dated Placement Notice, (iv) this Agreement has been terminated under the



provisions of Section 13 or (v) either party shall have suspended the sale of the Placement Securities in accordance with Section 4 below. The amount of any discount, commission or other compensation to be paid by the Company to the Designated Party in connection with the sale of the Issuance Securities shall be calculated in accordance with the terms set forth in Exhibit C, except in the case of a sale of Securities directly to an Agent as principal(s), in which case the Company and such Agent will enter into a separate written agreement relating to the terms and conditions of such sale including in respect of fees. The Forward Hedge Selling Commission Rate applicable to the sale of any Forward Hedge Securities shall be set forth in the relevant Placement Notice (as amended by the corresponding Acceptance, if applicable). It is expressly acknowledged and agreed that none of the Company nor an applicable Agent nor Forward Seller will have any obligation whatsoever with respect to a Placement or any Placement Securities unless and until the Company delivers a Placement Notice to such Agent or such Forward Seller, as the case may be, and either (i) such Agent or such Forward Seller, as the case may be, accepts the terms of such Placement Notice or (ii) where the terms of such Placement Notice are amended, the Company accepts such amended terms by means of an Acceptance pursuant to the terms set forth above, and then only upon the terms specified in the Placement Notice (as amended by the corresponding Acceptance, if applicable) and herein. In the event of a conflict between the terms of this Agreement and the terms of a Placement Notice (as amended by the corresponding Acceptance, if applicable), the terms of the Placement Notice (as amended by the corresponding Acceptance, if applicable) will control.

**Section 3. Sale of Placement Securities by the Designated Party.**

(a) Subject to the provisions of Section 6, with respect to any Placement that provides for the offer and sale of Issuance Securities, the applicable Agent, for the period specified in the relevant Placement Notice (as amended by the corresponding Acceptance, if applicable), and unless and until such time as the sale of the Placement Shares described therein has been declined, suspended or otherwise terminated in accordance with the terms of this Agreement, will use commercially reasonable efforts consistent with its normal trading and sales practices to sell the Issuance Securities up to the amount specified, and otherwise in accordance with the terms of such Placement Notice (as amended by the corresponding Acceptance, if applicable). The Designated Party will provide written confirmation to the Company no later than the opening of the Trading Day (as defined below) immediately following the Trading Day on which it has made sales of Issuance Securities hereunder setting forth the number of Issuance Securities sold on such day, the compensation payable by the Company to the Designated Party pursuant to Section 2 with respect to such sales, and the Net Proceeds (as defined below) payable to the Company, with an itemization of the deductions made by the Designated Party (as set forth in Section 6) from the gross proceeds that it receives from such sales. Subject to the terms of the Placement Notice (as amended by the corresponding Acceptance, if applicable), the Designated Party may sell Issuance Securities by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act, including without limitation sales made directly on the NYSE, on any other existing trading market for the Common Stock or to or through a market maker. Subject to the terms of the Placement Notice (as amended by the corresponding Acceptance, if applicable), the Designated Party may also sell Issuance Securities by any other method permitted by law, including but not limited to in privately negotiated transactions. The Company acknowledges and agrees that (i) there can be no assurance that the Designated Party will be successful in selling Issuance Securities, and (ii) the Designated Party will incur no liability or obligation to the Company or any other person or entity if it does not sell Issuance Securities for any reason other than a failure by the Designated Party to use commercially reasonable efforts consistent with its normal trading and sales practices to sell such Issuance Securities as required under this Section 3.

(b) Subject to the provisions of Section 6, with respect to any Placement that relates to a Forward, the Forward Purchaser affiliated with the Designated Party (the “Designated Forward Purchaser”), for the period specified in the relevant Placement Notice (as amended by the corresponding Acceptance, if applicable), will use commercially reasonable efforts to borrow the Forward Hedge Securities, and the applicable Forward Seller will use commercially reasonable efforts consistent with its normal trading and sales practices to sell the Forward Hedge Securities, in each case, up to the amount specified and otherwise in accordance with the terms of such Placement Notice (as amended by the corresponding Acceptance, if applicable). The Company acknowledges and agrees that if the Stock Loan Fee (as such term is defined in the applicable Master Forward Confirmation) for borrowing any Forward Hedge Securities exceeds 200 basis points per annum, the Designated Forward Purchaser shall not be required to borrow such Forward Hedge Securities in order to comply with its obligation to use commercially reasonable efforts to borrow the Forward Hedge Securities as described in the immediately preceding sentence. The Designated Party will provide written confirmation to the Company no later than the opening of the Trading Day (as defined below) immediately following the Trading Day on which it has made sales of Forward Hedge Securities hereunder setting forth the number of Forward Hedge Securities sold on such day, the corresponding Forward Hedge Selling Commission Rate, and the Net Proceeds (as defined below) payable to the Designated Forward Purchaser, with an itemization of the deductions made by the Designated Party (as set forth in Section 6) from the gross proceeds that it receives from such sales. Subject to the terms of the Placement Notice (as amended by the corresponding Acceptance, if applicable), the Designated Party may sell Forward Hedge Securities by any method permitted by law deemed to be an “at the market” offering as defined in Rule 415 of the Securities Act, including without limitation sales made directly on the NYSE, on any other existing trading market for the Common Stock or to or through a market maker. Subject to the terms of the Placement Notice (as amended by the corresponding Acceptance, if applicable), the Designated Party may also sell Forward Hedge Securities by any other method permitted by law, including but not limited to in privately negotiated transactions. The Company acknowledges and agrees that (i) there can be no assurance that a Forward Purchaser or a Forward Seller, as the case may be, will be successful in borrowing or selling, as applicable, the Forward Hedge Securities, and (ii) the Designated Party will incur no liability or obligation to the Company or any other person or entity if it does not sell Forward Hedge Securities for any reason other than a failure by a Forward Purchaser to use commercially reasonable efforts to borrow, or failure by its affiliated Forward Seller to use commercially reasonable efforts consistent with its normal trading and sales practices to sell, such Forward Hedge Securities as required under this Section 3. No Placement Notice relating to a Forward may be delivered if an ex-dividend date or ex-date, as applicable for any dividend or distribution payable by the Company on the Common Stock, is scheduled to occur during the period from, and including, the first scheduled Trading Day of the related Forward Hedge Selling Period to, and including, the last scheduled Trading Day of such Forward Hedge Selling Period. No Selling Period hereunder may overlap in whole or in part with any “Unwind Period” under any Confirmation (as defined in such Confirmation). No Placement Notice relating to a Forward may be delivered if such Placement Notice, together with all prior Placement Notices (as amended by the corresponding Acceptance, if applicable) delivered by the Company relating to a Forward hereunder, would result in the aggregate Capped Number under all Confirmations entered into or to be entered into between the Company and the Forward Purchaser exceeding 19.99% of the number of shares of Common Stock outstanding as of the date of this Agreement.

(c) No later than the opening of the Trading Day next following the last Trading Day of each Forward Hedge Selling Period (or, if earlier, the date on which any Forward Hedge Selling Period is terminated in accordance with the terms of this Agreement or the Master Forward Confirmation), the Designated Forward Purchaser shall execute and deliver to the Company, and the Company shall execute and return to the Designated Forward Purchaser, a “Supplemental Confirmation” (in the form set forth on Schedule A to the applicable Master

Forward Confirmation) (each, a “Supplemental Confirmation”) in respect of the Forward for such Forward Hedge Selling Period, which Supplemental Confirmation shall set forth the “Trade Date” for such Forward (which shall, subject to the terms of the applicable Master Forward Confirmation, be the last Trading Day of such Forward Hedge Selling Period), the “Effective Date” for such Forward (which shall, subject to the terms of the applicable Master Forward Confirmation, be the date one Settlement Cycle (as such term is defined in the applicable Master Forward Confirmation) immediately following the last Trading Day of such Forward Hedge Selling Period), the initial “Base Amount” for such Forward (which shall, subject to the terms of the applicable Master Forward Confirmation, be the Actual Sold Forward Amount for such Forward Hedge Selling Period), the “Maturity Date” for such Forward (which shall, subject to the terms of the applicable Master Forward Confirmation, be the date that follows the last Trading Day of such Forward Hedge Selling Period by the number of days, months or years set forth opposite the caption “Term” in the Placement Notice for such Forward, which number of days, months or years shall in no event be less than two (2) months nor more than eighteen (18) months), the “Forward Price Reduction Dates” for such Forward (which shall be each of the dates set forth below the caption “Forward Price Reduction Dates” in the Placement Notice for such Forward), the “Forward Price Reduction Amount” corresponding to such Forward Price Reduction Dates (which shall be each amount set forth opposite each “Forward Price Reduction Date” and below the caption “Forward Price Reduction Amounts” in the Placement Notice for such Forward), the “Spread” for such Forward (which shall be the amount set forth opposite the term “Spread” in the Placement Notice), the “Initial Forward Price” for such Forward (which shall be determined as provided in the applicable Master Forward Confirmation), the “Adjusted Volume-Weighted Hedge Price,” the “Initial Stock Loan Rate” (which shall be the rate set forth opposite the term “Initial Stock Loan Rate” in the Placement Notice), the “Maximum Stock Loan Rate” (which shall be the rate set forth opposite the term “Maximum Stock Loan Rate” in the Placement Notice), the “Number of Shares” and the “Threshold Number of Shares.”

(d) For each Forward, the Company shall be obligated to enter into a Confirmation with the Designated Forward Purchaser, and upon execution and delivery by all parties thereto of a related Master Forward Confirmation (if applicable), the Designated Forward Purchaser shall be obligated to use commercially reasonable efforts to borrow, and its affiliated Forward Seller shall use commercially reasonable efforts consistent with its normal trading and sales practices to sell, the Forward Hedge Securities pursuant to such Forward only if and when a Placement Notice has been delivered in respect of such Forward and there has been an Acceptance, in each case, pursuant to and in compliance with the provisions in Section 2. The Company acknowledges and agrees that if the Stock Loan Fee (as such term is defined in the applicable Master Forward Confirmation) for borrowing any Forward Hedge Securities exceeds 200 basis points per annum, the Designated Forward Purchaser shall not be required to borrow such Forward Hedge Securities in order to comply with its obligation to use commercially reasonable efforts to borrow the Forward Hedge Securities as described in the immediately preceding sentence.

(e) Each of the Company, the Forward Sellers and the Forward Purchasers acknowledge and agree that: (i) there can be no assurance that a Forward Purchaser will be successful in borrowing, or that a Forward Seller will be successful in selling, the Forward Hedge Securities; (ii) a Forward Seller will incur no liability or obligation to the Company, a Forward Purchaser or any other person if it does not sell Forward Hedge Securities borrowed by a Forward Purchaser for any reason other than a failure by a Forward Seller to use commercially reasonable efforts consistent with its normal trading and sales practices to sell such Forward Hedge Securities as required under this Section 3; and (iii) a Forward Purchaser will incur no liability or obligation to the Company, a Forward Seller or any other person if it does not borrow Forward Hedge Securities for any reason other than a failure by a Forward Purchaser to use commercially reasonable efforts to borrow such Forward Hedge Securities as

required under this Section 3. The Company acknowledges and agrees that if the Stock Loan Fee (as such term is defined in the Master Forward Confirmation) for borrowing any Forward Hedge Securities exceeds 200 basis points per annum, a Forward Purchaser shall not be required to borrow such Forward Hedge Securities in order to comply with its obligation to use commercially reasonable efforts to borrow the Forward Hedge Securities as described in the immediately preceding sentence. Notwithstanding anything herein to the contrary, a Forward Purchaser's obligation to use commercially reasonable efforts to borrow all or any portion of the Forward Hedge Securities (and a Forward Seller's obligation to use commercially reasonable efforts consistent with its normal trading and sales practices to sell such portion of the Forward Hedge Securities) for any Forward hereunder shall be subject in all respects to the provisions under the caption "Conditions to Effectiveness" in the related Master Forward Confirmation. In acting hereunder, any Forward Seller will be acting as agent for the applicable Forward Purchaser and not as principal.

Section 4. Suspension of Sales.

The Company, the Agents or the Forward Sellers, as applicable, may, upon notice to the other parties in writing (including by email correspondence to each of the individuals of the other party set forth on Exhibit B, if receipt of such correspondence is actually acknowledged by any of the individuals to whom the notice is sent, other than via auto-reply) or by telephone (confirmed immediately by verifiable facsimile transmission or email correspondence to each of the individuals of the other party set forth on Exhibit B), suspend any sale of Placement Securities and the applicable Selling Period shall automatically be terminated; *provided, however*, that such suspension shall not affect or impair any party's obligations with respect to any Placement Securities sold hereunder prior to the receipt of such notice. While a suspension pursuant to this Section 4 is in effect, any obligation under Sections 7(o), 7(p), 7(q), and 7(r) with respect to the delivery of certificates, opinions, or comfort letters to the Agents or Forward Sellers, shall be suspended, provided that the Company must comply with such obligations prior to the suspension being lifted. Each of the parties agrees that no such notice under this Section 4 shall be effective against the other unless it is made to one of the individuals of the other party named on Exhibit B hereto, as such Exhibit may be amended from time to time.

Section 5. Representations and Warranties.

(a) *Representations and Warranties by the Company.* The Company represents and warrants to the Agents, the Forward Sellers and the Forward Purchasers as of the date hereof and as of each Representation Date (as defined below) on which a certificate is required to be delivered pursuant to Section 7(o) of this Agreement, as of each Applicable Time and as of each Settlement Date (as defined below), and agrees with the Agents, the Forward Sellers and the Forward Purchasers, as follows:

(1) Compliance with Registration Requirements. The Securities have been duly registered under the Securities Act pursuant to the Registration Statement. The Registration Statement became effective upon filing under Rule 462(e) under the Securities Act, or, with respect to any registration statement to be filed to register the offer and sale of the Securities pursuant to Rule 462(b) under the Securities Act (a "Rule 462(b) Registration Statement"), will be filed with the Commission and become effective under the Securities Act no later than 10:00 p.m. (New York City time), on the date of determination of the public offering price for the Securities, and no stop order preventing or suspending the use of any base prospectus, the Prospectus Supplement, the Prospectus or any Permitted Free Writing Prospectus (as defined below), or the effectiveness of the Registration Statement or any Rule 462(b) Registration Statement and no proceedings for such purpose have been instituted or are pending or, to the knowledge of the Company,

are contemplated by the Commission, and any request on the part of the Commission for additional information has been complied with.

At the respective times each of the Registration Statement, any Rule 462(b) Registration Statement and any post-effective amendments thereto became or becomes effective and as of the date hereof, the Registration Statement, any Rule 462(b) Registration Statement and any amendments and supplements thereto complied and will comply in all material respects with the requirements of the Securities Act. The conditions for the use of Form S-3, as set forth in the General Instructions thereto, and the Registration Statement meets, and the offering and sale of the Securities as contemplated hereby complies with, the requirements of Rule 415 under the Securities Act (including, without limitation, Rule 415(a)(5)). The Registration Statement, as of the date hereof and each effective date with respect thereto, did not and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. Neither the Prospectus nor any amendments or supplements thereto, as of their respective dates, and at each Applicable Time and Settlement Date, as the case may be, included, includes or will include an untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

The representations and warranties set forth in the immediately preceding paragraph shall not apply to statements in or omissions from the Registration Statement or the Prospectus, as amended or supplemented, made in reliance upon and in conformity with information furnished to the Company in writing by any Agent, any Forward Seller or any Forward Purchaser expressly for use therein. For purposes of this Agreement, the only information so furnished shall be the name of any such Agent, Forward Seller or Forward Purchaser (the "Agent, Forward Seller and Forward Purchaser Information").

The copies of the Registration Statement and any Rule 462(b) Registration Statement and any amendments thereto, any other preliminary prospectus, each Issuer Free Writing Prospectus that is required to be filed with the Commission pursuant to Rule 433 and the Prospectus and any amendments or supplements thereto delivered and to be delivered to the Agents, the Forward Sellers and the Forward Purchasers (electronically or otherwise) in connection with the offering of the Securities were and will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

Each Issuer Free Writing Prospectus relating to the Securities, as of its issue date and as of each Applicable Time and Settlement Date, did not, does not and will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement or the Prospectus, including any incorporated document deemed to be a part thereof that has not been superseded or modified, or included, includes or will include an untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements therein, in light of the circumstances, prevailing at that subsequent time, not misleading. The foregoing sentence does not apply to statements in or omissions from any Issuer Free Writing Prospectus based upon and in conformity with written information furnished to the Company by the Agents, the Forward Purchasers or the Forward Sellers specifically for use therein.

At the time of the initial filing of the Registration Statement, at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the Securities Act (whether such amendment was by post-effective amendment,

incorporated report filed pursuant to Section 13 or 15(d) of the Exchange Act or form of prospectus), at the time the Company or another offering participant made a bona fide offer (within the meaning, for this paragraph only, of Rule 164(h)(2) of the Securities Act) was and is a “well-known seasoned issuer” as defined in Rule 405 of the Securities Act, including not having been and not being an “ineligible issuer,” as defined in Rule 405 of the Securities Act; and, without limitation to the foregoing, the Company has at all relevant times met, meets and will at all relevant times meet the requirements of Rule 164 for the use of a free writing prospectus (as defined in Rule 405) in connection with the offering contemplated hereby.

(2) **Prior Written Communications.** Any offer that is a written communication relating to the Securities made prior to the initial filing of the Registration Statement by the Company or any person acting on its behalf (within the meaning, for this paragraph only, of Rule 163(c) of the Securities Act) has been filed with the Commission in accordance with the exemption provided by Rule 163 of the Securities Act and otherwise complied with the requirements of Rule 163 of the Securities Act, including without limitation the legending requirement.

(3) **Incorporated Documents.** The documents incorporated by reference in the Registration Statement and the Prospectus, when they were filed with the Commission, conformed in all material respects to the requirements of the Exchange Act, and none of such documents contained any untrue statement of a material fact or omitted to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and any further documents so filed and incorporated by reference in the Registration Statement or the Prospectus, when such documents are filed with the Commission, will conform in all material respects to the requirements of the Exchange Act and will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(4) **Financial Statements.** The financial statements (including the related notes thereto) of the Company and its consolidated subsidiaries included or incorporated by reference in the Registration Statement and the Prospectus comply in all material respects with the applicable requirements of the Securities Act and the Exchange Act, as applicable, and present fairly in all material respects the financial condition of the Company and its consolidated subsidiaries as of the dates indicated and the results of their operations and the changes in their cash flows for the periods specified; such financial statements have been prepared in conformity with GAAP in the United States applied on a consistent basis throughout the periods covered thereby, except as disclosed therein, and any supporting schedules included or incorporated by reference in the Registration Statement present fairly in all material respects the information required to be stated therein; and the other financial information relating to the Company and its consolidated subsidiaries included or incorporated by reference in the Registration Statement and the Prospectus has been derived from the accounting records of the Company and its consolidated subsidiaries and presents fairly in all material respects the information shown thereby. The financial statements of the businesses or properties acquired or proposed to be acquired, if any, included in the Registration Statement and the Prospectus present fairly the information set forth therein, have been prepared in conformity with GAAP applied on a consistent basis and otherwise have been prepared in accordance with, in the case of businesses acquired or to be acquired, the applicable financial statement requirements of Rule 3-05 or, in the case of real estate operations acquired or to be acquired, Rule 3-14 of Regulation S-X. The pro forma financial statements and the related notes and the pro forma and pro forma as adjusted financial information and related notes included in the Registration Statement and the Prospectus, if any, present fairly the information shown therein, have been prepared in

accordance with the Commission's rules and guidelines with respect to pro forma financial statements and have been properly compiled on the bases described therein, and the assumptions used in the preparation thereof are reasonable and the adjustments used therein are appropriate to give effect to the transactions and circumstances referred to therein.

(5) No Material Adverse Change. Since the date of the most recent financial statements of the Company included or incorporated by reference in the Registration Statement and the Prospectus, except as otherwise stated therein, (i) there has not been any change in the capital stock (other than the issuance of shares of Common Stock under any existing stock incentive plan or employee stock purchase plan described in the Registration Statement and the Prospectus), any material change in the short term debt of the Company or any of its subsidiaries (which change has had or would reasonably be expected to have a material adverse effect on the Company's ability to meet its current obligations as they become due) or any material change in the long-term debt of the Company or any of its subsidiaries, or any dividend or distribution of any kind declared, set aside for payment, paid or made by the Company on any class of capital stock, or any development that has had, or would reasonably be expected to have, a material adverse effect on the business, properties, management, financial condition or results of operations of the Company and its subsidiaries, taken as a whole; (ii) other than in the ordinary course of business, neither the Company nor any of its subsidiaries has entered into any transaction or agreement that is material to the Company and its subsidiaries, taken as a whole, or incurred any liability or obligation, direct or contingent, that is material to the Company and its subsidiaries, taken as a whole; and (iii) neither the Company nor any of its subsidiaries has sustained any loss or interference with its business that is material to the Company and its subsidiaries, taken as a whole, and that is either from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor disturbance or dispute or any action, order or decree of any court or arbitrator or governmental or regulatory authority, except in each case of clause (i), (ii) and (iii) above as is otherwise disclosed in the Registration Statement and the Prospectus.

(6) Organization, Active Status and Good Standing. The Company has been duly organized and is validly existing in active status as a corporation under the laws of the State of Oregon, is duly qualified to do business and is in good standing in each jurisdiction in which its ownership or lease of property or the conduct of its business requires such qualification, and has all power and authority necessary to own or hold its properties and to conduct the business in which it is engaged as described in the Registration Statement and the Prospectus, except where the failure to be so qualified or in good standing or have such power or authority would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the business, properties, management, financial condition or results of operations of the Company and its subsidiaries taken as a whole or on the performance by the Company of its obligations under this Agreement (a "Material Adverse Effect"). The Company has no significant subsidiaries.

(7) Capitalization. The Company has an authorized capitalization as set forth in the Prospectus; all the outstanding shares of capital stock of the Company have been duly and validly authorized and issued and are fully paid and non-assessable and are not subject to any pre-emptive or similar rights; except (i) as described in or expressly contemplated by the Registration Statement and the Prospectus, or (ii) for any shares or awards, including the settlement of dividend equivalent rights, issued pursuant to any stock incentive plan or employee stock purchase plan or dividend reinvestment plan of the Company disclosed in the Registration Statement and the Prospectus, there are no outstanding rights (including, without limitation, pre-emptive rights), warrants or options to acquire, or instruments convertible into or exchangeable for, any shares of capital stock or other equity interest in the Company or any of its subsidiaries, or any contract, commitment, agreement,

understanding or arrangement of any kind relating to the issuance of any capital stock of the Company or any such subsidiary, any such convertible or exchangeable securities or any such rights, warrants or options; the capital stock of the Company conforms in all material respects to the description thereof contained in the Registration Statement and the Prospectus; and all the outstanding shares of capital stock or other equity interests of each subsidiary owned, directly or indirectly, by the Company have been duly and validly authorized and issued, are fully paid and non-assessable and are owned directly or indirectly by the Company, free and clear of any lien, charge, encumbrance, security interest, restriction on voting or transfer or any other claim of any third party.

(8) Stock Options. The Company has not granted any stock options.

(9) Due Authorization. This Agreement has been duly authorized, executed and delivered by the Company. Each Confirmation, if any, has been duly authorized by the Company and, when duly executed and delivered by each party thereto, will be duly executed and delivered by the Company and will constitute a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

(10) The Securities. The Issuance Securities to be issued and sold by the Company hereunder, when issued and delivered to an Agent and paid for in accordance with the terms of this Agreement, will be validly issued, fully paid and non-assessable and such issuance will not be subject to any preemptive or similar rights. The shares of Common Stock issuable upon the settlement of each Confirmation, if any, have been duly authorized and, when issued and delivered to the Designated Forward Purchaser pursuant to the terms of such Confirmation, will be validly issued, fully paid and non-assessable and such issuance will not be subject to any preemptive or similar rights. The Securities to be offered and sold hereunder will conform to the descriptions thereof in the Registration Statement and the Prospectus.

(11) Descriptions of the Agreements. The descriptions of this Agreement and any Confirmation contained in the Registration Statement and the Prospectus, insofar as they purport to constitute summaries of certain terms of such documents, constitute accurate summaries of such documents in all material respects.

(12) No Violation or Default. Neither the Company nor any of its subsidiaries is (i) in violation of its charter or bylaws or similar organizational documents; (ii) except as described in the Registration Statement and the Prospectus, in default, and no event has occurred that, with notice or lapse of time or both, would constitute such a default, in the due performance or observance of any term, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject; or (iii) except as described in the Registration Statement and the Prospectus, in violation of any law or statute or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority, except, in the case of clauses (ii) and (iii) above, for any such default or violation that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(13) No Conflicts. The execution, delivery and performance by the Company of this Agreement and any Confirmation will not (i) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its subsidiaries pursuant to, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries



is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, (ii) result in any violation of the provisions of the charter or bylaws or similar organizational documents of the Company or any of its subsidiaries or (iii) result in the violation by the Company of any law or statute or any judgment, order, rule or regulation applicable to the Company of any court or arbitrator or governmental or regulatory authority having jurisdiction over the Company or any of its subsidiaries, except (x) in the case of clauses (i) and (iii) above, for any such conflict, breach, violation or default that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect and (y) in the case of clause (iii) above, for any such violation that may arise (A) under applicable state securities laws or rules and regulations of the Financial Industry Regulatory Authority (“FINRA”) or any foreign laws or statutes in connection with the purchase, sale and distribution of the Securities by the Agents and Forward Sellers or (B) as a result of the legal or regulatory status of any person (other than the Company) or because of any other facts specifically pertaining to such person.

(14) No Consents Required. No consent, approval, authorization, order, license, registration or qualification of or with any court or arbitrator or governmental or regulatory authority is required to permit the issuance and sale of the Common Stock pursuant to this Agreement or any Confirmation and no further approval, authorization, consent or other order of any governmental body is legally required to permit the performance by the Company of its obligations under this Agreement or any Confirmation (except, in each case, for such consents, approvals, authorizations, orders and registrations or qualifications (1) as may be required under applicable state securities laws or rules and regulations of the FINRA or any foreign laws or statutes, (2) as described in the Prospectus or (3) as may be applicable as a result of the legal or regulatory status of any person (other than the Company) or because of any other facts specifically pertaining to such person.

(15) Legal Proceedings. Except as described in the Registration Statement and the Prospectus, there are no legal, governmental or regulatory actions, suits or proceedings or, to the knowledge of the Company, investigations pending to which the Company or any of its subsidiaries is or, to the knowledge of the Company, may reasonably be expected to be a party or to which any property of the Company or any of its subsidiaries is or, to the knowledge of the Company, may reasonably be expected to be the subject that, individually or in the aggregate, if determined adversely to the Company or any of its subsidiaries, could reasonably be expected to have a Material Adverse Effect; and to the knowledge of the Company, no such investigations, actions, suits or proceedings are threatened or contemplated by any governmental or regulatory authority or threatened by others.

(16) Independent Accountants. Deloitte & Touche LLP, which has certified certain financial statements of the Company and its subsidiaries, is an independent registered public accounting firm with respect to the Company and its subsidiaries within the applicable rules and regulations adopted by the Commission and the Public Company Accounting Oversight Board (United States) and as required by the Securities Act.

(17) Title to Real and Personal Property. The Company and its subsidiaries have good and marketable title to, or have valid and marketable rights to lease or otherwise use, all items of real and personal property and assets that are material to the respective businesses of the Company and its subsidiaries, in each case free and clear of all liens, encumbrances, claims and defects and imperfections of title except those that (i) are described in the Registration Statement and the Prospectus, (ii) do not materially interfere with the use made and proposed to be made of such property by the Company and its subsidiaries or (iii) could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(18) Intellectual Property. (i) The Company and its subsidiaries own or have the right to use all material patents, patent applications, trademarks, service marks, trade names, trademark registrations, service mark registrations, domain names and other source indicators, copyrights and copyrightable works, know-how, trade secrets, systems, procedures, proprietary or confidential information and all other worldwide intellectual property, industrial property and proprietary rights (collectively, "Intellectual Property") used in the conduct of their respective businesses as described in the Registration Statement and Prospectus; (ii) the Company's and its subsidiaries' conduct of their respective businesses as described in the Registration Statement and Prospectus does not infringe, misappropriate or otherwise violate any Intellectual Property of any person except as described in the Registration Statement and Prospectus; (iii) the Company and its subsidiaries have not received any written notice of any claim relating to Intellectual Property, except as described in the Registration Statement and Prospectus; and (iv) to the knowledge of the Company, except as described in the Registration Statement and Prospectus, the Intellectual Property of the Company and its subsidiaries is not being infringed, misappropriated or otherwise violated by any person.

(19) Cyber Security; Data Protection Compliance. The Company and its subsidiaries' information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, "IT Systems") are adequate for, and operate and perform in all material respects as required to conduct the business of the Company and its subsidiaries as described in the Registration Statement and Prospectus, free and clear of all material bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants. The Company and its subsidiaries have implemented and maintained commercially reasonable controls, policies, procedures, and safeguards to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and data (including all personal, personally identifiable, sensitive, confidential or regulated data ("Personal Data")) used in connection with their businesses, and there have been no breaches, violations, outages or unauthorized uses of or accesses to same, except for those that have been remedied without material cost or liability or the duty to notify any other person, nor any incidents under internal review or investigations relating to the same. The Company and its subsidiaries are presently in material compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Personal Data and to the protection of such IT Systems and Personal Data from unauthorized use, access, misappropriation or modification.

(20) Investment Company Act. The Company is not and, after giving effect to the offering and sale of any Securities and the application of the proceeds thereof (including any proceeds received upon settlement of any Confirmation) and the transactions contemplated by any Confirmation executed in connection therewith, as described in the Registration Statement and the Prospectus, will not be required to register as an "investment company" or an entity "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission thereunder (collectively, the "Investment Company Act").

(21) Public Utility Holding Company Act. The Company is not a "holding company" under the Public Utility Holding Company Act of 2005. The Company is a (i) "public utility" subject to the jurisdiction of the Federal Energy Regulatory Commission under the Federal Power Act, as amended ("FPA"), and (ii) a "natural gas company" subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, as amended ("NGA") and the Natural Gas Policy Act, as amended ("NGPA"). The Company is in compliance with the FPA, the NGA and the NGPA and with all applicable

rules, regulations, requirements, orders, certificates and tariffs of the Federal Energy Regulatory Commission, except to the extent that any noncompliance, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(22) Taxes. The Company and its subsidiaries have filed, directly or indirectly as part of a consolidated or unitary group, all federal, state, local and foreign tax returns that have been required to be filed through the date hereof and have paid all taxes indicated by such returns and all assessments received by them to the extent that such taxes have become due, except in each case where the failure to pay or file would not reasonably be expected to have a Material Adverse Effect. All tax liabilities have been adequately provided for in the financial statements of the Company, except as would not reasonably be expected to have a Material Adverse Effect, and, except as described in the Registration Statement and the Prospectus, the Company does not know or have reason to know of any actual or proposed additional tax assessments which would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(23) Licenses and Permits. Except as described in the Registration Statement and the Prospectus, the Company and its subsidiaries possess all licenses, certificates, permits and other authorizations issued by, and have made all declarations and filings with, the appropriate federal, state, local or foreign governmental or regulatory authorities that are necessary for the ownership or lease of their respective properties or the conduct of their respective businesses as described in the Registration Statement and the Prospectus, except where the failure to possess or make the same would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and except as described in the Registration Statement and the Prospectus, neither the Company nor any of its subsidiaries has received notice of any revocation or modification of any such license, certificate, permit or authorization that would not reasonably be expected to have a Material Adverse Effect.

(24) No Labor Disputes. Except as described in the Registration Statement and Prospectus, (i) No labor disturbance by or dispute with employees of the Company or any of its subsidiaries exists or, to the knowledge of the Company, is contemplated or threatened, and (ii) the Company is not aware of any existing or imminent labor disturbance by, or dispute with, the employees of any of its or its subsidiaries' principal suppliers, contractors or customers, except with respect to clauses (i) and (ii) above as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(25) Compliance with and Liability under Environmental Laws. Except as described in the Registration Statement and the Prospectus, (i) the Company and its subsidiaries (A) are, and to the knowledge of the Company at all prior times were, in compliance with any and all applicable federal, state, local and foreign laws, rules, regulations, requirements, decisions, judgments, decrees, orders and the common law relating to pollution or the protection of the environment, natural resources or human health or safety, including those relating to the generation, storage, treatment, use, handling, transportation, Release (as defined below) or threat of Release of Hazardous Materials (as defined below) (collectively, "Environmental Laws"), (B) have received and are in compliance with all permits, licenses, certificates or other authorizations or approvals required of them under applicable Environmental Laws to conduct their respective businesses, (C) have not received notice of any actual or potential liability under or relating to, or actual or potential violation of, any Environmental Laws, including for the investigation or remediation of any Release or threat of Release of Hazardous Materials, other than with respect to such notices as have been fully resolved and for which no costs, obligations or damages remain, (D) are not conducting or paying for, in whole or in part, any investigation, remediation or other corrective action pursuant to any Environmental Law at any location, and (E) are not a party to any order, decree or agreement that imposes any obligation or liability under any

Environmental Law; and (ii) there are no costs or liabilities associated with Environmental Laws of or relating to the Company or its subsidiaries, except in the case of each of (i) and (ii) above, for any such matter, as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(26) Hazardous Materials. Except as described in the Registration Statement and the Prospectus, there has been no storage, generation, transportation, use, handling, treatment, Release or threat of Release of Hazardous Materials by, relating to or caused by the Company or any of its subsidiaries (or, to the knowledge of the Company, any other entity (including any predecessor) for whose acts or omissions the Company or any of its subsidiaries is or could reasonably be expected to be liable) at, on, under or from any property or facility now or previously owned, operated or leased by the Company or any of its subsidiaries, or at, on, under or from any other property or facility, in violation of any Environmental Laws or in a manner or amount or to a location that could reasonably be expected to result in any liability under any Environmental Law, except for any violation or liability which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. "Hazardous Materials" means any material, chemical, substance, waste, pollutant, contaminant, compound, mixture, or constituent thereof, in any form or amount, including petroleum (including crude oil or any fraction thereof) and petroleum products, natural gas liquids, asbestos and asbestos containing materials, naturally occurring radioactive materials, brine, and drilling mud, regulated or which can give rise to liability under any Environmental Law. "Release" means any spilling, leaking, seepage, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, depositing, dispersing, or migrating in, into or through the environment, or in, into from or through any building or structure.

(27) Compliance with ERISA. Except as would not reasonably be expected to have a Material Adverse Effect or as disclosed in the Registration Statement and the Prospectus, (i) each employee benefit plan, within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), that is sponsored by the Company or any member of its "Controlled Group" (as defined in Section 414 of the Internal Revenue Code of 1986, as amended (the "Code")) (each, a "Plan") is in compliance with all presently applicable statutes, orders, rules and regulations, including but not limited to ERISA and the Code; (ii) no Plan has engaged in a non-exempt and uncorrected prohibited transaction, within the meaning of Section 406 of ERISA or Section 4975 of the Code; (iii) for each Plan that is subject to the funding rules of Section 412 of the Code or Section 302 of ERISA, the minimum funding standard applicable to such Plan for the most recent year has been satisfied (without taking into account any waiver thereof or extension of any amortization period) and is expected by the Company to be satisfied in the future (without taking into account any waiver thereof or extension of any amortization period); (iv) the fair market value of the assets of each Plan exceeds the present value of all benefits accrued under such Plan (determined based on those assumptions used to fund such Plan); (v) no Plan subject to Title IV of ERISA has experienced or is reasonably expected to experience a "reportable event" (within the meaning of Section 4043(c) of ERISA and the regulations thereunder) for which the 30-day notice requirement has not been waived that either has resulted, or could reasonably be expected to result, in liability to the Company or its subsidiaries under Title IV of ERISA; (vi) neither the Company nor any member of the Controlled Group has incurred, nor reasonably expects to incur, any liability under Title IV of ERISA (other than contributions to the Plan or premiums to the Pension Benefit Guaranty Corporation, in the ordinary course and without default) with respect to a Plan (or a "multiemployer plan," within the meaning of Section 4001(a)(3) of ERISA); and (vii) to the knowledge of the Company, there is no pending audit or investigation by the Internal Revenue Service, the U.S. Department of Labor, or the Pension Benefit Guaranty Corporation with respect to any Plan. Except as would not reasonably be expected to have a

Material Adverse Effect or as disclosed in the Registration Statement and the Prospectus, none of the following events has occurred or is reasonably likely to occur: (x) a material increase in the aggregate amount of contributions required to be made to all Plans by the Company or its subsidiaries in the current fiscal year of the Company and its subsidiaries compared to the amount of such contributions made in the Company and its subsidiaries' most recently completed fiscal year; or (y) a material increase in the Company and its subsidiaries' "accumulated post-retirement benefit obligations" (within the meaning of Statement of Financial Accounting Standards 106) in the current fiscal year compared to the amount of such obligations in the Company and its subsidiaries' most recently completed fiscal year.

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

(29) Accounting Controls. The Company and its subsidiaries maintain systems of "internal control over financial reporting" (as defined in Rule 13a-15(f) of the Exchange Act) that comply with the requirements of the Exchange Act and have been designed by, or under the supervision of, their respective principal executive and principal financial officers, or persons performing similar functions, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP, including, but not limited to, internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and (v) interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement fairly presents the information called for in all material respects and is prepared in accordance with the Commission's rules and guidelines applicable thereto. Except as disclosed in the Registration Statement and the Prospectus, to the Company's knowledge there are no material weaknesses in the Company's internal controls. The Company's auditors and the Audit Committee of the Board of Directors of the Company have been advised of: (i) all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which have adversely affected or are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls over financial reporting.

(30) eXtensible Business Reporting Language. The interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement fairly presents the information called for in all material respects and

has been prepared in accordance with the Commission's rules and guidelines applicable thereto.

(31) Insurance. Except as would not reasonably be expected to have a Material Adverse Effect or as disclosed in the Registration Statement and the Prospectus, (a) the Company and its subsidiaries currently maintain insurance covering their respective properties, operations, personnel and businesses, which insurance is in amounts and insures against such losses and risks as are adequate to protect the Company and its subsidiaries and their respective businesses; and (b) neither the Company nor any of its subsidiaries believes that it will not be able to renew its existing insurance coverage in amounts and against such losses and risks as are adequate to protect the Company and its subsidiaries and their respective businesses as and when such coverage expires or to obtain similar coverage at reasonable cost from similar insurers as may be necessary to continue its business.

(32) No Unlawful Payments. Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or other person associated with or acting on behalf of the Company or any of its subsidiaries has: (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; (ii) made or taken an act in furtherance of an offer, promise or authorization of any direct or indirect unlawful payment or benefit to any foreign or domestic government official or employee, including of any government-owned or controlled entity or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office; (iii) violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977, as amended, or any applicable law or regulation implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, or committed an offence under the Bribery Act 2010 of the United Kingdom or any other applicable anti-bribery or anti-corruption law; or (iv) made, offered, agreed, requested or taken an act in furtherance of any unlawful bribe or other unlawful benefit, including, without limitation, any rebate, payoff, influence payment, kickback or other unlawful or improper payment or benefit. The Company and its subsidiaries have instituted, maintain and enforce, and will continue to maintain and enforce policies and procedures designed to promote and ensure compliance with all applicable anti-bribery and anti-corruption laws.

(33) Compliance with Anti-Money Laundering Laws. The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements, including those of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the applicable money laundering statutes of all jurisdictions where the Company or any of its subsidiaries conducts business, the rules and regulations thereunder and any related or similar rules, regulations or guidelines issued, administered or enforced by any governmental agency (collectively, the "Anti-Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Anti-Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(34) No Conflicts with Sanctions Laws. Neither the Company nor any of its subsidiaries, nor to the knowledge of the Company, any director, officer, agent, employee, affiliate or other person associated with or acting on behalf of the Company or any of its subsidiaries is currently the subject or the target of any sanctions administered or enforced by the U.S. government, (including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State and including, without limitation, the designation as a "specially designated national" or "blocked person"), the United Nations Security Council, the European Union, His Majesty's Treasury or other

relevant sanctions authority (collectively, “Sanctions”), nor is the Company or any of its subsidiaries located, organized or resident in a country or territory that is the subject or target of Sanctions, including, without limitation, Cuba, Iran, North Korea, Syria, Crimea and the so-called Donetsk People’s Republic or so-called Luhansk People’s Republic or any other covered region of Ukraine identified pursuant to Executive Order 14065 (each, a “Sanctioned Country”); and the Company will not, directly or indirectly, use the proceeds of the offering of the Issuance Securities, if any, or the proceeds, if any, due upon settlement of any Confirmation, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity (i) to fund or facilitate any activities of or business with any person that, at the time of such funding or facilitation, is the subject or target of Sanctions, (ii) to fund or facilitate any activities of or business in any Sanctioned Country or (iii) in any other manner that will result in a violation by any person (including any person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions. For the past five years, the Company and its subsidiaries have not knowingly engaged in and are not now knowingly engaged in any dealings or transactions with any person that at the time of the dealing or transaction is or was the subject or the target of Sanctions or with any Sanctioned Country.

(35) No Registration Rights. No person has the right to require the Company or any of its subsidiaries to register any securities for sale under the Securities Act by reason of the filing of the Registration Statement with the Commission or included in the offering contemplated by this Agreement.

(36) No Stabilization. The Company has not taken, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Securities.

(37) Sarbanes-Oxley Act. The Company is in compliance in all material respects with all applicable provisions of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith (the “Sarbanes-Oxley Act”).

(38) NYSE. The outstanding shares of Common Stock and the Securities to be sold hereunder, including the maximum number of shares of Common Stock deliverable upon settlement of all Forwards, have been approved for listing, subject only to official notice of issuance, on the NYSE, and are registered pursuant to Section 12(b) of the Exchange Act, and the Company has taken no action designed to, or likely to have the effect of, terminating the registration of the Securities under the Exchange Act or delisting any such securities from the NYSE, nor has the Company received any notification that the Commission or the NYSE is contemplating terminating such registration or listing.

(39) Permitted Free Writing Prospectus. The Company has not distributed and will not distribute any offering material in connection with the offering and sale of the Securities to be sold hereunder, other than the Prospectus and any Permitted Free Writing Prospectus reviewed and consented to by the applicable Agent or Forward Seller.

(40) Actively Traded Security. The Common Stock is an “actively traded security” excepted from the requirements of Rule 101 of Regulation M under the Exchange Act by subsection (c)(1) of such rule.

(41) Absence of Manipulation. Other than excepted activity pursuant to Regulation M under the Exchange Act, the Company has not taken and will not take, directly or indirectly, any action designed to or that would constitute or that might reasonably be expected to cause or result in the stabilization or manipulation of the price of any security to facilitate the sale or resale of the Securities.

(42) Proprietary Trading by the Agents. The Company acknowledges and agrees that each Agent has informed the Company that such Agent may, to the extent permitted under the Securities Act and the Exchange Act, purchase and sell shares of Common Stock for their own accounts while this Agreement is in effect, and shall be under no obligation to purchase Securities on a principal basis pursuant to this Agreement, except as otherwise agreed by such Agent in the Placement Notice (as amended by the corresponding Acceptance, if applicable).

(b) *Certificates*. Any certificate signed by any officer of the Company or any of its subsidiaries and delivered to the Agents, the Forward Purchasers, the Forward Sellers or to counsel for the Agents, the Forward Purchasers and the Forward Sellers shall be deemed a representation and warranty by the Company to the Agents, the Forward Purchasers and the Forward Sellers as to the matters covered thereby.

Section 6. Sale and Delivery of the Securities; Settlement.

(a) *Sale of Placement Securities*. On the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, upon an Agent's or a Forward Seller's, as the case may be, acceptance of the terms of a Placement Notice or upon receipt by the applicable Agent or Forward Seller, as the case may be, of an Acceptance, as applicable, and unless the sale of the Placement Securities described therein has been declined, suspended, or otherwise terminated in accordance with the terms of this Agreement, for the period specified in the Placement Notice (as amended by the corresponding Acceptance, if applicable), in the case of a Forward, the Designated Forward Purchaser will use commercially reasonable efforts to borrow, and the applicable Agent or Forward Seller, as the case may be, will use commercially reasonable efforts consistent with its normal trading and sales practices to sell, such Placement Securities up to the amount specified, and otherwise in accordance with the terms of such Placement Notice (as amended by the corresponding Acceptance, if applicable). The Company acknowledges and agrees that if the Stock Loan Fee (as such term is defined in the applicable Master Forward Confirmation) for borrowing any Forward Hedge Securities exceeds 200 basis points per annum, the Designated Forward Purchaser shall not be required to borrow such Forward Hedge Securities in order to comply with its obligation to use commercially reasonable efforts to borrow the Forward Hedge Securities as described in the immediately preceding sentence. The Company further acknowledges and agrees that (i) in the case of a Forward, there can be no assurance that the Designated Forward Purchaser will be successful in borrowing the Placement Securities, (ii) there can be no assurance that the applicable Agent or Forward Seller, as the case may be, will be successful in selling Placement Securities, (iii) no Forward Purchaser, Agent or Forward Seller, as the case may be, will incur any liability or obligation to the Company or any other person or entity if it does not borrow or sell, as the case may be, Placement Securities for any reason other than a failure by the Designated Forward Purchaser to use commercially reasonable efforts to borrow the Placement Securities or a failure by the applicable Agent or a Forward Seller, as the case may be, to use commercially reasonable efforts consistent with its normal trading and sales practices to sell such Placement Securities as required under this Section 6 and (iii) the Designated Party shall be under no obligation to purchase Securities on a principal basis pursuant to this Agreement, except as otherwise agreed by the Designated Party in the Placement Notice (as amended by the corresponding Acceptance, if applicable).

(b) *Settlement of Placement Securities*. Unless otherwise specified in the applicable Placement Notice (as amended by the corresponding Acceptance, if applicable), settlement for sales of Issuance Securities will occur on the second (2<sup>nd</sup>) Trading Day (or such earlier day as is industry practice for regular-way trading) following the date on which such sales are made (each, an "Issuance Settlement Date"). The amount of proceeds to be delivered to the Company by an Agent on an Issuance Settlement Date for the sale of any Issuance Securities



against receipt of the Placement Securities sold (in respect of any Issuance Securities, the “Net Proceeds” for such Issuance Securities) will be equal to the aggregate sales price received by such Agent for the sale of the Issuance Securities, after deduction for (i) the Designated Party’s commission, discount or other compensation for such sales payable by the Company pursuant to Section 2 hereof, (ii) any other amounts due and payable by the Company to the Designated Party hereunder pursuant to Section 8(a) hereof, and (iii) any transaction fees imposed by any governmental or self-regulatory organization in respect of such sales. Unless otherwise specified in the applicable Placement Notice (as amended by the corresponding Acceptance, if applicable), settlement for sales of Forward Hedge Securities will occur on the second (2<sup>nd</sup>) Trading Day (or such earlier day as is industry practice for regular-way trading) following the date on which such sales are made (each, a “Forward Hedge Settlement Date”). The amount of proceeds to be delivered to a Forward Purchaser by its affiliated Forward Seller on a Forward Hedge Settlement Date for the sale of any Forward Hedge Securities against receipt of the Placement Securities sold (in respect of any Forward Hedge Securities, the “Net Proceeds” for such Forward Hedge Securities) will be equal to the aggregate sales price received by such Forward Seller for the sale of the Forward Hedge Securities, after deduction for (i) the Forward Hedge Selling Commission Rate, (ii) any other amounts due and payable by the Company to such Forward Seller hereunder pursuant to Section 8(a) hereof, and (iii) any transaction fees imposed by any governmental or self-regulatory organization in respect of such sales.

(c) *Delivery of Placement Securities.* On or before each Issuance Settlement Date, the Company will, or will cause its transfer agent to, electronically transfer the Issuance Securities being sold by crediting the applicable Agent’s or its designee’s account (provided such Agent shall have given the Company written notice of such designee prior to the Issuance Settlement Date) at The Depository Trust Company through its Deposit and Withdrawal at Custodian System or by such other means of delivery as may be mutually agreed upon by the parties hereto which in all cases shall be freely tradable, transferable, registered shares in good deliverable form. On each Settlement Date, the applicable Agent or Forward Seller, as the case may be, will deliver the related Net Proceeds in same day funds to an account designated by the Company or the Designated Forward Purchaser, as the case may be, on, or prior to, the Settlement Date. The Company agrees that if the Company, or its transfer agent (if applicable), defaults in its obligation to deliver Issuance Securities on an Issuance Settlement Date, the Company agrees that in addition to and in no way limiting the rights and obligations set forth in Section 10(a) hereto, it will (i) hold such Agent harmless against any loss, liability, claim, damage, or expense whatsoever (including reasonable documented legal fees and expenses), as incurred, arising out of or in connection with such default by the Company or its transfer agent and (ii) pay to such Agent any commission, discount, or other compensation to which it would otherwise have been entitled absent such default.

(d) *Denominations; Registration.* The Company shall deliver the Securities through the facilities of the Depository Trust Company unless the Designated Party shall otherwise instruct. If the Designated Party instructs the Company that any Securities are to be issued in certificated form, certificates for such Securities shall be in such denominations and registered in such names as the Designated Party may request in writing at least one full business day before the Settlement Date. Any such certificates for the Securities will be made available for examination and packaging by the Designated Party in The City of New York not later than noon (New York time) on the business day prior to the Settlement Date.

(e) *Limitations on Offering Size.* Under no circumstances shall the Company cause or request the offer or sale of any Securities, if after giving effect to the sale of such Securities, the aggregate offering price of the Securities sold pursuant to this Agreement would exceed the lesser of (A) the Authorized Aggregate Gross Sales Price, (B) the amount available for offer and sale under the currently effective Registration Statement, and (C) the amount authorized from time to time to be issued and sold under this Agreement by the Company and notified to

the Agents and the Forward Sellers in writing. Under no circumstances shall the Company cause or request the offer or sale of any Securities pursuant to this Agreement at a price lower than the minimum price authorized from time to time by the Company and notified to the Agents and the Forward Sellers in writing. Further, under no circumstances shall the aggregate offering price of Securities sold pursuant to this Agreement, including any separate underwriting or similar agreement covering principal transactions described in Section 1 of this Agreement, exceed the Authorized Aggregate Gross Sales Price.

(f) *Black-out Limitations.* Notwithstanding any other provision of this Agreement, the Company shall not offer or sell, or instruct each Agent or Forward Seller to offer or sell, any Securities through such Agent or Forward Seller (and, by notice to such Agent or Forward Seller, as the case may be, given by telephone (confirmed promptly by telecopy or email), shall cancel any instructions for any such offer or sale of any Securities prior to the commencement of the periods referenced below), and such Agent or Forward Seller shall not be obligated to make any such offer or sale of Securities, (i) during any period in which the Company is, or could be deemed to be, in possession of material non-public information or (ii) except as provided in Section 6(f)(1) hereof, at any time during the period commencing on the 10th business day prior to the time the Company issues a press release containing, or shall otherwise publicly announce, its earnings, revenues or other operating results for a fiscal period or periods (each, an “Earnings Announcement”) through and including the time that is 24 hours after the time that the Company files a Quarterly Report on Form 10-Q or an Annual Report on Form 10-K (a “Filing Time”) that includes consolidated financial statements as of and for the same fiscal period or periods, as the case may be, covered by such Earnings Announcement.

If the Company wishes to offer or sell Securities through an Agent or a Forward Seller at any time during the period from and including an Earnings Announcement through and including the time that is 24 hours after the corresponding Filing Time, the Company shall first (i) prepare and deliver to such Agent or Forward Seller, as the case may be (with a copy to counsel to the Agents or Forward Sellers) a Current Report on Form 8-K that includes substantially the same financial and related information (together with management’s discussion and analysis thereof) that was included in such Earnings Announcement (other than any earnings projections and similar forward-looking data and officers’ quotations) (each, an “Earnings 8-K”), in form and substance reasonably satisfactory to such Agent and Forward Seller, and, prior to its filing, obtain the written consent of such Agent and Forward Seller to such filing (which consent shall not be unreasonably withheld), (ii) provide such Agent and Forward Seller with the officers’ certificate, opinions and letters of counsel and accountants’ letter specified in Section 7(o), (p) and (q), respectively, hereof, (iii) afford such Agent and Forward Seller the opportunity to conduct a due diligence review in accordance with Section 7(m) hereof prior to filing such Earnings 8-K and (iv) file such Earnings 8-K with the Commission, then the provision of clause (ii) of Section 6(f) shall not be applicable for the period from and after the time at which the foregoing conditions shall have been satisfied (or, if later, the time that is 24 hours after the time that the relevant Earnings Announcement was first publicly released) through and including the time that is 24 hours after the Filing Time of the relevant Quarterly Report on Form 10-Q or Annual Report on Form 10-K, as the case may be. For purposes of clarity, the parties hereto agree that (A) the delivery of any officers’ certificate, opinion or letter of counsel or accountants’ letter pursuant to this Section 6(f) shall not relieve the Company from any of its obligations under this Agreement with respect to any Quarterly Report on Form 10-Q or Annual Report on Form 10-K, as the case may be, including, without limitation, the obligation to deliver officers’ certificates, opinions and letters of counsel and accountants’ letters as provided in Section 7(o), (p) and (q), respectively, hereof, and (B) this Section 2(j) shall in no way affect or limit the operation of clause (i) of Section 6(f) hereof, which shall have independent application.

Section 7. Covenants of the Company. The Company covenants with the Agents, the Forward Sellers and the Forward Purchasers, as follows:

(a) *Registration Statement Amendments; Payment of Fees*. After the date of this Agreement and during any period in which a Prospectus relating to any Placement Securities is required to be delivered by the Agents, the Forward Sellers or the Forward Purchasers under the Securities Act (including in circumstances where such requirement may be satisfied pursuant to Rule 172 under the Securities Act), (i) the Company will notify the Agents, the Forward Purchasers and the Forward Sellers promptly of the time when any subsequent amendment to the Registration Statement, other than documents incorporated by reference, has been filed with the Commission and/or has become effective or any subsequent supplement to the Prospectus has been filed and of any comment letter from the Commission or any request by the Commission for any amendment or supplement to the Registration Statement or Prospectus or for additional information; *provided, however*, if any such amendment to the Registration Statement or supplement to the Prospectus does not relate to the Placement Securities and no Placement is pending, the Company may satisfy this Section 7(a)(i) by notifying the Sales Agents of such amendment to the Registration Statement or supplement to the Prospectus no later than the close of business on the date of filing such amendment or first use of such supplement; (ii) the Company will prepare and file with the Commission, promptly upon the Agents', Forward Purchasers' or Forward Sellers' request, any amendments or supplements to the Registration Statement or Prospectus that, in the Agents', Forward Purchasers' or Forward Sellers' reasonable opinion, may be necessary or advisable in connection with the distribution of the Placement Securities by the Agents, the Forward Purchasers and the Forward Sellers (*provided, however*, that the failure of the Agents, the Forward Purchasers or the Forward Sellers to make such request shall not relieve the Company of any obligation or liability hereunder, or affect the Agents', the Forward Purchasers' or the Forward Sellers' right to rely on the representations and warranties made by the Company in this Agreement); (iii) the Company will not file any amendment or supplement to the Registration Statement or Prospectus, other than documents incorporated by reference, relating to the Placement Securities or a security convertible into the Placement Securities unless a copy thereof has been submitted to the Agents, the Forward Purchasers and the Forward Sellers within a reasonable period of time before the filing and the Agents, the Forward Purchasers or the Forward Sellers have not reasonably objected thereto (*provided, however*, that the failure of the Agents, the Forward Purchasers or the Forward Sellers to make such objection shall not relieve the Company of any obligation or liability hereunder, or affect the Agents', the Forward Purchasers' or the Forward Sellers' right to rely on the representations and warranties made by the Company in this Agreement); (iv) the Company will furnish to the Agents, the Forward Purchasers and the Forward Sellers at the time of filing thereof a copy of any document that upon filing is deemed to be incorporated by reference into the Registration Statement or Prospectus, except for those documents available via EDGAR; and (v) the Company will cause each amendment or supplement to the Prospectus, other than documents incorporated by reference, to be filed with the Commission as required pursuant to the applicable paragraph of Rule 424(b) of the Securities Act (without reliance on Rule 424(b)(8) of the Securities Act) (the determination to file or not file any amendment or supplement with the Commission under this Section 7(a), based on the Company's reasonable opinion or reasonable objections, shall be made exclusively by the Company). Notwithstanding the foregoing, the Company shall not be required to file such amendment or supplement if there is no pending Placement and the Company believes that it is in its best interest not to file such amendment or supplement.

(b) *Notice of Commission Stop Orders*. The Company will advise the Agents, the Forward Purchasers and the Forward Sellers promptly after it receives notice or obtains knowledge thereof, of the issuance or threatened issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or of any other order preventing or suspending the use of the Prospectus or any Issuer Free Writing Prospectus, or of the

suspension of the qualification of the Placement Securities for offering or sale in any jurisdiction or of the loss or suspension of any exemption from any such qualification, or of the initiation or threatening of any proceedings for any of such purposes, or of any examination pursuant to Section 8(e) of the Securities Act concerning the Registration Statement or if the Company becomes the subject of a proceeding under Section 8A of the Securities Act in connection with the offering of the Securities. The Company will use commercially reasonable efforts to prevent the issuance of any stop order, the suspension of any qualification of the Securities for offering or sale and any loss or suspension of any exemption from any such qualification, and if any such stop order is issued or any such suspension or loss occurs, to promptly obtain the lifting thereof. Upon written notice from the Company that it is in compliance with Section 2 hereof and until such notice from the Company confirming that each stop order is lifted, the Agents, the Forward Purchasers and the Forward Sellers shall cease making offers and sales under this Agreement.

(c) *Delivery of Registration Statement and Prospectus.* The Company will furnish to the Agents, the Forward Purchasers, the Forward Sellers, their respective agents and their counsel (at the expense of the Company) copies of the Registration Statement, the Prospectus (including all documents incorporated by reference therein) and all amendments and supplements to the Registration Statement or Prospectus, and any Issuer Free Writing Prospectuses, that are filed with the Commission during any period in which a Prospectus relating to the Placement Securities is required to be delivered under the Securities Act (including all documents filed with the Commission during such period that are deemed to be incorporated by reference therein), in each case as soon as reasonably practicable and in such quantities and at such locations as the Agents, the Forward Purchasers or the Forward Sellers may from time to time reasonably request; provided, however, that the Company shall not be required to furnish any document (other than the Prospectus) to the Agents, the Forward Purchasers or the Forward Sellers to the extent such document is available on EDGAR. The copies of the Registration Statement and the Prospectus and any supplements or amendments thereto furnished to the Agents, the Forward Purchasers and the Forward Sellers will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(d) *Continued Compliance with Securities Laws.* If at any time when a Prospectus is required by the Securities Act or the Exchange Act to be delivered in connection with a pending sale of the Placement Securities (including, without limitation, pursuant to Rule 172), any event shall occur or condition shall exist as a result of which it is necessary, in the opinion of counsel for the Agents, the Forward Purchasers and the Forward Sellers or for the Company, to amend the Registration Statement or amend or supplement the Prospectus in order that the Prospectus will not include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in the light of the circumstances existing at the time it is delivered to a purchaser, or if it shall be necessary, in the opinion of such counsel, at any such time to amend the Registration Statement or amend or supplement the Prospectus in order to comply with the requirements of the Securities Act, the Company will promptly notify the Agents, the Forward Purchasers and the Forward Sellers to suspend the offering of Placement Securities during such period and the Company will promptly prepare and file with the Commission such amendment or supplement as may be necessary to correct such statement or omission or to make the Registration Statement or the Prospectus comply with such requirements, and the Company will furnish to the Agents, the Forward Purchasers and the Forward Sellers such number of copies of such amendment or supplement as the Agents, the Forward Purchasers and the Forward Sellers may reasonably request. Notwithstanding the foregoing, in the alternative, the Company can suspend or terminate the offering of Placement Securities upon written notice to the Agents, the Forward Purchasers and the Forward Sellers pursuant to Section 2 hereof and delay the filing of any amendment or supplement, if in the judgment of the Company, it is in the best interest of the

Company; *provided* that the Company must file such amendment or supplement in the event of a pending Placement, a pending sale of Placement Securities or if a prospectus is otherwise still required to be delivered in connection with a completed sale of Placement Securities. If at any time following issuance of an Issuer Free Writing Prospectus there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted, conflicts or with the information contained in the Registration Statement or the Prospectus or included, includes an untrue statement of a material fact or omitted, omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances, prevailing at that subsequent time, not misleading, the Company will promptly notify the Agents, the Forward Purchasers and the Forward Sellers to suspend the offering of Placement Securities during such period and the Company will, subject to Section 7(a) hereof, promptly amend or supplement such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission; *provided, however*, that so long as no Placement is pending, the Company may delay the filing of any amendment or supplement, if in the judgment of the Company, it is in the best interest of the Company to do so.

(e) *Blue Sky and Other Qualifications.* The Company will use commercially reasonable efforts, in cooperation with the Agents, the Forward Purchasers and the Forward Sellers, to qualify the Placement Securities for offering and sale, or to obtain an exemption for the Securities to be offered and sold, under the applicable securities laws of such states and other jurisdictions (domestic or foreign) as the Agents, the Forward Purchasers and the Forward Sellers may reasonably designate and to maintain such qualifications and exemptions in effect for so long as required for the distribution of the Securities (but in no event for less than one year from the date of this Agreement); *provided, however*, that the Company shall not be obligated to file any general consent to service of process or to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject. In each jurisdiction in which the Placement Securities have been so qualified or exempt, the Company will file such statements and reports as may be required by the laws of such jurisdiction to continue such qualification or exemption, as the case may be, in effect for so long as required for the distribution of the Placement Securities (but in no event for less than one year from the date of this Agreement).

(f) *Rule 158.* The Company will timely file such reports pursuant to the Exchange Act as are necessary in order to make generally available to its securityholders as soon as practicable an earnings statement for the purposes of, and to provide to the Agents, the Forward Purchasers and the Forward Sellers the benefits contemplated by, the last paragraph of Section 11(a) of the Securities Act.

(g) *Use of Proceeds.* The Company will use the net proceeds received by it from the sale of the Issuance Securities and the net proceeds received by it from the settlement of any Forward in the manner specified in the Prospectus under "Use of Proceeds."

(h) *Listing.* During any period in which the Prospectus relating to the Placement Securities is required to be delivered by the Agents, the Forward Purchasers and the Forward Sellers under the Securities Act with respect to a pending sale of the Placement Securities (including in circumstances where such requirement may be satisfied pursuant to Rule 172 under the Securities Act), the Company will use commercially reasonable efforts to cause the Issuance Securities and the maximum number of shares of Common Stock deliverable upon settlement of all Forwards to be listed on the NYSE.

(i) *Filings with the NYSE.* The Company will timely file with the NYSE all material documents and notices required by the NYSE of companies that have or will issue securities that are traded on the NYSE.

(j) *Reporting Requirements.* The Company, during any period when the Prospectus is required to be delivered under the Securities Act and the Exchange Act (including in circumstances where such requirement may be satisfied pursuant to Rule 172 under the Securities Act), will file all documents required to be filed with the Commission pursuant to the Exchange Act within the time periods required by the Exchange Act.

(k) *Notice of Other Sales.* The Company will not, without (i) giving the Agents, the Forward Purchasers and the Forward Sellers at least five (5) business days' prior written notice specifying the nature of the proposed sale and the date of such proposed sale and (ii) the Agents, the Forward Purchasers and the Forward Sellers suspending activity under this program for such period of time as requested by the Company or as deemed appropriate by the Agents, the Forward Purchasers and the Forward Sellers in light of the proposed sale, (A) offer, pledge, announce the intention to sell, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant for the sale of, lend or otherwise transfer or dispose of, directly or indirectly, any Common Stock or securities convertible into or exchangeable or exercisable for or repayable with Common Stock, or file any registration statement under the Securities Act with respect to any of the foregoing (other than a shelf registration statement under Rule 415 under the Securities Act, a registration statement on Form S-8 or post-effective amendment to the Registration Statement) or (B) enter into any swap or other agreement or any transaction that transfers in whole or in part, directly or indirectly, any of the economic consequence of ownership of the Common Stock, or any securities convertible into or exchangeable or exercisable for or repayable with Common Stock, whether any such swap or transaction described in clause (A) or (B) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise. The foregoing sentence shall not apply to (a) the entry into, or settlement of, any Forward, (b) the Common Stock to be offered and sold through the Agents and the Forward Sellers pursuant to this Agreement; (c) any shares of Common Stock issued and delivered pursuant to any Forward Sale Agreement and any Additional Forward Sale Agreement (each as defined in that certain underwriting agreement October 25, 2022 entered into by and among the Company and Barclays Capital Inc., and J.P. Morgan Securities LLC as representatives of the several underwriters named in Schedule I thereto, Barclays Bank PLC and JPMorgan Chase Bank National Association, in their capacities as forward purchasers thereunder and Barclays Capital Inc. and J.P. Morgan Securities LLC, each as a seller of Borrowed Shares (as defined therein); (d) any grants of stock options, stock awards, restricted stock, RSUs, or other equity awards and the issuance of shares of Common Stock or securities convertible into or exercisable or exchangeable for shares of Common Stock pursuant to any stock incentive plan, employee stock purchase plan or 401(k) plan of the Company in effect at, or the dividend reinvestment plan approved by the Company's Board of Directors prior to, such Applicable Time; (e) shares of Common Stock the Company may issue upon the settlement of dividend equivalent rights outstanding at such Applicable Time or (f) the filing of any registration statement on Form S-8 relating to securities granted or to be granted pursuant to any plan in effect on the date of this Agreement and described in the Prospectus or any assumed benefit plan pursuant to an acquisition or similar strategic transaction.

(l) *Change of Circumstances.* The Company will, at any time during a fiscal quarter in which the Company intends to tender a Placement Notice or sell Placement Securities, advise the Agents, the Forward Purchasers and the Forward Sellers promptly after it shall have received notice or obtained knowledge thereof, of any information or fact that would alter or affect in any material respect any opinion, certificate, letter or other document provided to the Agents, the Forward Purchasers and the Forward Sellers pursuant to this Agreement.

(m) *Due Diligence Cooperation.* The Company will cooperate with any reasonable due diligence review conducted by the Agents, the Forward Purchasers, the Forward Sellers or their respective agents in connection with the transactions contemplated hereby, including,

without limitation, providing information and making available documents and senior officers, during regular business hours and at the Company's principal offices, as the Agents, the Forward Purchasers and the Forward Sellers may reasonably request.

(n) *Disclosure of Sales.* The Company will disclose in its quarterly reports on Form 10-Q and in its annual report on Form 10-K the number of Placement Securities sold through the Agents and the Forward Sellers, the Net Proceeds to the Company and the compensation payable by the Company to the Agents, the Forward Purchasers and the Forward Sellers with respect to such Placement Securities.

(o) *Representation Dates; Certificate.* On or prior to the date that the first Securities are sold pursuant to the terms of this Agreement and (1) each time the Company:

(i) files the Prospectus relating to the Placement Securities or amends or supplements the Registration Statement or the Prospectus relating to the Placement Securities by means of a post-effective amendment, sticker, or supplement (but not by means of incorporation of documents by reference into the Registration Statement or the Prospectus relating to the Placement Securities);

(ii) files an annual report on Form 10-K under the Exchange Act;

(iii) files a quarterly report on Form 10-Q under the Exchange Act; or

(iv) files a report on Form 8-K containing amended financial information (other than an earnings release, to "furnish" information pursuant to Items 2.02 or 7.01 of Form 8-K) under the Exchange Act; and

(2) at any other time reasonably requested by the Agents, the Forward Purchasers or the Forward Sellers (each such date of filing of one or more of the documents referred to in clauses (1)(i) through (iv) and any time of request pursuant to this Section 7(o) shall be a "Representation Date"), the Company shall furnish the Agents, the Forward Purchasers and the Forward Sellers with a certificate, (but in the case of clause (1)(iv) above only if the Agents, the Forward Purchasers and or Forward Sellers reasonably determines that the information contained in such Form 8-K is material) in the form attached hereto as Exhibit E within three (3) Trading Days of any Representation Date. The requirement to provide a certificate under this Section 7(o) shall be automatically waived for any Representation Date occurring during a suspension pursuant to Section 2 hereof or at a time at which no Placement Notice (as amended by the corresponding Acceptance, if applicable) is pending, which waiver shall continue until the earlier to occur of the date the Company lifts the suspension, the date the Company delivers a Placement Notice hereunder (which for such calendar quarter shall be considered a Representation Date) and the next occurring Representation Date. Notwithstanding the foregoing, if the Company subsequently decides to sell Placement Securities following a Representation Date when the Company relied on such waiver and did not provide the Agents, the Forward Purchasers and the Forward Sellers with a certificate under this Section 7(o), then before the Company delivers the Placement Notice or the Agents or the Forward Sellers sell any Securities, the Company shall provide the Agents, the Forward Purchasers and the Forward Sellers with a certificate, in the form attached hereto as Exhibit E, dated the date of the Placement Notice.

(p) *Legal Opinions.* On or prior to the date that the first Securities are sold pursuant to the terms of this Agreement, and within three (3) Trading Days of each Representation Date with respect to which the Company is obligated to deliver a certificate in the form attached

hereto as Exhibit E for which no waiver is applicable, but not more than once per annual report on Form 10-K or a quarterly report on Form 10-Q (including any Form 10-K/A or Form 10-Q/A containing amended financial information or a material amendment to the previously filed annual report on Form 10-K or quarterly report on Form 10-Q), the Company shall cause to be furnished to the Agents, the Forward Purchasers and the Forward Sellers (i) a written opinion of Latham & Watkins LLP (“Company Counsel”) and (ii) the General Counsel of the Company (the “General Counsel”) or other counsel reasonably satisfactory to Agents, the Forward Purchasers and the Forward Sellers, in form and substance satisfactory to the Agents, the Forward Purchasers and the Forward Sellers and their counsel, dated the date that the opinion is required to be delivered, substantially similar to the form attached hereto as Exhibit D-1 and D-2, modified, as necessary, to relate to the Registration Statement and the Prospectus as then amended or supplemented; *provided, however*, that in lieu of such opinions for subsequent Representation Dates, counsel may furnish the Agents, the Forward Purchasers and the Forward Sellers with a letter (a “Reliance Letter”) to the effect that the Agents, the Forward Purchasers and the Forward Sellers may rely on a prior opinion delivered under this Section 7(p) to the same extent as if it were dated the date of such letter (except that statements in such prior opinion shall be deemed to relate to the Registration Statement and the Prospectus as amended or supplemented at such Representation Date).

(q) *Comfort Letter.* On or prior to the date that the first Securities are sold pursuant to the terms of this Agreement, within three (3) Trading Days of each Representation Date with respect to which the Company is obligated to deliver a certificate in the form attached hereto as Exhibit E for which no waiver is applicable, but not more than once per annual report on Form 10-K or a quarterly report on Form 10-Q (including any Form 10-K/A or Form 10-Q/A containing amended financial information or a material amendment to the previously filed annual report on Form 10-K or quarterly report on Form 10-Q), the Company shall cause its independent accountants (and any other independent accountants whose report is included in the Registration Statement or the Prospectus) to furnish the Agents, the Forward Purchasers and the Forward Sellers letters (the “Comfort Letters”), dated the date the Comfort Letter is delivered, in form and substance satisfactory to the Agents, the Forward Purchasers and the Forward Sellers, (i) confirming that they are an independent registered public accounting firm within the meaning of the Securities Act, the Exchange Act and the PCAOB, (ii) stating, as of such date, the conclusions and findings of such firm with respect to the financial information and other matters ordinarily covered by accountants’ “comfort letters” to underwriters in connection with registered public offerings (the first such letter, the “Initial Comfort Letter”) and (iii) updating the Initial Comfort Letter with any information that would have been included in the Initial Comfort Letter had it been given on such date and modified as necessary to relate to the Registration Statement and the Prospectus, as amended and supplemented to the date of such letter.

(r) *Opinion of Counsel for the Agents, the Forward Purchasers and the Forward Sellers.* On or prior to the date that the first Securities are sold pursuant to the terms of this Agreement, and within three (3) Trading Days of each Representation Date with respect to which the Company is obligated to deliver a certificate in the form attached hereto as Exhibit E for which no waiver is applicable, the Agents, the Forward Purchasers and the Forward Sellers shall have received the favorable written opinion or opinions of Davis Polk & Wardwell LLP, counsel for the Agents, the Forward Purchasers and the Forward Sellers, dated such date, with respect to such matters as the Agents, the Forward Purchasers and the Forward Sellers may reasonably request.

(s) *Market Activities.* The Company will not, directly or indirectly, (i) take any action designed to cause or result in, or that constitutes or might reasonably be expected to constitute, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities or (ii) sell, bid for, or purchase the Securities to be



issued and sold pursuant to this Agreement, or pay anyone any compensation for soliciting purchases of the Securities to be issued and sold pursuant to this Agreement other than the Agents, the Forward Purchasers and the Forward Sellers; *provided, however*, that the Company may bid for and purchase its Common Stock in accordance with Rule 10b-18 under the Exchange Act; and provided further, that no such bids or purchases shall be made by the Company during the three (3) Trading Days before or after any sale of any Securities pursuant to this Agreement.

(t) *Securities Act and Exchange Act.* The Company will use commercially reasonable efforts to comply with all requirements imposed upon it by the Securities Act and the Exchange Act as from time to time in force, so far as necessary to permit the continuance of sales of, or dealings in, the Placement Securities as contemplated by the provisions hereof and the Prospectus.

(u) *No Offer to Sell.* Other than a free writing prospectus (as defined in Rule 405 under the Securities Act) approved in advance in writing by the Company and the Agents, the Forward Purchasers and the Forward Sellers, in their capacity as such, the Company (including its agents and representatives, other than the Agents, the Forward Purchasers and the Forward Sellers, in their capacity as such) will not, directly or indirectly, make, use, prepare, authorize, approve or refer to any free writing prospectus relating to the Securities to be sold by the Agents or the Forward Sellers hereunder.

(v) *Regulation M.* If the Company has reason to believe that the exemptive provisions set forth in Rule 101(c)(1) of Regulation M under the Exchange Act are not satisfied with respect to the Company or the Common Stock, it shall promptly notify the Agents, the Forward Purchasers and the Forward Sellers and sales of the Placement Securities under this Agreement shall be suspended until that or other exemptive provisions have been satisfied in the judgment of each party. Notwithstanding the foregoing, the Company is not responsible for the compliance by the Agents, the Forward Purchasers or the Forward Sellers with laws and regulations (including Regulation M) that apply to the Agents, the Forward Purchasers or the Forward Sellers with respect to any such trading.

(w) *Sales Through Agents.* With respect to the offering and sale of the Placement Securities pursuant to this Agreement, the Company agrees that any offer to sell Securities, any solicitation of an offer to buy Securities, and any sales of Securities shall only be effected by or through a single Agent or a single Forward Seller on any single given day, and the Company shall in no event request that more than one Agent or one Forward Seller offer or sell Placement Securities pursuant to this Agreement on the same day.

(x) *Reservation of Common Stock.* The Company shall reserve and keep available at all times, free of preemptive rights, shares of Common Stock for the purpose of enabling the Company to satisfy its obligations under this Agreement and any Confirmation (including with respect to each Supplemental Confirmation executed in connection with any Master Forward Confirmation).

(y) *Increase in Authorized Aggregate Gross Sales Price.* The Company shall provide at least two business days' notice to each Agent, Forward Seller and Forward Purchaser in writing of any increase in the Authorized Aggregate Gross Sales Price and shall prepare and file a supplement to the Prospectus to reflect such increased Authorized Aggregate Gross Sales Price (which filing shall constitute consummation of the increase in Authorized Aggregate Gross Sales Price under this Agreement).

Section 8. Payment of Expenses.

(a) *Expenses.* The Company will pay all expenses incident to the performance of its obligations under this Agreement and any Confirmations, including (i) the preparation, printing and filing of the Registration Statement (including financial statements and exhibits) as originally filed and of each amendment and supplement thereto, (ii) the word processing, printing and delivery to the Agents, the Forward Sellers and the Forward Purchasers of this Agreement and such other documents as may be required in connection with the offering, purchase, sale, issuance and/or delivery of the Placement Securities, (iii) the preparation, issuance and/or delivery of the certificates for the Issuance Securities to the Agents and any stock or other transfer taxes and any capital duties, stamp duties or other duties or taxes payable upon the sale, issuance and/or delivery of the Placement Securities to the Agents or the Forward Sellers, (iv) the fees and disbursements of the counsel, accountants and other advisors to the Company, (v) the qualification or exemption of the Placement Securities under securities laws in accordance with the provisions of Section 7(e) hereof, including filing fees and the reasonable documented fees and disbursements of counsel for the Agents, the Forward Sellers and the Forward Purchasers in connection therewith and in connection with the preparation of the Blue Sky Survey and any supplements thereto, (vi) the printing and delivery to the Agents, the Forward Sellers and the Forward Purchasers of copies of any permitted Free Writing Prospectus and the Prospectus and any amendments or supplements thereto and any costs associated with electronic delivery of any of the foregoing by the Agents, the Forward Sellers and the Forward Purchasers to investors, (vii) the preparation, printing and delivery to the Agents, the Forward Sellers and the Forward Purchasers of copies of the Blue Sky Survey and any Canadian "wrapper" and any supplements thereto, (viii) the fees and expenses of the Custodian and the transfer agent and registrar for the Securities, (ix) the filing fees incident to, and the reasonable documented fees and disbursements of counsel to the Agents, the Forward Sellers and the Forward Purchasers in connection with, the review by FINRA (in an amount not to exceed \$15,000) of the terms of the sale of the Securities, and (x) the fees and expenses incurred in connection with the listing of the Placement Securities on the NYSE.

Section 9. Conditions of the Agents', the Forward Sellers' and the Forward Purchasers' Obligations. The obligations of the Agents, the Forward Sellers and the Forward Purchasers hereunder with respect to a Placement will be subject to the continuing accuracy and completeness of the representations and warranties of the Company contained in this Agreement or in certificates of any officer of the Company or any subsidiary of the Company delivered pursuant to the provisions hereof, to the performance by the Company of its covenants and other obligations hereunder, and to the following further conditions:

(a) *Effectiveness of Registration Statement.* The Registration Statement and any Rule 462(b) Registration Statement shall have become effective and shall be available for (i) all sales of Placement Securities issued pursuant to all prior Placement Notices (each as amended by a corresponding Acceptance, if applicable) and (ii) the sale of all Placement Securities contemplated to be issued by any Placement Notice (each as amended by a corresponding Acceptance, if applicable).

(b) *No Material Notices.* None of the following events shall have occurred and be continuing: (i) receipt by the Company or any of its subsidiaries of any request for additional information from the Commission or any other federal or state governmental authority during the period of effectiveness of the Registration Statement, the response to which would require any post-effective amendments or supplements to the Registration Statement or the Prospectus; (ii) the issuance by the Commission or any other federal or state governmental authority of any stop order suspending the effectiveness of the Registration Statement or the initiation of any proceedings for that purpose; (iii) receipt by the Company of any notification with respect to

the suspension of the qualification or exemption from qualification of any of the Placement Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; (iv) the occurrence of any event that makes any material statement made in the Registration Statement or the Prospectus, or any Issuer Free Writing Prospectus, or any material document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires the making of any changes in the Registration Statement, related Prospectus, or any Issuer Free Writing Prospectus, or such documents so that, in the case of the Registration Statement, it will not contain any materially untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading and, that in the case of the Prospectus and any Issuer Free Writing Prospectus, it will not contain any materially untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(c) *No Misstatement or Material Omission.* The Agents, the Forward Sellers and the Forward Purchasers shall not have advised the Company that the Registration Statement or Prospectus, or any Issuer Free Writing Prospectus, or any amendment or supplement thereto, contains an untrue statement of fact that in the Agents', Forward Sellers' or Forward Purchasers' reasonable opinion is material, or omits to state a fact that in the Agents', Forward Sellers' or Forward Purchasers' opinion is material and is required to be stated therein or is necessary to make the statements therein not misleading.

(d) *Material Changes.* Except as contemplated in the Prospectus, or disclosed in the Company's reports filed with the Commission, there shall not have been any material adverse change in the condition, financial or otherwise, or in the earnings or business affairs of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business.

(e) *Opinion of Counsel for Company.* The Agents, the Forward Sellers and the Forward Purchasers shall have received the favorable opinions of Company Counsel and the General Counsel, required to be delivered pursuant to Section 7(p) on or before the date on which such delivery of such opinion is required pursuant to Section 7(p).

(f) *Opinion of Counsel for Company.* The Agents, the Forward Sellers and the Forward Purchasers shall have received the favorable opinions of Davis Polk & Wardwell LLP, required to be delivered pursuant to Section 7(r) on or before the date on which such delivery of such opinion is required pursuant to Section 7(r).

(g) *Representation Certificate.* The Agents, the Forward Sellers and the Forward Purchasers shall have received the certificate required to be delivered pursuant to Section 7(o) on or before the date on which delivery of such certificate is required pursuant to Section 7(o).

(h) *Accountant's Comfort Letter.* The Agents, the Forward Sellers and the Forward Purchasers shall have received the Comfort Letter required to be delivered pursuant Section 7(q) on or before the date on which such delivery of such opinion is required pursuant to Section 7(q).

(i) *Approval for Listing.* The Issuance Securities and the maximum number of shares of Common Stock underlying all Forwards shall either have been (i) approved for listing on NYSE, subject only to notice of issuance, or (ii) the Company shall have filed an application for listing of the Issuance Securities and such Common Stock on NYSE at, or prior to, the issuance of any Placement Notice.

(j) *No Objection.* Prior to the issuance of any Placement Notice, FINRA shall have confirmed in writing that it has no objection with respect to the fairness and reasonableness of the underwriting terms and arrangements, if applicable.

(k) *No Suspension.* Trading in the Securities shall not have been suspended on the NYSE.

(l) *Additional Documents.* On each date on which the Company is required to deliver a certificate pursuant to Section 7(o), counsel for the Agents, the Forward Sellers and the Forward Purchasers shall have been furnished with such documents and opinions as they may require for the purpose of enabling them to pass upon the issuance and sale of the Securities as herein contemplated, or in order to evidence the accuracy of any of the representations or warranties, or the fulfillment of any of the conditions, contained in this Agreement.

(m) *Securities Act Filings Made.* All filings with the Commission required by Rule 424 under the Securities Act to have been filed prior to the issuance of any Placement Notice hereunder shall have been made within the applicable time period prescribed for such filing by Rule 424.

(n) *Termination of Agreement.* If any condition specified in this Section 9 shall not have been fulfilled when and as required to be fulfilled, this Agreement may be terminated by Agents, the Forward Sellers or the Forward Purchasers by notice to the Company, and such termination shall be without liability of any party to any other party except as provided in Section 8 hereof and except that, in the case of any termination of this Agreement, Sections 5, 10, 11, 12, 15 and 22 hereof shall survive such termination and remain in full force and effect. For the avoidance of doubt, in the event of any such termination by an Agent, Forward Seller or Forward Purchaser, this Agreement will continue to remain in full force and effect with respect to the other parties to this Agreement, as the case may be.

#### Section 10. Indemnification.

(a) *Indemnification by the Company.* The Company agrees to indemnify and hold harmless each Agent, Forward Seller and Forward Purchaser and its respective affiliates (as such term is defined in Rule 501(b) of the Securities Act), and each person, if any, who controls such Agent, Forward Seller or Forward Purchaser within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act as follows:

(i) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, arising out of or based upon any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereto), including any information deemed to be a part thereof pursuant to Rule 430B, or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading, or arising out of any untrue statement or alleged untrue statement of a material fact included (A) in any Issuer Free Writing Prospectus or the Prospectus (or any amendment or supplement thereto) or (B) in any materials or information provided to investors by, or with the approval of, the Company in connection with the marketing of any offering of Securities ("Marketing Materials"), including any roadshow or investor presentations made to investors by the Company (whether

in person or electronically), or the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(ii) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission; provided that (subject to Section 10(d) below) any such settlement is effected with the written consent of the Company; and

(iii) against any and all out of pocket expense whatsoever, as incurred (including the reasonable documented fees and disbursements of counsel chosen by such Agent, Forward Seller and Forward Purchaser), reasonably incurred in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under (i) or (ii) above,

*provided, however*, that this indemnity agreement shall not apply to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with the Agent, Forward Seller and Forward Purchaser Information.

(b) *Indemnification by the Agents, the Forward Sellers and the Forward Purchasers.* Each Agent, Forward Seller and Forward Purchaser, severally but not jointly, agrees to indemnify and hold harmless the Company, its directors, each of its officers who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act against any and all loss, liability, claim, damage and expense described in the indemnity contained in subsection (a) of this Section 10, as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendment thereto), any Issuer Free Writing Prospectus or the Prospectus (or any amendment or supplement thereto) in reliance upon and in conformity with the Agent, Forward Seller and Forward Purchaser Information.

(c) *Actions against Parties; Notification.* Each indemnified party shall give notice as promptly as reasonably practicable to each indemnifying party of any action commenced against it in respect of which indemnity may be sought hereunder, but failure to so notify an indemnifying party shall not relieve such indemnifying party from any liability hereunder to the extent it is not materially prejudiced as a result thereof and in any event shall not relieve it from any liability which it may have otherwise than on account of this indemnity agreement. Counsel to the indemnified parties shall be selected as follows: counsel to the Agents, the Forward Sellers and the Forward Purchasers and each person, if any, who controls such Agent, Forward Seller and Forward Purchaser within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act shall be selected by the Agents, the Forward Sellers and the Forward Purchasers; and counsel to the Company, its directors, each of its officers who signed the Registration Statement and each person, if any, who controls the Company within the

meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act shall be selected by the Company. An indemnifying party may participate at its own expense in the defense of any such action; *provided, however*, that counsel to the indemnifying party shall not (except with the consent of the indemnified party) also be counsel to the indemnified party. In no event shall the indemnifying parties be liable for the fees and expenses of more than one counsel (in addition to any local counsel) separate from their own counsel for the Agents, the Forward Sellers and the Forward Purchasers and each person, if any, who controls such Agent, Forward Seller and Forward Purchaser within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, and the fees and expenses of more than one counsel (in addition to any local counsel) separate from their own counsel for the Company, its directors, each of its officers who signed the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, in each case in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever in respect of which indemnification or contribution could be sought under this Section 10 or Section 11 hereof (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such litigation, investigation, proceeding or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(d) *Settlement Without Consent if Failure to Reimburse.* If at any time an indemnified party shall have requested in writing an indemnifying party to reimburse the indemnified party for reasonable documented fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 10(a)(1)(ii) effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (ii) such indemnifying party shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into and (iii) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

Section 11. Contribution. If the indemnification provided for in Section 10 hereof is for any reason unavailable to or insufficient to hold harmless an indemnified party in respect of any losses, liabilities, claims, damages or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount of such losses, liabilities, claims, damages and expenses incurred by such indemnified party, as incurred, (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the applicable Agent, Forward Seller and Forward Purchaser on the other from the offering of the Securities pursuant to this Agreement or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company on the one hand and the applicable Agent, Forward Seller and Forward Purchaser on the other in connection with the statements or omissions.

The relative benefits received by the Company on the one hand and the applicable Agent, Forward Purchaser and Forward Seller on the other shall be deemed to be in the same respective proportions as the net proceeds (before deducting expenses) received by the Company (which

proceeds shall include the proceeds to be received by the Company pursuant to any Forward assuming Physical Settlement (as such term is defined in the Confirmation) of the Forward on the Effective Date (as such term is defined in the Confirmation), the total discounts and commissions received by the applicable Agent, the total Forward Hedge Seller Commission received by the applicable Forward Seller, and the aggregate Spread (as such term is defined in the Confirmation) received by the Designated Forward Purchaser, as applicable, under the relevant Forward, net of any costs associated therewith, as reasonably determined by the applicable Forward Seller, bear to the aggregate offering price of the Placement Securities plus the aggregate Spread (as such term is defined in the Confirmation) received by the Designated Forward Purchaser under the relevant Confirmation, net of any costs associated therewith, as reasonably determined by the applicable Forward Seller. The relative fault of each of the Company on the one hand and the Agents, the Forward Purchasers and the Forward Sellers on the other hand shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or by the Agents, the Forward Purchasers or the Forward Sellers and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Company, the Agents, the Forward Sellers and the Forward Purchasers agree that it would not be just and equitable if contribution pursuant to this Section 11 were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 11. The aggregate amount of losses, liabilities, claims, damages and expenses incurred by an indemnified party and referred to above in this Section 11 shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue or alleged untrue statement or omission or alleged omission.

Notwithstanding the provisions of this Section 11, in no event shall (x) an Agent be required to contribute any amount in excess of the amount by which the total discounts and commissions received by such Agent with respect to the offering of the Issuance Securities exceeds the amount of any damages that such Agent has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission, (y) a Forward Seller be required to contribute any amount in excess of the amount by which the total Forward Hedge Selling Commission received by such Forward Seller with respect to the offering of the Forward Hedge Securities exceeds the amount of any damages that such Forward Seller has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission and (z) a Forward Purchaser be required to contribute any amount in excess of the amount by which the aggregate Spread (as such term is defined in the relevant Confirmation) received by such Forward Purchaser under the relevant Confirmation exceeds the amount of any damages that such Forward Purchaser has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission.

No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

For purposes of this Section 11, each person, if any, who controls an Agent, Forward Purchaser or Forward Seller within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act shall have the same rights to contribution as such Agent, Forward Purchaser or Forward Seller and each director of the Company, each officer of the Company who signed the Registration Statement, and each person, if any, who controls the Company within the

meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act shall have the same rights to contribution as the Company.

Section 12. Representations, Warranties and Agreements to Survive Delivery. All representations, warranties and agreements contained in this Agreement or in certificates of officers of the Company or any of its subsidiaries submitted pursuant hereto, shall remain operative and in full force and effect, regardless of any investigation made by or on behalf of an Agent, Forward Purchaser, Forward Seller or a controlling person, or by or on behalf of the Company, and shall survive delivery of the Securities to the respective Agent, Forward Purchaser or Forward Seller.

Section 13. Termination of Agreement.

(a) *Termination; General.* Each Agent, Forward Purchaser and Forward Seller may terminate this Agreement, solely with respect to its own rights and obligations hereunder, by notice to the Company, as hereinafter specified at any time if: (i) trading generally shall have been suspended or materially limited on or by any of the NYSE or the Nasdaq; (ii) trading of any securities issued or guaranteed by the Company shall have been suspended on any exchange or in any over-the-counter market; (iii) a general moratorium on commercial banking activities shall have been declared by federal or New York State authorities; (iv) there shall have occurred any outbreak or escalation of hostilities or any change in financial markets or any calamity or crisis, either within or outside the United States, and the effect of such outbreak, escalation, change, calamity or crisis on the financial markets of the United States, in the reasonable judgment of any Agent, Forward Purchaser or Forward Seller, is material and adverse and makes it impracticable or inadvisable to market the Securities or to enforce contracts for the sale of the Securities or (iv) minimum or maximum prices for trading have been fixed, or maximum ranges for prices have been required by NYSE or Nasdaq or by order of the Commission, FINRA or any other governmental authority.

(b) *Termination by the Company.* The Company shall have the right, by giving three (3) days' notice as hereinafter specified to terminate this Agreement in its sole discretion at any time after the date of this Agreement.

(c) *Termination by the Agents, the Forward Purchasers and the Forward Sellers.* Each Agent, Forward Purchaser and Forward Seller may terminate this Agreement, solely with respect to its own rights and obligations hereunder, by giving three (3) days' notice as hereinafter specified to terminate this Agreement in its sole discretion at any time after the date of this Agreement. For the avoidance of doubt, in the event of any such termination by an Agent, Forward Seller or Forward Purchaser, this Agreement will continue to remain in full force and effect with respect to the other parties to this Agreement, as the case may be.

(d) *Automatic Termination.* Unless earlier terminated pursuant to this Section 13, this Agreement shall automatically terminate upon the issuance and sale of all of the Placement Securities on the terms and subject to the conditions set forth herein with an aggregate sale price equal to the Authorized Aggregate Gross Sale Price.

(e) *Continued Force and Effect.* This Agreement shall remain in full force and effect unless terminated pursuant to Sections 13(a), (b), (c) or (d) above or otherwise by mutual agreement of the parties.

(f) *Effectiveness of Termination.* Any termination of this Agreement shall be effective with respect to the applicable parties on the date specified in such notice of termination; *provided, however,* that such termination shall not be effective until the close of



business on the date of receipt of such notice by the applicable Agent, Forward Seller, Forward Purchaser or the Company, as the case may be. If such termination shall occur prior to the Settlement Date for any sale of Placement Securities, such Placement Securities shall settle in accordance with the provisions of this Agreement (and, in the case of a Forward, the Forward Hedge Securities previously sold shall be subject to a Forward evidenced by a Confirmation notwithstanding such termination).

(g) *Liabilities.* If this Agreement is terminated pursuant to this Section 13, such termination shall be without liability of any party to any other party except as provided in Section 8 hereof, and except that, in the case of any termination of this Agreement, Section 5, Section 10, Section 11, Section 12, Section 15 and Section 22 hereof shall survive such termination and remain in full force and effect.

Section 14. Notices. Except as otherwise provided in this Agreement, all notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted by any standard form of telecommunication.

Notices to the Agents and Forward Sellers shall be directed to:

Wells Fargo Securities at Wells Fargo Securities, LLC, 500 West 33rd Street, New York, New York 10001, fax number: 212-214-5918, Attention of Equity Syndicate Department

Barclays Capital Inc., 745 7th Avenue, New York, New York, 10019, Attention: Syndicate Registration, Fax number: 646-834-8133

BofA Securities, Inc., One Bryant Park, New York, New York 10036, Attention: ATM Execution, Email: dg.atm\_execution@bofa.com, with a copy to ECM Legal, Fax number: 212-230-8730

Notices to the Forward Purchasers shall be directed to:

Wells Fargo Bank, National Association, 500 West 33rd Street, 14th Floor, New York, New York 10001, Attention: Equity Syndicate Department, Fax number: (212) 214-5918, Email: corporatederivativenotifications@wellsfargo.com

Barclays Bank PLC c/o Barclays Capital Inc., 745 Seventh Avenue, New York, New York 10019, to the attention of Kevin Cheng, Email: kevin.cheng@barclays.com

Bank of America, N.A., One Bryant Park, 8th Fl., New York, NY 10036, Attention: Strategic Equity Solutions Group, Telephone: 646-855-8900, Email: dg.issuer\_derivatives\_notices@bofa.com

Notices to the Company shall be directed to: 121 SW Salmon Street, 1WTC 1711, Portland, Oregon 97204 (fax: (503) 464-2236); Attention: Assistant Treasurer.

Section 15. Recognition of the U.S. Special Resolution Regimes.

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

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

Section 16. Parties. This Agreement shall inure to the benefit of and be binding upon the Agents, the Forward Purchasers, the Forward Sellers, the Company and their respective successors. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, firm or corporation, other than the Agents, the Forward Purchasers, the Forward Sellers, the Company and their respective successors and the controlling persons and officers and directors referred to in Sections 10 and 11 and their heirs and legal representatives, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained. This Agreement and all conditions and provisions hereof are intended to be for the sole and exclusive benefit of the Agents, the Forward Purchasers, the Forward Sellers, the Company and their respective successors, and said controlling persons and officers and directors and their heirs and legal representatives, and for the benefit of no other person, firm or corporation. No purchaser of Securities from the Agents, the Forward Purchasers or the Sellers shall be deemed to be a successor by reason merely of such purchase.

Section 17. Adjustments for Stock Splits. The parties acknowledge and agree that all stock-related numbers contained in this Agreement shall be adjusted to take into account any stock split, stock dividend or similar event effected with respect to the Securities.

Section 18. Governing Law and Time. THIS AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THE AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, SPECIFIED TIMES OF DAY REFER TO NEW YORK CITY TIME.

Section 19. Patriot Act. In accordance with the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), the Agents, the Forward Sellers and the Forward Purchasers are required to obtain, verify and record information that identifies their respective clients, including the Company, which information may include the name and address of such clients, as well as other

information that will allow the Agents, the Forward Sellers and the Forward Purchasers to properly identify their respective clients.

Section 20. Waiver of Jury Trial. The Company, the Agents, the Forward Sellers and the Forward Purchasers hereby irrevocably waive, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement of the Transactions contemplated hereby.

Section 21. Effect of Headings. The Section and Exhibit headings herein are for convenience only and shall not affect the construction hereof.

Section 22. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed Agreement by one party to the other may be made by facsimile or e-mail transmission. The words "execution," "signed," "signature," and words of like import in this Agreement or in any other certificate, agreement or document related to this Agreement, if any, shall include images of manually executed signatures transmitted by facsimile or other electronic format (including, without limitation, "pdf," "tif" or "jpg") and other electronic signatures (including, without limitation, DocuSign and AdobeSign). The use of electronic signatures and electronic records (including, without limitation, any contract or other record created, generated, sent, communicated, received, or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code.

Section 23. Definitions. As used in this Agreement, the following terms have the respective meanings set forth below:

"Actual Sold Forward Amount" means, for any Forward Hedge Selling Period for any Forward, the number of Forward Hedge Securities that the applicable Forward Seller has sold during such Forward Hedge Selling Period.

"Applicable Time" means the time of each sale of any Securities or any securities pursuant to this Agreement.

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

"Capital Stock" means any Common Stock, Preferred Stock or other capital stock of the Company.

"Capped Number" means, for any Confirmation, the meaning set forth in such Confirmation.

"Commission" means the Securities and Exchange Commission.

"Confirmation" means, for each Forward, the contract evidencing such Forward between the Company and the Designated Forward Purchaser, which shall be comprised of a Master

Forward Confirmation and the related Supplemental Confirmation for such Forward, including all provisions incorporated by reference therein.

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

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

“EDGAR” means the Commission’s Electronic Data Gathering, Analysis and Retrieval system.

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

“FINRA” means the Financial Industry Regulatory Authority, Inc.

“Forward” means the transaction resulting from each Placement Notice (as amended by the corresponding Acceptance, if applicable) specifying that it relates to a “Forward” and requiring a Forward Seller to use commercially reasonable efforts consistent with its normal trading and sales practices to sell, as specified in such Placement Notice and subject to the terms and conditions of this Agreement and the applicable Confirmation, the Forward Hedge Securities.

“Forward Hedge Amount” means, for any Forward, the amount specified as such in the Placement Notice for such Forward, which amount shall be the target aggregate sales price of the Forward Hedge Securities to be sold by the applicable Forward Seller, subject to the terms and conditions of this Agreement.

“Forward Hedge Securities” means all Common Stock borrowed by a designated Forward Purchaser or its affiliate and offered and sold by a Forward Seller in connection with any Forward that has occurred or may occur in accordance with the terms and conditions of this Agreement.

“Forward Hedge Selling Commission” means, for any Confirmation, the product of (x) the Forward Hedge Selling Commission Rate for such Confirmation and (y) the “Adjusted Volume-Weighted Hedge Price” (as defined in the relevant Master Forward Confirmation for such Confirmation).

“Forward Hedge Selling Commission Rate” means, for any Confirmation, the amount of any commission, discount or other compensation to be received by the applicable Forward Seller in connection with the sale of the Forward Hedge Securities.

“Forward Hedge Selling Period” means, for any Confirmation, the period (as determined by the Company in the Company’s sole discretion and specified in the applicable Placement Notice specifying that it relates to a “Forward”) beginning on the date specified in the applicable Placement Notice (as amended by the corresponding Acceptance, if applicable) or, if such date is not a Trading Day, the next Trading Day following such date; *provided that* if, prior to the scheduled end of any Forward Hedge Selling Period, (i) any event occurs that would permit the Designated Forward Purchaser to designate a “Scheduled Trading Day” as a “Termination Settlement Date” (each as defined in the applicable Master Forward Confirmation) under, and pursuant to, the provisions opposite the caption “Acceleration Events” in Section 3 of the

applicable Master Forward Confirmation or (ii) an “Insolvency Filing” (as defined in the applicable Master Forward Confirmation) occurs, then the Forward Hedge Selling Period shall immediately terminate as of the first such occurrence. “GAAP” means generally accepted accounting principles.

“Investment Company Act” means the Investment Company Act of 1940, as amended.

“Issuance” means each occasion the Company elects to exercise its right to request the sale of Placement Securities pursuant to Section 3(a) hereof, subject to the terms and conditions of this Agreement.

“Issuance Securities” means all shares of Common Stock issued or issuable pursuant to an Issuance that has occurred or may occur in accordance with the terms and conditions of this Agreement.

“Issuance Selling Period” means the period of Trading Days (as determined by the Company in the Company’s sole discretion and specified pursuant to Section 3(a) hereof).

“Issuer Free Writing Prospectus” means any “issuer free writing prospectus,” as defined in Rule 433, relating to the Securities that (i) is required to be filed with the Commission by the Company, (ii) is a “road show” that is a “written communication” within the meaning of Rule 433(d)(8)(i) whether or not required to be filed with the Commission, or (iii) is exempt from filing pursuant to Rule 433(d)(5)(i) because it contains a description of the Securities or of the offering that does not reflect the final terms, and all free writing prospectuses that are listed in Exhibit E hereto, in each case in the form furnished (electronically or otherwise) to the Agents or the Forward Sellers for use in connection with the offering of the Securities.

“Lien” means any security interest, mortgage, pledge, lien, encumbrance, claim or equity.

“Master Forward Confirmation” means a Master Confirmation for Share Forward Transactions substantially in the form of Exhibit G attached hereto, including all provisions incorporated by reference therein.

“Nasdaq” means the Nasdaq Stock Market.

“NYSE” means the New York Stock Exchange.

“Preferred Stock” means the Company’s preferred stock, no par value per share.

“Rule 163,” “Rule 164,” “Rule 172,” “Rule 405,” “Rule 415,” “Rule 424(b),” “Rule 430B,” “Rule 433” and “Rule 462(b)” refer to such rules under the Securities Act.

“Rule 462(b) Registration Statement” means a registration statement filed by the Company pursuant to Rule 462(b) for the purpose of registering any of the Securities under the Securities Act, including the documents incorporated by reference therein and the Rule 430A Information.

“Sarbanes-Oxley Act” means the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated thereunder or implementing the provisions thereof.

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

“Selling Period” means any Forward Hedge Selling Period or any Issuance Selling Period.

“Settlement Date” means, unless the Company and an Agent or a Forward Seller, as applicable, shall otherwise agree, any Forward Hedge Settlement Date or any Issuance Settlement Date, as applicable.

“Trading Day” means any day on which shares of Common Stock are purchased and sold on the principal market on which the Common Stock is listed or quoted.

“U.S. Special Resolution Regime” means each of (i) the Federal Deposit Insurance Act of 1950, as amended, and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, as amended, and the regulations promulgated thereunder.

All references in this Agreement to financial statements and schedules and other information that is “contained,” “included” or “stated” in the Registration Statement or the Prospectus (and all other references of like import) shall be deemed to mean and include all such financial statements and schedules and other information that is incorporated by reference in the Registration Statement or the Prospectus, as the case may be.

All references in this Agreement to the Registration Statement, any Rule 462(b) Registration Statement, the Prospectus or any amendment or supplement to any of the foregoing shall be deemed to include the copy filed with the Commission pursuant to EDGAR; all references in this Agreement to any Issuer Free Writing Prospectus (other than any Issuer Free Writing Prospectuses that, pursuant to Rule 433, are not required to be filed with the Commission) shall be deemed to include the copy thereof filed with the Commission pursuant to EDGAR; and all references in this Agreement to “supplements” to the Prospectus shall include, without limitation, any supplements, “wrappers” or similar materials prepared in connection with any offering, sale or private placement of any Placement Securities by the Agents and Forward Sellers outside of the United States.

Section 24. Permitted Free Writing Prospectuses. The Company represents, warrants and agrees that, unless it obtains the prior consent of the Agents and the Forward Sellers, and each Agent and Forward Seller represents, warrants and agrees that, unless it obtains the prior consent of the Company, it has not made and will not make any offer relating to the Securities that would constitute an Issuer Free Writing Prospectus, or that would otherwise constitute a “free writing prospectus,” as defined in Rule 405, required to be filed with the Commission. Any such free writing prospectus consented to by the Agents and the Forward Sellers or by the Company, as the case may be, is hereinafter referred to as a “Permitted Free Writing Prospectus.” The Company represents and warrants that it has treated and agrees that it will treat each Permitted Free Writing Prospectus as an “issuer free writing prospectus,” as defined in Rule 433, and has complied and will comply with the requirements of Rule 433 applicable to any Permitted Free Writing Prospectus, including timely filing with the Commission where required, legending and record keeping. For the purposes of

clarity, the parties hereto agree that all free writing prospectuses, if any, listed in Exhibit G hereto are Permitted Free Writing Prospectuses.

Section 25. Absence of Fiduciary Relationship. The Company acknowledges and agrees that:

(c) Each Agent, Forward Seller and Forward Purchaser is acting solely as agent and/or principal in connection with the public offering of the Securities and in connection with each transaction contemplated by this Agreement and the process leading to such transactions, and no fiduciary or advisory relationship between the Company or any of its respective affiliates, stockholders (or other equity holders), creditors or employees or any other party, on the one hand, and each Agent, Forward Seller and Forward Purchaser on the other hand, has been or will be created in respect of any of the transactions contemplated by this Agreement, irrespective of whether or not such Agent, Forward Purchaser or Forward Seller has advised or is advising the Company on other matters, and such Agent, Forward Purchaser and Forward Seller has no obligation to the Company with respect to the transactions contemplated by this Agreement except the obligations expressly set forth in this Agreement;

(d) The public offering price of the Securities set forth in this Agreement was not established by the Agents, the Forward Purchasers or Forward Sellers;

(e) It is capable of evaluating and understanding, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Agreement;

(f) Each Agent, Forward Purchaser and Forward Seller has not provided any legal, accounting, regulatory or tax advice with respect to the transactions contemplated by this Agreement and it has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate;

(g) It is aware that each Agent, Forward Purchaser and Forward Seller and their respective affiliates are engaged in a broad range of transactions which may involve interests that differ from those of the Company and such Agent, Forward Purchaser and Forward Seller has no obligation to disclose such interests and transactions to the Company by virtue of any fiduciary, advisory or agency relationship or otherwise; and

(h) It waives, to the fullest extent permitted by law, any claims it may have against each Agent, Forward Purchaser and Forward Seller for breach of fiduciary duty or alleged breach of fiduciary duty and agrees that such Agent, Forward Purchaser and Forward Seller shall not have any liability (whether direct or indirect, in contract, tort or otherwise) to it in respect of such a fiduciary duty claim or to any person asserting a fiduciary duty claim on its behalf or in right of it or the Company, employees or creditors of Company.

[Signature Page Follows.]

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this instrument, along with all counterparts, will become a binding agreement between the Agents, the Forward Sellers, the Forward Purchasers and the Company in accordance with its terms.

Very truly yours,

PORTLAND GENERAL ELECTRIC COMPANY

By: /s/ James A. Ajello  
Name: James A. Ajello  
Title: Senior Vice President of Finance, Chief Financial Officer,  
Treasurer and Corporate Compliance Officer



CONFIRMED AND ACCEPTED, as of the date first above written:

WELLS FARGO SECURITIES, LLC, as Agent and Forward Seller

By: /s/ Elizabeth Alvarez  
Elizabeth Alvarez

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Forward Purchaser

By: /s/ Elizabeth Alvarez  
Elizabeth Alvarez

CONFIRMED AND ACCEPTED, as of the date first above written:

BARCLAYS CAPITAL INC., as Agent and Forward Seller

By: /s/ Robert Stowe  
Authorized Signatory

BARCLAYS BANK PLC, as Forward Purchaser

By: /s/ Kevin Cheng  
Authorized Signatory

CONFIRMED AND ACCEPTED, as of the date first above written:

BOFA SECURITIES, INC., as Agent and Forward Seller

By: /s/ Jason Satsky  
Authorized Signatory

BANK OF AMERICA, N.A., as Forward Purchaser

By: /s/ Rohan Handa  
Authorized Signatory

## FORM OF PLACEMENT NOTICE

From: [ ]

Cc: [ ]

To: [ ]

Subject: Equity Distribution—Placement Notice

[Each Placement Notice may only be issued to one Designated Party]

Ladies and Gentlemen:

Pursuant to the terms and subject to the conditions contained in the Equity Distribution Agreement among Portland General Electric Corporation (the “Company”) and Wells Fargo Bank, National Association, Barclays Bank PLC and Bank of America, N.A. (each, a “Forward Purchaser”) and Wells Fargo Securities, LLC, Barclays Capital Inc. and BofA Securities, Inc., each in its capacity as sales agent and/or principal in connection with the offering and sale of Securities and each in its capacity as agent for its affiliated Forward Purchaser in connection with the offering and sale of any Forward Hedge Securities (the “Forward”) dated [●], 2023 (the “Agreement”), I hereby request on behalf of the Company that [insert applicable Agent] offer and sell up to [●] shares of the Company’s common stock, no par value[, at a minimum market price of \$[●] per share]. Capitalized terms used in this Placement Notice without definition shall have the respective definitions ascribed to them in the Agreement. [This Placement Notice relates to a Forward.]

The daily offer and sale of the Common Stock should not represent any more than []% of the average daily trading volume of the Common Stock on any given Trading Day, and should be offered and sold between [], 20[] and [], 20[].

**[ADDITIONAL SALES PARAMETERS MAY BE ADDED, SUCH AS SPECIFIC DATES ON WHICH THE SHARES MAY NOT BE OFFERED AND SOLD, THE MANNER IN WHICH SALES ARE TO BE MADE BY EACH AGENT AND/OR THE CAPACITY IN WHICH EACH AGENT MAY ACT IN SELLING SHARES (AS PRINCIPAL, AGENT OR BOTH)]**

[{INCLUDE FOLLOWING LINE ITEMS TO THE EXTENT APPLICABLE}]

1. Number of days in Forward Hedge Selling Period: {\_\_\_\_\_}
2. First day of Forward Hedge Selling Period: {\_\_\_\_\_}, 20{\_\_}
3. Maximum number of Forward Hedge Securities to be sold: {\_\_\_\_\_}
4. Forward Hedge Amount: \${\_\_\_\_\_}
5. Forward Hedge Selling Commission Rate: {\_\_\_\_\_}%
6. Information relating to forward price reductions:
 

<u>Forward Price Reduction Date</u>	<u>Forward Price Reduction Amount</u>
{_____}, 20{__}	\${_____}
7. Spread: {\_\_\_\_\_} basis points

8. Initial Stock Loan Rate: {\_\_\_\_\_} basis points
9. Maximum Stock Loan Rate: {\_\_\_\_\_} basis points
10. Term: {\_\_\_\_\_} {days} {months}]

**AUTHORIZED INDIVIDUALS FOR PLACEMENT NOTICES AND ACCEPTANCES**

Wells Fargo Securities, LLC and Wells Fargo Bank, National Association

- Jennifer Lynch - Jennifer.R.Lynch@wellsfargo.com
- Billy O'Connell - william.oconnell@wellsfargo.com
- Josie Callanan - josie.callanan@wellsfargo.com
- Michael Tiedemann - Michael.tiedemann@wellsfargo.com
- John Hackney - john.hackney@wellsfargo.com
- Corporate Equity Derivatives - corporatederivativenotifications@wellsfargo.com

Barclays Capital Inc. and Barclays Bank PLC

- Kevin Cheng - kevin.cheng@barclays.com
- John Lembeck - john.lembeck@barclays.com

BofA Securities, Inc. and Bank of America, N.A.

- dg.atm\_execution@bofa.com

Company

- Christopher Liddle - christopher.liddle@pgn.com
- Katie Trosen- katie.trosen@pgn.com

**AGENT COMPENSATION**

An Agent shall be paid compensation equal to up to 2% of the gross proceeds from the sales of Securities by such Agent pursuant to the terms of this Agreement.

FORM OF OPINION OF COMPANY COUNSEL



FORM OF OPINION OF GENERAL COUNSEL

## OFFICER'S CERTIFICATE

I, [●], Senior Director and Treasurer, and I, [●], Vice President and Chief Financial Officer, of Portland General Electric Company, an Oregon corporation (the "Company"), on behalf of the Company and in my capacity as an officer of the same, and not in my individual capacity, hereby deliver this certificate pursuant to Section 7(o) of the Equity Distribution Agreement dated April [28], 2023 (the "Agreement") between the Company, the Agents, the Forward Purchasers and the Forward Sellers that to the knowledge of the undersigned:

- a. The representations and warranties of the Company in Section 5 of the Agreement (A) to the extent such representations and warranties are subject to qualifications and exceptions contained therein relating to materiality or Material Adverse Effect (as defined therein), are true and correct on and as of the date hereof with the same force and effect as if expressly made on and as of the date hereof, except for those representations and warranties that speak solely as of a specific date and which were true and correct as of such date, and (B) to the extent such representations and warranties are not subject to any qualifications or exceptions, are true and correct in all material respects as of the date hereof as if made on and as of the date hereof with the same force and effect as if expressly made on and as of the date hereof except for those representations and warranties that speak solely as of a specific date and which were true and correct as of such date; and
- b. The Company has complied in all material respects with all agreements and satisfied all conditions on their part to be performed or satisfied pursuant to the Agreement at or prior to the date hereof (other than those conditions waived by the Agents, the Forward Purchasers or the Forward Sellers).
- c. Latham & Watkins LLP and Davis Polk & Wardwell LLP are entitled to rely on this certificate in connection with the opinion that each such firm is rendering pursuant to Section 7(p) and Section 7(r), respectively, of the Agreement.

ISSUER FREE WRITING PROSPECTUSES

None

FORM OF MASTER FORWARD CONFIRMATION

April 28, 2023

To: **Portland General Electric Company**  
121 SW Salmon Street  
Portland, Oregon 97204

From: **Wells Fargo Bank, National Association**  
30 Hudson Yards  
New York, NY 10001-2170  
Email: [CorporateDerivativeNotifications@wellsfargo.com](mailto:CorporateDerivativeNotifications@wellsfargo.com)

Dear Sirs,

The purpose of this letter agreement (this "Master Confirmation") is to confirm the terms and conditions of certain transactions to be entered into from time to time between Wells Fargo Bank, National Association ("Dealer") and Portland General Electric Company ("Counterparty") in accordance with the terms of the Equity Distribution Agreement, dated as of April 28, 2023 (the "Equity Distribution Agreement"), among Dealer, Wells Fargo Securities, LLC and Counterparty, among others, on one or more Trade Dates specified herein (collectively, the "Transactions" and each, a "Transaction"). Each Transaction will be evidenced by a supplemental confirmation (each, a "Supplemental Confirmation," and each such Supplemental Confirmation, together with this Master Confirmation, a "Confirmation" for purposes of the Agreement specified below) substantially in the form of Exhibit A hereto.

1. The definitions and provisions contained in the 2006 ISDA Definitions (the "2006 Definitions") and the 2002 ISDA Equity Derivatives Definitions (the "2002 Definitions" and, together with the 2006 Definitions, the "Definitions"), each as published by the International Swaps and Derivatives Association, Inc., are incorporated into each Confirmation. In the event of any inconsistency among the Agreement, this Master Confirmation, any Supplemental Confirmation, the 2002 Definitions and the 2006 Definitions, the following will prevail in the order of precedence indicated: (i) such Supplemental Confirmation; (ii) this Master Confirmation; (iii) the 2002 Definitions; (iv) the 2006 Definitions; and (v) the Agreement.

Each party further agrees that each Confirmation together with the Agreement shall evidence a complete binding agreement between Dealer and Counterparty as to the subject matter and terms of the Transaction to which this Master Confirmation and the related Supplemental Confirmation relate, and shall supersede all prior or contemporaneous written or oral communications with respect thereto. Each Confirmation shall supplement, form a part of, and be subject to an agreement in the form of the 2002 ISDA Master Agreement (the "Agreement") as if Dealer and Counterparty had executed an agreement in such form on the date hereof (but without any Schedule except for (i) the election of the laws of the State of New York as the governing law and (ii) the election that the "Cross Default" provisions of Section 5(a)(vi) shall apply to Dealer with a "Threshold Amount" in respect of Dealer of 3% of the stockholders' equity of Dealer (including its equivalent in another currency); *provided* that (x) the words ", or becoming capable at such time of being declared," shall be deleted from clause (1) thereof, (y) "Specified Indebtedness" has the meaning specified in Section 14 of the Agreement, except that such term shall not include obligations in respect of deposits received in the ordinary course of Dealer's banking business and (z) the following language shall be added to the end of such Section 5(a)(vi): "Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (X) the default was caused solely by error or omission of an administrative or operational nature; (Y) funds were available to enable the party to make the payment when due; and (Z) the payment is made within two Local Business Days of such party's receipt of written notice of its failure to pay;"). The parties hereby agree that no Transaction, other than the Transactions to which this Master Confirmation, together with each Supplemental Confirmation hereunder,

relate, shall be governed by the Agreement. For purposes of the 2002 Definitions, each Transaction is a Share Forward Transaction.

Dealer and Counterparty each represents to the other with respect to each Transaction hereunder that it has entered into such Transaction in reliance upon such tax, accounting, regulatory, legal, and financial advice as it deems necessary and not upon any view expressed by the other.

2. The terms of each Transaction to which this Master Confirmation relates are as follows:

General Terms:

**Trade Date:** For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be, subject to the provisions under the heading "Acceleration Events" in Section 3 of this Master Confirmation and the provisions under the heading "Placement Notices" in Section 4 of this Master Confirmation, the last Trading Day (as defined in the Equity Distribution Agreement) of the Forward Hedge Selling Period (as defined in the Equity Distribution Agreement) for such Transaction.

**Effective Date:** For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be the date that is one Settlement Cycle following the Trade Date for such Transaction, or such later date on which the conditions set forth under "Conditions to Effectiveness" in Section 3 of this Master Confirmation shall have been satisfied, subject to the provisions under the heading "Acceleration Events" in Section 3 of this Master Confirmation and the provisions under the heading "Placement Notices" in Section 4 of this Master Confirmation.

**Base Amount:** For each Transaction, initially, as specified in the Supplemental Confirmation for such Transaction, to be the number of Shares equal to the Actual Sold Forward Amount (as defined in the Equity Distribution Agreement) for the Forward Hedge Selling Period for such Transaction. For each Transaction, on each Settlement Date for such Transaction, the Base Amount for such Transaction shall be reduced by the relevant number of Settlement Shares for such Settlement Date.

**Maturity Date:** For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be the date that follows the Trade Date for such Transaction by the number of days, months or years set forth as the "Term" in the Placement Notice (as defined in the Equity Distribution Agreement and amended by any corresponding Acceptance (as defined in the Equity Distribution Agreement), if applicable (the "Accepted Placement Notice")) for such Transaction (or, if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day).

**Forward Price:** For each Transaction, on the Effective Date for such Transaction, the Initial Forward Price for such Transaction, and on any other day, the Forward Price for such Transaction as of the immediately preceding calendar day multiplied by the sum of (i) 1 and (ii) the Daily Rate for such Transaction for such day; *provided* that on each Forward Price Reduction Date for such Transaction, the Forward Price for such Transaction in effect on such date shall be the Forward Price for such Transaction otherwise in effect on such date, *minus* the Forward Price Reduction Amount for such Forward Price

Reduction Date. Notwithstanding the foregoing, to the extent Counterparty delivers Shares hereunder on or after a Forward Price Reduction Date for any Transaction and at or before the record date for an ordinary cash dividend with an ex-dividend date corresponding to such Forward Price Reduction Date, the Calculation Agent shall adjust the Forward Price for such Transaction to the extent it determines that such an adjustment is appropriate and necessary to preserve the economic intent of the parties to offset the economic effect of the Dealer having received the benefit of both (i) the Forward Price Reduction Amount for such Transaction and (ii) the ordinary cash dividend with an ex-dividend date corresponding to such Forward Price Reduction Amount (taking into account Dealer's commercially reasonable hedge positions in respect of such Transaction).

**Initial Forward Price:** For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be the product of (i) an amount equal to 1 *minus* the Forward Hedge Selling Commission Rate (as defined in the Equity Distribution Agreement) applicable to such Transaction *multiplied by* (ii) the Adjusted Volume-Weighted Hedge Price, subject to adjustment as set forth herein.

Adjusted Volume-Weighted

**Hedge Price:** For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be the volume-weighted average of the gross sales price per share of Forward Hedge Securities (as defined in the Equity Distribution Agreement) sold on each Trading Day of the Forward Hedge Selling Period for such Transaction, as determined by the Calculation Agent; *provided that*, solely for the purposes of calculating the Initial Forward Price, each such sales price (other than the sales price for the last day of the relevant Forward Hedge Selling Period) shall be subject to adjustment by the Calculation Agent in the same manner as the Forward Price pursuant to the definition thereof during the period from, and including, the date one Settlement Cycle immediately following the first Trading Day of the relevant Forward Hedge Selling Period on which Forward Hedge Securities are sold to, and including, the Effective Date of such Transaction.

**Daily Rate:** For each Transaction and for any day, (i)(A) the Overnight Bank Rate for such day, *minus* (B) the Spread for such Transaction, *divided by* (ii) 365.

**Overnight Bank Rate:** For any day, the rate set forth for such day opposite the caption "Overnight bank funding rate", as such rate is displayed on Bloomberg Screen "OBFR01 <Index> <GO>", or any successor page; *provided that*, if no rate appears for a particular day on such page, the rate for the immediately preceding day for which a rate does so appear shall be used for such day.

**Spread:** For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be the "Spread" as specified in the Accepted Placement Notice for such Transaction.

**Forward Price Reduction Dates:** For each Transaction, as specified in Schedule I to the Supplemental Confirmation for such Transaction, to be each date set forth under the heading "Forward Price Reduction Dates" in the Accepted Placement Notice for such Transaction.

Forward Price Reduction

Amount: For each Transaction, for each Forward Price Reduction Date for such Transaction, the Forward Price Reduction Amount set forth opposite such Forward Price Reduction Date on Schedule I to the Supplemental Confirmation for such Transaction, to be the "Forward Price Reduction Amount" set forth opposite such Forward Price Reduction Date in the Accepted Placement Notice for such Transaction.

Shares: Common stock, no par value, of Counterparty (also referred to herein as the "Issuer") (Exchange identifier: "POR").

Exchange: The New York Stock Exchange.

Related Exchange(s): All Exchanges.

Clearance System: DTC.

Calculation Agent: Dealer whose judgments, determinations and calculations shall be made in good faith and in a commercially reasonable manner; provided that, following the occurrence and during the continuance of an Event of Default of the type described in Section 5(a)(vii) of the Agreement with respect to which Dealer is the sole Defaulting Party, if the Calculation Agent fails to timely make any calculation, adjustment or determination required to be made by the Calculation Agent hereunder or to perform any obligation of the Calculation Agent hereunder, Counterparty shall have the right to designate a nationally recognized third-party dealer in over-the-counter corporate equity derivatives to act as the Calculation Agent.

Following any determination or calculation by the Calculation Agent hereunder, upon a request by Counterparty, the Calculation Agent shall promptly (but in any event within three Exchange Business Days) provide to Counterparty by e-mail to the e-mail address provided by Counterparty in such request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any assumptions used in making such determination or calculation), it being understood that the Calculation Agent shall not be obligated to disclose any proprietary or confidential models or other proprietary or confidential information used by it for such determination or calculation.

Settlement Terms:

Settlement Date: With respect to any Transaction, any Scheduled Trading Day following the Effective Date for such Transaction and up to and including the Maturity Date for such Transaction, as



designated by (a) Dealer pursuant to "Termination Settlement" below or (b) Counterparty in a written notice (a "Settlement Notice") that satisfies the Settlement Notice Requirements and is delivered to Dealer at least (i) two Scheduled Trading Days prior to such Settlement Date, which may be the Maturity Date for such Transaction, if Physical Settlement applies, and (ii) 50 Scheduled Trading Days prior to such Settlement Date, which may be the Maturity Date for such Transaction, if Cash Settlement or Net Share Settlement applies; *provided* that (i) the Maturity Date for such Transaction shall be a Settlement Date for such Transaction if on such date the Base Amount for such Transaction is greater than zero, (ii) if Physical Settlement or Net Share Settlement applies and such Settlement Date specified above (including a Settlement Date occurring on such Maturity Date) is not a Clearance System Business Day, such Settlement Date shall be the next following Clearance System Business Day and (iii) if Cash Settlement or Net Share Settlement applies and Dealer shall have fully unwound its commercially reasonable hedge with respect to the portion of such Transaction to be settled during an Unwind Period for such Transaction by a date that is more than two Scheduled Trading Days prior to such Settlement Date specified above, Dealer may, by written notice to Counterparty, specify any Scheduled Trading Day prior to such originally specified Settlement Date for such Transaction as the Settlement Date for such Transaction.

**Settlement Shares:** In respect of any Transaction and with respect to any Settlement Date for such Transaction, a number of Shares, not to exceed the Base Amount for such Transaction, designated as such by Counterparty in the related Settlement Notice or by Dealer pursuant to "Termination Settlement" below; *provided* that on the Maturity Date for such Transaction the number of Settlement Shares shall be equal to the Base Amount for such Transaction on such date.

**Settlement:** In respect of any Transaction, Physical Settlement, Cash Settlement or Net Share Settlement, at the election of Counterparty as set forth in a Settlement Notice for such Transaction delivered on or after the Effective Date for such Transaction that satisfies the Settlement Notice Requirements; *provided* that Physical Settlement shall apply (i) if no Settlement Method is validly selected, (ii) with respect to any Settlement Shares in respect of which Dealer is unable, in its judgment, to unwind its hedge in respect of such Transaction (or portion thereof, as applicable) by the end of the Unwind Period for such Transaction in a manner that, in the reasonable judgment of Dealer based on the advice of counsel, is consistent with the requirements for qualifying for the safe harbor provided by Rule 10b-18 under the Exchange Act or due to the lack of sufficient liquidity in the Shares on any Exchange Business Day during such Unwind Period or (iii) to any Termination Settlement Date (as defined below under "Termination Settlement") for such Transaction.

**Settlement Notice**

**Requirements:** Notwithstanding any other provision hereof, a Settlement Notice delivered in respect of any Transaction by Counterparty that specifies Cash Settlement or Net Share Settlement will not be effective to establish a Settlement Date for such Transaction or require Cash Settlement or Net Share Settlement unless Counterparty delivers to Dealer with such Settlement Notice a representation signed by Counterparty substantially in the following form: "As of the date of this

Settlement Notice, Counterparty is not aware of any material nonpublic information concerning itself or the Shares, and is designating the date contained herein as a Settlement Date and is electing Cash Settlement or Net Share Settlement, as the case may be, in good faith and not as part of a plan or scheme to evade compliance with the federal securities laws.”

**Unwind Period:** For any Transaction, each Exchange Business Day that is not a Suspension Day during the period from and including the first Exchange Business Day following the date Counterparty validly elects Cash Settlement or Net Share Settlement in respect of a Settlement Date for such Transaction through the second Scheduled Trading Day preceding such Settlement Date (or the immediately preceding Exchange Business Day if such Scheduled Trading Day is not an Exchange Business Day); subject to “Termination Settlement” below. If any Exchange Business Day during an Unwind Period for any Transaction is a Disrupted Day, the Calculation Agent shall make commercially reasonable adjustments to the terms of such Transaction (including, without limitation, the Cash Settlement Amount, the number of Net Share Settlement Shares and the 10b-18 VWAP) to account for the occurrence of such Disrupted Day.

**Suspension Day:** Any Exchange Business Day on which Dealer determines based on the advice of counsel that Cash Settlement or Net Share Settlement may violate applicable securities laws. Dealer shall notify Counterparty if it receives such advice from its counsel.

**Market Disruption Event:** Section 6.3(a)(ii) of the 2002 Definitions is hereby amended by replacing clause (ii) in its entirety with “(ii) an Exchange Disruption, or” and inserting immediately following clause (iii) the phrase “; in each case that the Calculation Agent determines is material.”

**Exchange Act:** The Securities Exchange Act of 1934, as amended from time to time.

**Physical Settlement:** In respect of any Transaction, on any Settlement Date for such Transaction in respect of which Physical Settlement applies, Counterparty shall deliver to Dealer through the Clearance System the Settlement Shares for such Settlement Date, and Dealer shall deliver to Counterparty, by wire transfer of immediately available funds to an account designated by Counterparty, an amount in cash equal to the Physical Settlement Amount for such Transaction for such Settlement Date, on a delivery versus payment basis. If, on any Settlement Date for such Transaction, the Shares to be delivered by Counterparty to Dealer hereunder are not so delivered (the “Deferred Shares”), and a Forward Price Reduction Date for such Transaction occurs during the period from, and including, such Settlement Date to, but excluding, the date such Shares are actually delivered to Dealer, then the portion of the Physical Settlement Amount for such Transaction payable by Dealer to Counterparty in respect of the Deferred Shares shall be reduced by an amount equal to the Forward Price Reduction Amount for such Forward Price Reduction Date, *multiplied by* the number of Deferred Shares.

**Physical Settlement Amount:** In respect of any Transaction and for any Settlement Date for such Transaction in respect of which Physical Settlement applies, an amount in cash equal to the product of (i) the Forward Price for such Transaction on such Settlement Date

and (ii) the number of Settlement Shares for such Transaction for such Settlement Date.

**Cash Settlement:** In respect of any Transaction, on any Settlement Date for such Transaction in respect of which Cash Settlement applies, if the Cash Settlement Amount for such Transaction for such Settlement Date is a positive number, Dealer will pay such Cash Settlement Amount to Counterparty. If the Cash Settlement Amount for such Transaction is a negative number, Counterparty will pay the absolute value of such Cash Settlement Amount to Dealer. Such amounts shall be paid on the relevant Settlement Date.

**Cash Settlement Amount:** In respect of any Transaction and for any Settlement Date for such Transaction in respect of which Cash Settlement applies, an amount determined by the Calculation Agent equal to (a) the product of (i) (A) the average Forward Price for such Transaction over the period beginning on, and including, the date that is one Settlement Cycle following the first day of the applicable Unwind Period for such Transaction and ending on, and including, such Settlement Date (calculated assuming no reduction to such Forward Price for any Forward Price Reduction Date for such Transaction that occurs during such Unwind Period, except as set forth in clause (b) below), *minus* USD 0.02, *minus* (B) the average of the 10b-18 VWAP prices per Share on each Exchange Business Day during such Unwind Period, *multiplied by* (ii) the number of Settlement Shares for such Transaction for such Settlement Date, *minus* (b) the product of (i) the Forward Price Reduction Amount for such Transaction for any Forward Price Reduction Date for such Transaction that occurs during such Unwind Period *and* (ii) the number of Settlement Shares for such Transaction for such Settlement Date with respect to which Dealer has not unwound its hedge (assuming Dealer has a commercially reasonable hedge position and unwinds its hedge position in a commercially reasonable manner), as of such Forward Price Reduction Date.

**Net Share Settlement:** In respect of any Transaction, on any Settlement Date for such Transaction in respect of which Net Share Settlement applies, if the number of Net Share Settlement Shares for such Transaction is a (i) negative number, Dealer shall deliver a number of Shares to Counterparty equal to the absolute value of such Net Share Settlement Shares, or (ii) positive number, Counterparty shall deliver to Dealer such Net Share Settlement Shares; *provided* that if Dealer determines in its good faith and reasonable judgment that it would be required to deliver Net Share Settlement Shares to Counterparty, Dealer may elect to deliver a portion of such Net Share Settlement Shares on one or more dates prior to the applicable Settlement Date.

**Net Share Settlement Shares:** In respect of any Transaction, for any Settlement Date for such Transaction in respect of which Net Share Settlement applies, a number of Shares equal to (a) the number of Settlement Shares for such Settlement Date, *minus* (b) the number of Shares Dealer actually purchases during the Unwind Period for such Transaction for a total purchase price equal to the difference between (1) the product of (i) the average Forward Price for such Transaction over the period beginning on, and including, the date that is one Settlement Cycle following the first day of the applicable Unwind Period for such Transaction and ending on, and including, such Settlement Date (calculated assuming no reduction to such Forward Price for any Forward Price Reduction Date for such Transaction that

occurs during such Unwind Period, except as set forth in clause (2) below), *minus* USD 0.02, *multiplied by* (ii) the number of Settlement Shares for such Transaction for such Settlement Date, *minus* (2) the product of (i) the Forward Price Reduction Amount for such Transaction for any Forward Price Reduction Date for such Transaction that occurs during such Unwind Period, *multiplied by* (ii) the number of Shares with respect to which Dealer has not unwound its hedge as of such Forward Price Reduction Date.

10b-18 VWAP: For any Transaction, for any Exchange Business Day during an Unwind Period for such Transaction which is not a Suspension Day, the volume-weighted average price at which the Shares trade as reported in the composite transactions for the Exchange on such Exchange Business Day, excluding (i) trades that do not settle regular way, (ii) opening (regular way) reported trades on the Exchange on such Exchange Business Day, (iii) trades that occur in the last ten minutes before the scheduled close of trading on the Exchange on such Exchange Business Day and ten minutes before the scheduled close of the primary trading session in the market where the trade is effected and (iv) trades on such Exchange Business Day that do not satisfy the requirements of Rule 10b-18(b)(3), as determined in good faith by the Calculation Agent. Counterparty acknowledges that Dealer may refer to the Bloomberg Page "POR <Equity> AQR SEC" (or any successor thereto), in its discretion, for such Exchange Business Day to determine the 10b-18 VWAP.

Settlement Currency: USD.

Failure to Deliver: Inapplicable.

Adjustments:

Method of Adjustment: Calculation Agent Adjustment; notwithstanding anything in the 2002 Definitions to the contrary, for any Transaction, the Calculation Agent may make an adjustment pursuant to Calculation Agent Adjustment to any one or more of the Base Amount for such Transaction, the Forward Price for such Transaction and any other variable relevant to the settlement or payment terms of such Transaction.

Additional Adjustment: If, at any time, with respect to any Transaction, in Dealer's commercially reasonable judgment, the stock loan fee to Dealer (or an affiliate thereof), excluding the interest rate component payable by the relevant stock lender to Dealer or such affiliate (the "Stock Loan Fee"), over any 10 consecutive Scheduled Trading Day period, of borrowing a number of Shares equal to the Base Amount for such Transaction to hedge in a commercially reasonable manner its exposure to such Transaction exceeds a rate equal to the Initial Stock Loan Rate for such Transaction, the Calculation Agent shall reduce the Forward Price for such Transaction in order to compensate Dealer for the amount by which the Stock Loan Fee exceeded a rate equal to such Initial Stock Loan Rate for the period during which the Stock Loan Fee exceeded such rate. The Calculation Agent shall notify Counterparty prior to making any such adjustment to such Forward Price and, upon the request of Counterparty, Dealer shall provide an itemized list of the Stock Loan Fees for the applicable period. The "Initial Stock Loan Rate" for any Transaction shall be as specified in the Supplemental Confirmation for such Transaction, to be the

“Initial Stock Loan Rate” as specified in the Accepted Placement Notice for such Transaction.

Account Details:

Payments to Dealer: To be advised under separate cover or telephone confirmed prior to each Settlement Date.

Payments to Counterparty: To be advised under separate cover or telephone confirmed prior to each Settlement Date.

Delivery of Shares to Dealer: To be advised.

Delivery of Shares to Counterparty: To be advised.

3. Other Provisions:

Conditions to Effectiveness:

The effectiveness of each Supplemental Confirmation and the related Transaction on the Effective Date for such Transaction shall be subject to (i) the condition that the representations and warranties of Counterparty contained in the Equity Distribution Agreement and any certificate delivered pursuant thereto by Counterparty are true and correct on such Effective Date as if made as of such Effective Date, (ii) the condition that Counterparty has performed all of the obligations required to be performed by it under the Equity Distribution Agreement on or prior to such Effective Date, (iii) the condition that Counterparty shall have delivered to Dealer an opinion of counsel dated as of the Trade Date for such Transaction with respect to matters set forth in Section 3(a) of the Agreement, (iv) the satisfaction of all of the conditions set forth in Section 9 of the Equity Distribution Agreement and (v) the condition that the Equity Distribution Agreement shall not have been terminated pursuant to Section 13 thereof.

Representations and Agreements of Counterparty:

Counterparty (i) has such knowledge and experience in financial and business affairs as to be capable of evaluating the merits and risks of entering into any Transaction hereunder; (ii) has consulted with its own legal, financial, accounting and tax advisors in connection with each Transaction hereunder; and (iii) is entering into each Transaction hereunder for a bona fide business purpose.

Counterparty is not and has not been the subject of any civil proceeding of a judicial or administrative body of competent jurisdiction that could reasonably be expected to impair materially Counterparty's ability to perform its obligations hereunder.

Counterparty will by the next succeeding New York Business Day notify Dealer upon obtaining knowledge of the occurrence of any event that would constitute an Event of Default, a Potential Event of Default or a Potential Adjustment Event.

Additional Representations, Warranties and Agreements of Counterparty: Counterparty hereby represents and warrants to, and agrees with, Dealer as of the date hereof, on each date a Placement Notice is effective, on each Trading Day in a Forward Hedge Selling Period, on each Forward Hedge Settlement Date (as defined in the Equity Distribution Agreement) and on the Trade Date for any Transaction hereunder that:

- (a) Any Shares, when issued and delivered in accordance with the terms of any Transaction hereunder, will be duly authorized and validly issued, fully paid and nonassessable, and the issuance thereof will not be subject to any preemptive or similar rights.
- (b) Counterparty has reserved and will keep available at all times, free from preemptive rights, out of its authorized but unissued Shares, solely for the purpose of issuance upon settlement of any Transaction hereunder as herein provided, the full number of Shares as shall be issuable at such time upon settlement of such Transaction. All Shares so issuable shall, upon such issuance, be accepted for listing or quotation on the Exchange.

- (c) No filing with, or approval, authorization, consent, license registration, qualification, order or decree of, any court or governmental authority or agency, domestic or foreign, is necessary or required for the execution, delivery and performance by Counterparty of this Master Confirmation or any Supplemental Confirmation and the consummation of any Transaction (including, without limitation, the issuance and delivery of Shares on any Settlement Date for a Transaction hereunder) except (i) such as have been obtained under the Securities Act of 1933, as amended (the "Securities Act"), and (ii) as may be required to be obtained under state securities laws.
- (d) Counterparty agrees not to repurchase, directly or indirectly, any Shares if, immediately following such Issuer Repurchase, the Base Amount Percentage for all Transactions hereunder would be equal to or greater than 8.0%. The "Base Amount Percentage" as of any day is the fraction (1) the numerator of which is the Base Amount and (2) the denominator of which is the number of Shares outstanding on such day.
- (e) Counterparty is not insolvent, nor will Counterparty be rendered insolvent as a result of any Transaction hereunder.
- (f) Neither Counterparty nor any of its affiliated purchasers (as defined in Rule 10b-18 under the Exchange Act) shall take or refrain from taking any action (including, without limitation, any direct purchases by Counterparty or any of its affiliates or any purchases by a party to a derivative transaction with Counterparty or any of its affiliates), either under this Master Confirmation, under any Supplemental Confirmation, under an agreement with another party or otherwise, that might be reasonably expected to cause any purchases of Shares by Dealer or any of its affiliates in connection with any Cash Settlement or Net Share Settlement of any Transaction hereunder not to meet the requirements of the safe harbor provided by Rule 10b-18 under the Exchange Act determined as if all such purchases were made by Counterparty.
- (g) Counterparty will not engage in any "distribution" (as defined in Regulation M under the Exchange Act ("Regulation M")) that would cause a "restricted period" (as defined in Regulation M) to occur during any Unwind Period for any Transaction hereunder, other than a distribution meeting, in each case, the requirements of an exception set forth in Rule 101(b) and Rule 102(b) of Regulation M.
- (h) Counterparty is an "eligible contract participant" (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended) and the Agreement and all Transactions hereunder are subject to individual negotiation by the parties and have not been executed or traded on a "trading facility" as defined in Section 1a(51) of the Commodity Exchange Act, as amended.
- (i) In addition to any other requirements set forth herein, Counterparty agrees not to elect Cash Settlement or Net Share Settlement in respect of any Transaction if, in the reasonable judgment of either Dealer or Counterparty, such settlement or Dealer's related market activity would result in a violation of the U.S. federal securities laws or any other federal or state law or regulation applicable to Counterparty.
- (j) Counterparty (i) is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies involving a security or securities; (ii) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing; and (iii) has total assets of at least \$50 million as of the date hereof.
- (k) Counterparty acknowledges and agrees that, for any Transaction:
  - (i) during the term of such Transaction, Dealer and its Affiliates may buy or sell Shares or other securities or buy or sell options or futures contracts or enter into swaps or other derivative securities in order to establish, adjust or unwind its hedge position with respect to such Transaction;
  - (ii) Dealer and its Affiliates may also be active in the market for the Shares and Share-linked transactions other than in connection with hedging activities in relation to such Transaction;

- (iii) Dealer shall make its own determination as to whether, when or in what manner any hedging or market activities in Counterparty's securities shall be conducted and shall do so in a manner that it deems appropriate to hedge its price and market risk with respect to the Forward Price for such Transaction and the 10b-18 VWAP for such Transaction;
  - (iv) any market activities of Dealer and its Affiliates with respect to the Shares may affect the market price and volatility of the Shares, as well as the Forward Price for such Transaction and the 10b-18 VWAP for such Transaction, each in a manner that may be adverse to Counterparty; and
  - (v) such Transaction is a derivatives transaction in which it has granted Dealer the right, under certain circumstances, to receive cash or Shares, as the case may be; Dealer may purchase Shares for its own account at an average price that may be greater than, or less than, the effective price paid by Counterparty under the terms of such Transaction.
- (1) The assets of Counterparty do not constitute "plan assets" under the Employee Retirement Income Security Act of 1974, as amended, the Department of Labor Regulations promulgated thereunder or similar law.
- (m) Counterparty is not aware of any material non-public information with respect to Counterparty or the Shares.

Covenants of Counterparty:

- (a) The parties acknowledge and agree that any Shares delivered by Counterparty to Dealer on any Settlement Date for a Transaction hereunder will be newly issued Shares and when delivered by Dealer (or an affiliate of Dealer) to securities lenders from whom Dealer (or an affiliate of Dealer) borrowed Shares in connection with hedging its exposure to such Transaction will be freely saleable without further registration or other restrictions under the Securities Act, in the hands of those securities lenders, irrespective of whether such stock loan is effected by Dealer or an affiliate of Dealer. Accordingly, Counterparty agrees that, subject to the provisions set forth under "Private Placement Procedures", the Shares that it delivers to Dealer on each Settlement Date for a Transaction hereunder will not bear a restrictive legend and that such Shares will be deposited in, and the delivery thereof shall be effected through the facilities of, the Clearance System.
- (b) Counterparty will promptly execute each properly completed Supplemental Confirmation delivered to Counterparty by Dealer following the delivery by Counterparty to Dealer of a Accepted Placement Notice relating to a Forward (as such term is defined in the Equity Distribution Agreement).

Covenants of Dealer:

- (a) Unless the provisions set forth below under "Private Placement Procedures" shall be applicable, Dealer shall use any Shares delivered by Counterparty to Dealer on any Settlement Date for a Transaction hereunder to return to securities lenders to close out open Share loans created by Dealer or an affiliate of Dealer in the course of Dealer's or such affiliate's hedging activities related to Dealer's exposure under this Master Confirmation and the relevant Supplemental Confirmation.
- (b) In connection with bids and purchases of Shares in connection with any Cash Settlement or Net Share Settlement of any Transaction, Dealer shall use its good faith and commercially reasonable efforts to conduct its activities, or cause its affiliates to conduct their activities, in a manner consistent with the requirements of the safe harbor provided by Rule 10b-18 under the Exchange Act, as if such provisions were applicable to such purchases.

Insolvency Filing:

Notwithstanding anything to the contrary herein, in any Supplemental Confirmation, in the Agreement or in the Definitions, upon any Insolvency Filing in respect of the Issuer, each Transaction hereunder shall automatically terminate on the date thereof without further liability of either party to this Master Confirmation or any related Supplemental Confirmation to the other party (except for any liability in respect of any breach of representation or covenant by a party

under this Master Confirmation or any Supplemental Confirmation prior to the date of such Insolvency Filing).

Extraordinary Dividends:

If an ex-dividend date for an Extraordinary Dividend occurs on or after the Trade Date for any Transaction and on or prior to the Maturity Date for such Transaction (or, if later, the last date on which Shares are delivered by Counterparty to Dealer in settlement of such Transaction), Counterparty shall pay an amount, as determined by the Calculation Agent, in cash equal to the product of such Extraordinary Dividend and the Base Amount for such Transaction to Dealer on the earlier of (i) the date on which such Extraordinary Dividend is paid by the Issuer to holders of record of the Shares or (ii) the Maturity Date for such Transaction. "Extraordinary Dividend" means the per Share amount of any cash dividend or distribution declared by the Issuer with respect to the Shares that is specified by the board of directors of the Issuer as an "extraordinary" dividend.

Acceleration Events:

The following events shall each constitute an "Acceleration Event" in respect of each Transaction:

- (a) Stock Borrow Events. In the commercially reasonable judgment of Dealer (i) Dealer (or its affiliate) is unable to hedge in a commercially reasonable manner Dealer's exposure to such Transaction because of the lack of sufficient Shares being made available for Share borrowing by lenders, or (ii) the Stock Loan Fee of borrowing (or maintaining a borrow of) a number of Shares equal to the Base Amount for such Transaction to hedge in a commercially reasonable manner its exposure to the Transaction exceeds a rate equal to the Maximum Stock Loan Rate for such Transaction (each, a "Stock Borrow Event");
- (b) Dividends and Other Distributions. On any day occurring after the Trade Date for such Transaction, Counterparty declares a distribution, issue or dividend to existing holders of the Shares of (i) any cash dividend (other than an Extraordinary Dividend) to the extent all cash dividends having an ex-dividend date during the period from and including any Forward Price Reduction Date for such Transaction (with the Trade Date for such Transaction being a Forward Price Reduction Date for purposes of this clause (b) only) to but excluding the next subsequent Forward Price Reduction Date for such Transaction exceeds, on a per Share basis, the Forward Price Reduction Amount set forth opposite the first date of any such period on Schedule I to the relevant Supplemental Confirmation or (ii) share capital or securities of another issuer acquired or owned (directly or indirectly) by Counterparty as a result of a spin-off or other similar transaction or (iii) any other type of securities (other than Shares), rights or warrants or other assets, for payment (cash or other consideration) at less than the prevailing market price as determined in a commercially reasonable manner by Dealer;
- (c) ISDA Early Termination Date. Either Dealer or Counterparty has the right to designate an Early Termination Date pursuant to Section 6 of the Agreement;
- (d) Other ISDA Events. The announcement of any event that if consummated, would result in a Merger Event, Tender Offer, Nationalization or Insolvency or the occurrence of any Hedging Disruption, any Change in Law or a Delisting; *provided* that in case of a Delisting, in addition to the provisions of Section 12.6(a)(iii) of the 2002 Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or their respective successors); and *provided further* that the definition of "Change in Law" provided in Section 12.9(a)(ii) of the 2002 Definitions is hereby amended by (i) replacing the phrase "the interpretation" in the third line thereof with the phrase "or public announcement of, the formal or informal interpretation", (ii) replacing the parenthetical beginning after the word "regulation" in the second line thereof the words "(including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption, effectiveness or promulgation of new regulations authorized or mandated by existing statute)" and (iii) immediately following the word "Transaction" in clause (X) thereof, adding the phrase "in the manner contemplated by Dealer on the effective date of the Accepted Placement Notice for the relevant Transaction"; or
- (e) Ownership Event. In the good faith judgment of Dealer, on any day, the Share Amount for such day exceeds the Post-Effective Limit for such day (if any applies).



The “Maximum Stock Loan Rate” for any Transaction shall be as specified in the Supplemental Confirmation for such Transaction, to be the “Maximum Stock Loan Rate” as specified in the Accepted Placement Notice for such Transaction.

For purposes of clause (e) above, the “Share Amount” as of any day is the number of Shares that Dealer and any of its affiliates and any person whose ownership position would be aggregated with that of Dealer, including any “group” (within the meaning of Section 13 of the Exchange Act) of which Dealer is or may be deemed to be a part (Dealer or any such person or group, a “Dealer Person”) under any law, rule, regulation or regulatory order or any organizational document or contract of Counterparty that is applicable to ownership of Shares as of the date hereof or for any reason becomes applicable to ownership of Shares after the date hereof (“Applicable Laws”), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership of under the Applicable Laws, as determined by Dealer in its reasonable discretion. The “Post-Effective Limit” means (x) the minimum number of Shares that would give rise to reporting or registration obligations (except for any filing requirements on Form 13F, Schedule 13D or Schedule 13G under the Exchange Act, in each case, as in effect on the date hereof) or other requirements (including obtaining prior approval from any person or entity) of a Dealer Person, or would result in an adverse effect on a Dealer Person, under the Applicable Laws, as determined by Dealer in its reasonable discretion, *minus* (y) 1% of the number of Shares outstanding.

#### Termination Settlement:

Upon the occurrence of any Acceleration Event in respect of any Transaction, Dealer shall have the right to designate, upon at least one Scheduled Trading Day’s notice, any Scheduled Trading Day following such occurrence to be a Settlement Date under such Transaction (a “Termination Settlement Date” for such Transaction) to which Physical Settlement shall apply, and to select the number of Settlement Shares relating to such Termination Settlement Date; *provided* that (i) in the case of an Acceleration Event arising out of an Ownership Event, the number of Settlement Shares for the relevant Transaction so designated by Dealer shall not exceed the number of Shares necessary to reduce the Share Amount to the Post-Effective Limit and (ii) in the case of an Acceleration Event arising out of a Stock Borrow Event the number of Settlement Shares the relevant Transaction so designated by Dealer shall not exceed the number of Shares as to which such Stock Borrow Event exists. If, upon designation of a Termination Settlement Date by Dealer pursuant to the preceding sentence, Counterparty fails to deliver the Settlement Shares relating to such Termination Settlement Date when due or otherwise fails to perform obligations within its control in respect of the relevant Transaction, it shall be an Event of Default with respect to Counterparty and Section 6 of the Agreement shall apply. If an Acceleration Event occurs during an Unwind Period for any Transaction relating to a number of Settlement Shares for the relevant Transaction to which Cash Settlement or Net Share Settlement applies, then on the Termination Settlement Date for such Transaction relating to such Acceleration Event, notwithstanding any election to the contrary by Counterparty, Cash Settlement or Net Share Settlement shall apply to the portion of such Settlement Shares relating to such Unwind Period as to which Dealer has unwound its hedge (assuming that Dealer has a commercially reasonable hedge and unwinds its hedge in a commercially reasonable manner) and Physical Settlement shall apply in respect of (x) the remainder (if any) of such Settlement Shares and (y) the Settlement Shares designated by Dealer in respect of such Termination Settlement Date.

#### Private Placement Procedures

If Counterparty is unable to comply with the provisions of “Covenant of Counterparty” above because of a change in law or a change in the policy of the Securities and Exchange Commission or its staff, or Dealer otherwise determines that in its reasonable opinion and based on the advice of counsel any Settlement Shares to be delivered to Dealer by Counterparty may not be freely returned by Dealer or its affiliates to securities lenders as described under “Covenant of Counterparty” above, then delivery of any such Settlement Shares (the “Restricted Shares”) shall be effected pursuant to Annex A hereto, unless waived by Dealer.

#### Securities Law Acknowledgments:

Counterparty acknowledges that (i) during any Unwind Period, Counterparty does not have, and shall not attempt to exercise, any influence over how, when or whether to effect purchases of Shares by Dealer (or its agent or affiliate) in connection with this Master Confirmation or any

Supplemental Confirmation and (ii) Counterparty is entering into the Agreement, this Master Confirmation and each Supplemental Confirmation in good faith and not as part of a plan or scheme to evade compliance with federal securities laws.

Counterparty hereby agrees with Dealer that during any Unwind Period, Counterparty shall not communicate, directly or indirectly, any Material Non-Public Information (as defined herein) to any EDG Personnel (as defined below). For purposes of each Transaction, "Material Non-Public Information" means information relating to Counterparty or the Shares that (a) has not been widely disseminated by wire service, in one or more newspapers of general circulation, by communication from Counterparty to its shareholders or in a press release, or contained in a public filing made by Counterparty with the Securities and Exchange Commission and (b) a reasonable investor might consider to be of importance in making an investment decision to buy, sell or hold Shares. For the avoidance of doubt and solely by way of illustration, information should be presumed "material" if it relates to such matters as dividend increases or decreases, earnings estimates, changes in previously released earnings estimates, significant expansion or curtailment of operations, a significant increase or decline of orders, significant merger or acquisition proposals or agreements, significant new products or discoveries, extraordinary borrowing, major litigation, liquidity problems, extraordinary management developments, purchase or sale of substantial assets, or other similar information. For purposes of the Transaction, "EDG Personnel" means any employee on the trading side of the Equity Derivatives Group of Wells Fargo Bank, National Association and does not include any member of Wells Fargo Bank, National Association's legal department.

Maximum Share Delivery:

Notwithstanding any other provision of this Master Confirmation or any Supplemental Confirmation, for any Transaction, in no event shall Counterparty be required to deliver to Dealer, in the aggregate, in respect of all Settlement Dates for such Transaction and other dates on which Shares are delivered in respect of any amount owed under such Transaction, a number of Shares equal to 1.5 multiplied by the initial Base Amount for such Transaction.

Transfer and Assignment:

Dealer may assign or transfer any of its rights or delegate any of its duties hereunder and under each Supplemental Confirmation to (A) an affiliate of Dealer, whose obligations hereunder and under each Supplemental Confirmation are fully and unconditionally guaranteed by Dealer, or (B) any other affiliate of Dealer with a long-term issuer rating equal to or better than the credit rating of Dealer at the time of transfer without the prior written consent of Counterparty; *provided that*, (x) whether as a matter of law or by virtue of a gross-up and/or indemnity from the transferee, (j) Counterparty shall not be required to pay or deliver to the transferee or assignee under Section 2(d)(i)(4) of the Agreement any amount or number of Shares greater than the amount Counterparty would have been required to pay or deliver to Dealer in the absence of such transfer or assignment and (ii) Counterparty shall not receive from the transferee or assignee any amount or number of Shares less than it would have been entitled to receive in the absence of such transfer or assignment and (y) such transferee or assignee shall provide such documentation as may be reasonably requested by Counterparty to permit Counterparty to determine that the results described in clause (x) will not occur upon or after such assignment; *provided further* that, at all times, Dealer or any transferee or assignee shall be eligible to provide a U.S. Internal Revenue Service Form W-9 or W-SECI, or any successor form thereto, with respect to any payments or deliveries under the Agreement. Notwithstanding any other provision in this Master Confirmation or any Supplemental Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities to or from Counterparty, Dealer may designate any of its affiliates to purchase, sell, receive or deliver such Shares or other securities and otherwise to perform Dealer's obligations in respect of any Transaction and any such designee may assume such obligations. Dealer shall be discharged of its obligations to Counterparty to the extent of any such performance.

Indemnity

Counterparty agrees to indemnify Dealer and its affiliates and their respective directors, officers, agents and controlling parties (Dealer and each such affiliate or person being an "Indemnified Party") from and against any and all losses, claims, damages and liabilities, joint and several, incurred by or asserted against such Indemnified Party arising out of any breach of any covenant or representation made by Counterparty in this Master Confirmation, any Supplemental

Confirmation or the Agreement and will reimburse any Indemnified Party for all reasonable expenses (including reasonable legal fees and expenses) as they are incurred in connection with the investigation of, preparation for, or defense of any pending or threatened claim or any action or proceeding arising therefrom, whether or not such Indemnified Party is a party thereto. Counterparty will not be liable under this Indemnity paragraph to the extent that any loss, claim, damage, liability or expense is found in a final and nonappealable judgment by a court of competent jurisdiction to have resulted from Dealer's gross negligence, fraud, bad faith and/or willful misconduct or from a breach of any representation or covenant of Dealer contained in this Master Confirmation, any Supplemental Confirmation or the Agreement.

Notice

Non-Reliance: Applicable

Additional Acknowledgments: Applicable

Agreements and Acknowledgments  
Regarding Hedging Activities: Applicable

4. The Agreement is further supplemented by the following provisions:

No Collateral or Setoff:

Notwithstanding Section 6(f) or any other provision of the Agreement or any other agreement between the parties to the contrary, the obligations of Counterparty under the Transactions are not secured by any collateral. Obligations in respect of the Transactions shall not be set off against any other obligations of the parties, whether arising under the Agreement, this Master Confirmation, any Supplemental Confirmation, under any other agreement between the parties hereto, by operation of law or otherwise, and no other obligations of the parties shall be set off against obligations in respect of any Transaction, whether arising under the Agreement, this Master Confirmation, any Supplemental Confirmation, under any other agreement between the parties hereto, by operation of law or otherwise, and each party hereby waives any such right of setoff. In calculating any amounts under Section 6(e) of the Agreement with respect to any Transaction, notwithstanding anything to the contrary in the Agreement, (a) separate amounts shall be calculated as set forth in such Section 6(e) with respect to (i) such Transaction and (ii) all other Transactions, and (b) such separate amounts shall be payable pursuant to Section 6(d)(ii) of the Agreement.

Status of Claims in Bankruptcy:

Dealer acknowledges and agrees that neither this Master Confirmation nor any Supplemental Confirmation is intended to convey to Dealer rights with respect to the Transactions contemplated hereby that are senior to the claims of Counterparty's common stockholders in any U.S. bankruptcy proceedings of Counterparty; *provided, however*, that nothing herein shall limit or shall be deemed to limit Dealer's right to pursue remedies in the event of a breach by Counterparty of its obligations and agreements with respect to this Master Confirmation, any Supplemental Confirmation and the Agreement; and *provided further*, that nothing herein shall limit or shall be deemed to limit Dealer's rights in respect of any transaction other than the Transactions.

Limit on Beneficial Ownership:

Notwithstanding any other provisions hereof, Dealer shall not have an "interest" in (within the meaning of NYSE Rule 312.04(e)) Shares hereunder and Dealer shall not be entitled to take delivery of any Shares deliverable hereunder in respect of any Transaction (in each case, whether in connection with the purchase of Shares on any Settlement Date or any Termination Settlement Date, any Private Placement Settlement or otherwise) to the extent (but only to the extent) that, after such receipt of any Shares hereunder, (i) the Share Amount would exceed the Post-Effective Limit, (ii) the Section 16 Percentage would exceed 7.5% or (iii) Dealer and each person subject to aggregation of Shares with Dealer under Section 13 or Section 16 of the Exchange Act and rules promulgated thereunder (the "Dealer Group") would directly or indirectly beneficially own (as such term is defined for purposes of Section 13 or Section 16 of the Exchange Act and rules promulgated thereunder) in excess of the Threshold Number of Shares for such Transaction. Any purported delivery hereunder in respect of any Transaction shall be void and have no effect to the

extent (but only to the extent) that, after such delivery, (i) the Share Amount would exceed the Post-Effective Limit, (ii) the Section 16 Percentage would exceed 7.5% or (iii) Dealer Group would directly or indirectly so beneficially own in excess of the Threshold Number of Shares. If any delivery owed to Dealer hereunder in respect of any Transaction is not made, in whole or in part, as a result of this provision, Counterparty's obligation to make such delivery shall not be extinguished and Counterparty shall make such delivery as promptly as practicable after, but in no event later than one Exchange Business Day after, Dealer gives notice to Counterparty that, after such delivery, (i) the Share Amount would not exceed the Post-Effective Limit, (ii) the Section 16 Percentage would not exceed 7.5% and (iii) Dealer Group would not directly or indirectly so beneficially own in excess of the Threshold Number of Shares. The "Threshold Number of Shares" for any Transaction means a number of Shares equal to 4.9% of the outstanding Shares on the Trade Date for such Transaction. The "Section 16 Percentage" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates or any other person subject to aggregation with Dealer for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act, or any "group" (within the meaning of Section 13 of the Exchange Act) of which Dealer is or may be deemed to be a part beneficially owns (within the meaning of Section 13 of the Exchange Act), without duplication, on such day (or, to the extent that for any reason the equivalent calculation under Section 16 of the Exchange Act and the rules and regulations thereunder results in a higher number, such higher number) and (B) the denominator of which is the number of Shares outstanding on such day.

In addition, notwithstanding anything herein to the contrary, if any delivery owed to Dealer hereunder is not made, in whole or in part, as a result of the immediately preceding paragraph, Dealer shall be permitted to make any payment due in respect of such Shares to Counterparty in two or more tranches that correspond in amount to the number of Shares delivered by Counterparty to Dealer pursuant to the immediately preceding paragraph.

#### New York General Obligations Law:

Counterparty and Dealer agree and acknowledge that: (A) the Transactions contemplated by this Master Confirmation will be entered into in reliance on the fact that this Master Confirmation and each Supplemental Confirmation hereto form a single agreement between Counterparty and Dealer, and Dealer would not otherwise enter into such Transactions; (B) this Master Confirmation, together with each Supplemental Confirmation hereto, is a "qualified financial contract", as such term is defined in Section 5-701(b)(2) of the New York General Obligations Law; (C) each Supplemental Confirmation hereto, regardless of whether transmitted electronically or otherwise, constitutes a "confirmation in writing sufficient to indicate that a contract has been made between the parties" hereto, as set forth in Section 5-701(b)(3)(b) of the New York General Obligations Law; and (D) this Master Confirmation and each Supplemental Confirmation hereto constitute a prior "written contract", as set forth in Section 5-701(b)(1)(b) of the New York General Obligations Law, and each party hereto intends and agrees to be bound by this Master Confirmation and such Supplemental Confirmation.

#### Placement Notices

Counterparty and Dealer agree that, upon the effectiveness of any Accepted Placement Notice relating to a Forward, in respect of the Transaction to which such Accepted Placement Notice relates, each of the representations, warranties, covenants, agreements and other provisions of this Master Confirmation and the Supplemental Confirmation for such Transaction (including, without limitation, the provisions above in Section 3 of this Master Confirmation under the heading "Extraordinary Dividends," Dealer's right to designate a Termination Settlement Date in respect of such Transaction and the termination of such Transaction following an Insolvency Filing) shall govern, and be applicable to, such Transaction as of the first Trading Day of the Forward Hedge Selling Period for such Transaction as if the Trade Date for such Transaction were such first Trading Day. Notwithstanding anything to the contrary in this Master Confirmation, any Supplemental Confirmation, the Agreement, the 2002 Definitions or the 2006 Definitions, if Dealer designates a Termination Settlement Date with respect to a Transaction (1) following the occurrence of an Acceleration Event, and such Termination Settlement Date is to occur before the date that is one Settlement Cycle after the last day of the Forward Hedge Selling Period for such Transaction or (2) prior to Counterparty's execution of the Supplemental Confirmation relating to such Transaction, then, for purposes of such Termination Settlement Date, a Supplemental Confirmation relating to such Transaction reasonably completed by Dealer (as if the Trade Date for such Transaction were the last day of the Forward Hedge Selling Period on which the Forward Seller (as defined in the Equity Distribution Agreement) sold Forward Hedge Securities for such

Transaction) shall, notwithstanding the provisions under "Conditions to Effectiveness" above, be deemed to be immediately effective.

Wall Street Transparency and Accountability Act:

In connection with Section 739 of the Wall Street Transparency and Accountability Act of 2010 (the "WSTAA"), the parties hereby agree that neither the enactment of the WSTAA or any regulation under the WSTAA, nor any requirement under the WSTAA or any amendment made by the WSTAA, shall limit or otherwise impair either party's otherwise applicable rights to terminate, renegotiate, modify, amend or supplement this Master Confirmation, any Supplemental Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Master Confirmation, any Supplemental Confirmation, the 2002 Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from any Acceleration Event or Illegality (as defined in the Agreement)).

Miscellaneous:

(1) Addresses for Notices. For the purpose of Section 12(a) of the Agreement:

Address for notices or communications to Dealer:

Notwithstanding anything to the contrary in the Agreement, the Master Confirmation or any Supplemental Confirmation, all notices to Dealer in connection with any Transaction are effective only upon receipt of email message to [CorporateDerivativeNotifications@wellsfargo.com](mailto:CorporateDerivativeNotifications@wellsfargo.com)

Address for notices or communications to Counterparty:

Portland General Electric Company  
121 SW Salmon Street  
Portland, Oregon 97204  
Attention: Sujata Pagedar  
Telephone: (510) 913-2713  
Email: [sujata.pagedar@pgn.com](mailto:sujata.pagedar@pgn.com)

(2) **Waiver of Right to Trial by Jury. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this Master Confirmation and/or any Supplemental Confirmation.** Each party (i) certifies that no representative, agent or attorney of the other party has represented, expressly or otherwise, that such other party would not, in the event of such a suit action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into this Master Confirmation and each Supplemental Confirmation by, among other things, the mutual waivers and certifications herein.

Acknowledgements

The parties hereto intend for:

- (a) each Transaction to be a "securities contract" as defined in Section 741(7) of Title 11 of the United States Code (the "Bankruptcy Code"), qualifying for the protections under Section 555 of the Bankruptcy Code;
- (b) a party's right to liquidate each Transaction and to exercise any other remedies upon the occurrence of any Event of Default under the Agreement with respect to the other party to constitute a "contractual right" as defined in the Bankruptcy Code;
- (c) Dealer to be a "financial institution" within the meaning of Section 101(22) of the Bankruptcy Code; and

(d) all payments for, under or in connection with each Transaction, all payments for the Shares and the transfer of such Shares to constitute "settlement payments" as defined in the Bankruptcy Code.

Amendment to Master Agreement

Section 12(a) of the Agreement is hereby amended by (1) deleting the phrase "or email" in the third line thereof and (2) deleting the phrase "or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Local Business Day" in the final clause thereof.

Other Forward Transactions:

Dealer acknowledges that Counterparty has entered or may enter in the future into one or more substantially similar forward transactions for its Shares (each, an "Other Forward" and collectively, the "Other Forwards") with one or more dealers (each, an "Other Dealer" and collectively, the "Other Dealers"). Dealer and Counterparty agree that if Counterparty designates a "Settlement Date" with respect to one or more Other Forwards for which "Cash Settlement" or "Net Share Settlement" is applicable, and the resulting "Unwind Period" for any Other Forward coincides for any period of time with an Unwind Period for a Transaction (the "Overlap Unwind Period"), Counterparty shall notify Dealer prior to the commencement of such Overlap Unwind Period of the first Scheduled Trading Day and length of such Overlap Unwind Period, and Dealer shall only be permitted to purchase Shares to unwind its hedge in respect of such Transaction only on alternating Scheduled Trading Days during such Overlap Unwind Period, commencing on the first, second, third or later Scheduled Trading Day of such Overlap Unwind Period, as notified to Dealer by Counterparty at least one Scheduled Trading Day prior to such Overlap Unwind Period (which alternating Scheduled Trading Days, for the avoidance of doubt, shall be every other Scheduled Trading Day if there is only one Other Dealer, every third Scheduled Trading Day if there are two Other Dealers, etc.).

Severability

If any term, provision, covenant or condition of this Master Confirmation or any Supplemental Confirmation or the application thereof to any party or circumstance, shall be held to be invalid or unenforceable in whole or in part for any reason, the remaining terms, provisions, covenants, and conditions hereof shall continue in full force and effect as if this Master Confirmation and the related Supplemental Confirmation had been executed with the invalid or unenforceable provision eliminated, so long as this Master Confirmation and such related Supplemental Confirmation as so modified continues to express, without material change, the original intentions of the parties as to the subject matter of this Master Confirmation and such Supplemental Confirmation and the deletion of such portion of this Master Confirmation and/or such Supplemental Confirmation will not substantially impair the respective benefits or expectations of parties to this Master Confirmation and such Supplemental Confirmation; *provided, however*, that this severability provision shall not be applicable if any provision of Section 2, 5, 6 or 13 of the Agreement (or any definition or provision in Section 14 to the extent that it relates to, or is used in or in connection with any such Section) shall be so held to be invalid or unenforceable.

QFC Stay Rules

The parties agree that (i) to the extent that prior to the date hereof all parties have adhered to the 2018 ISDA U.S. Resolution Stay Protocol (the "Protocol"), the terms of the Protocol are incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a Protocol Covered Agreement and each party shall be deemed to have the same status as Regulated Entity and/or Adhering Party as applicable to it under the Protocol; (ii) to the extent that prior to the date hereof the parties have executed a separate agreement the effect of which is to amend the qualified financial contracts between them to conform with the requirements of the QFC Stay Rules (the "Bilateral Agreement"), the terms of the Bilateral Agreement are incorporated into and form a part of the Agreement and each party shall be deemed to have the status of "Covered Entity" or "Counterparty Entity" (or other similar term) as applicable to it under the Bilateral Agreement; or (iii) if clause (i) and clause (ii) do not apply, the terms of Section 1 and Section 2 and the related defined terms (together, the "Bilateral Terms") of the form of bilateral template entitled "Full-Length Omnibus (for use between U.S. G-SIBs and Corporate Groups)" published by ISDA on November 2, 2018 (currently available on the 2018 ISDA U.S. Resolution Stay Protocol page at [www.isda.org](http://www.isda.org) and, a copy of which is available upon request),

the effect of which is to amend the qualified financial contracts between the parties thereto to conform with the requirements of the QFC Stay Rules, are hereby incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a "Covered Agreement," Dealer shall be deemed a "Covered Entity" and Counterparty shall be deemed a "Counterparty Entity." In the event that, after the date of the Agreement, all parties hereto become adhering parties to the Protocol, the terms of the Protocol will replace the terms of this section. In the event of any inconsistencies between the Agreement and the terms of the Protocol, the Bilateral Agreement or the Bilateral Terms (each, the "QFC Stay Terms"), as applicable, the QFC Stay Terms will govern. Terms used in this paragraph without definition shall have the meanings assigned to them under the QFC Stay Rules. For purposes of this paragraph, references to "the Agreement" include any related credit enhancements entered into between the parties or provided by one to the other.

"QFC Stay Rules" means the regulations codified at 12 C.F.R. 252.2, 252.81-8, 12 C.F.R. 382.1-7 and 12 C.F.R. 47.1-8, which, subject to limited exceptions, require an express recognition of the stay-and-transfer powers of the FDIC under the Federal Deposit Insurance Act and the Orderly Liquidation Authority under Title II of the Dodd Frank Wall Street Reform and Consumer Protection Act and the override of default rights related directly or indirectly to the entry of an affiliate into certain insolvency proceedings and any restrictions on the transfer of any covered affiliate credit enhancements.

#### Tax Matters

- (a) For the purpose of Section 3(e) of the Agreement, each of Dealer and Counterparty makes the following representation: It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 9(h) of this Agreement and any other payments of interest and penalty charges for late payment) to be made by it to the other party under this Agreement. In making this representation, it may rely on (i) the accuracy of any representations made by the other party pursuant to Section 3(f) of this Agreement; (ii) the satisfaction of the agreement contained in Section 4(a)(i) or 4(a)(iii) of this Agreement and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii) of this Agreement; and (iii) the satisfaction of the agreement of the other party contained in Section 4(d) of this Agreement, *provided* that it shall not be a breach of this representation where reliance is placed on clause (ii) above and the other party does not deliver a form or document under Section 4(a)(iii) by reason of material prejudice to its legal or commercial position.
- (b) For the purpose of Section 3(f) of the Agreement:
- (i) Dealer makes the following representation(s):
- Dealer is a national banking association organized or formed under the laws of the United States and is a United States resident for United States federal income tax purposes.
- (ii) Counterparty makes the following representation(s):
- (A) It is a "U.S. person" (as that term is used in section 1.1441-4(a)(3)(ii) of United States Treasury Regulations) for U.S. federal income tax purposes.
- (B) It is a corporation for U.S. federal income tax purposes and is organized under the laws of the State of Oregon, and is an exempt recipient under Treasury Regulation Section 1.6049-4(c)(1)(ii)(A).
- (c) Withholding Tax imposed on payments to non-US counterparties under the United States Foreign Account Tax Compliance Act. "Tax" and "Indemnifiable Tax", each as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the "Code"), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code (a "FATCA Withholding Tax"). For the avoidance of doubt, a FATCA Withholding Tax is a Tax the

deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.

- (d) HIRE Act. "Tax" and "Indemnifiable Tax", each as defined in Section 14 of the Agreement, shall not include any tax imposed on payments treated as dividends from sources within the United States under Section 871(m) of the Code or any regulations issued thereunder.
- (e) Tax Documentation. For purposes of Section 4(a)(i) and Section 4(a)(ii) of the Agreement:
  - (i) Counterparty shall deliver to Dealer a valid and duly executed U.S. Internal Revenue Service Form W-9, or any successor form thereto, (A) on or before the date of execution of this Master Confirmation and each Supplemental Confirmation, (B) promptly upon demand by Dealer and (C) promptly upon learning that any such tax form previously provided by Counterparty has become inaccurate or incorrect.
  - (ii) Dealer shall provide to Counterparty a valid and duly executed U.S. Internal Revenue Service Form W-9, or any successor form thereto, (A) on or before the date of execution of this Master Confirmation, (B) promptly upon reasonable demand by Counterparty and (C) promptly upon learning that any such tax form previously provided by Dealer has become inaccurate or incorrect.

[Remainder of page intentionally left blank]



Please confirm that the foregoing correctly sets forth the terms of our agreement by executing a copy of this Master Confirmation and returning it to [CorporateDerivativeNotifications@wellsfargo.com](mailto:CorporateDerivativeNotifications@wellsfargo.com).

Yours faithfully,

**WELLS FARGO BANK, NATIONAL ASSOCIATION**

By: /s/ Elizabeth Alvarez  
Name: Elizabeth Alvarez  
Title: Managing Director

Confirmed as of the date first written above:

**PORTLAND GENERAL ELECTRIC COMPANY**

By: /s/ James A. Ajello  
Name: James A. Ajello  
Title: Senior Vice President of Finance, Chief Financial Officer, Treasurer and Corporate Compliance Officer

FORM OF SUPPLEMENTAL CONFIRMATION

<b>To:</b>	<b>Portland General Electric Company</b> 121 SW Salmon Street Portland, Oregon 97204
<b>From:</b>	<b>Wells Fargo Bank, National Association</b> 30 Hudson Yards New York, NY 10001-2170 Email: <a href="mailto:CorporateDerivativeNotifications@wellsfargo.com">CorporateDerivativeNotifications@wellsfargo.com</a>
<b>Date:</b>	[____], 20[__]

Dear Sir(s):

The purpose of this Supplemental Confirmation is to confirm the terms and conditions of the Transaction entered into between Wells Fargo Bank, National Association (“Dealer”) and Portland General Electric Company (“Counterparty”) (together, the “Contracting Parties”) on the Trade Date specified below. This Supplemental Confirmation is a binding contract between Dealer and Counterparty as of the relevant Trade Date for the Transaction referenced below.

1. This Supplemental Confirmation supplements, forms part of, and is subject to the Master Confirmation dated as of April 28, 2023 (the “Master Confirmation”) between the Contracting Parties, as amended and supplemented from time to time. All provisions contained in the Master Confirmation govern this Supplemental Confirmation except as expressly modified below.

2. The terms of the Transaction to which this Supplemental Confirmation relates are as follows:

Trade Date:	[____], 20[__]
Effective Date:	[____], 20[__]
Maturity Date:	[____], 20[__]
Base Amount:	[_____]
Initial Forward Price:	USD [_____]
Spread:	[__]%
Adjusted Volume-Weighted Hedge Price:	USD [_____]
Initial Stock Loan Rate:	[__] basis points per annum
Maximum Stock Loan Rate:	[__] basis points per annum

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing a copy of this Supplemental Confirmation and returning it to [CorporateDerivativeNotifications@wellsfargo.com](mailto:CorporateDerivativeNotifications@wellsfargo.com).

Very truly yours,

**WELLS FARGO BANK, NATIONAL ASSOCIATION**

By: \_\_\_\_\_  
Name:  
Title:

Accepted and confirmed as  
of the Trade Date:

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name:  
Title:

FORWARD PRICE REDUCTION DATES AND AMOUNTS

**Forward Price Reduction Date**

Trade Date  
[\_\_\_\_\_, \_\_\_\_]  
[\_\_\_\_\_, \_\_\_\_]  
[\_\_\_\_\_, \_\_\_\_]  
[\_\_\_\_\_, \_\_\_\_]  
[\_\_\_\_\_, \_\_\_\_]

**Forward Price Reduction Amount**

USD 0.00  
USD [\_\_\_\_]  
USD [\_\_\_\_]  
USD [\_\_\_\_]  
USD [\_\_\_\_]  
USD [\_\_\_\_]<sup>1</sup>

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<sup>1</sup> Include one Forward Price Reduction Date that falls after the Maturity Date.

## PRIVATE PLACEMENT PROCEDURES

- (i) If Counterparty delivers the Restricted Shares pursuant to this clause (i) (a "Private Placement Settlement"), then delivery of Restricted Shares by Counterparty shall be effected in private placement procedures customary for private placements of equity securities of substantially similar size with respect to such Restricted Shares reasonably acceptable to Dealer; *provided* that if, on or before the date that a Private Placement Settlement would occur, Counterparty has taken, or caused to be taken, any action that would make unavailable either the exemption pursuant to Section 4(a)(2) of the Securities Act for the sale by Counterparty to Dealer (or any affiliate designated by Dealer) of the Restricted Shares or the exemption pursuant to Section 4(a)(1) or Section 4(a)(3) of the Securities Act for resales of the Restricted Shares by Dealer (or any such affiliate of Dealer) or Counterparty fails to deliver the Restricted Shares when due or otherwise fails to perform obligations within its control in respect of a Private Placement Settlement, it shall be an Event of Default with respect to Counterparty and Section 6 of the Agreement shall apply. The Private Placement Settlement of such Restricted Shares shall include customary representations, covenants, blue sky and other governmental filings and/or registrations, indemnities to Dealer, due diligence rights (for Dealer or any designated buyer of the Restricted Shares by Dealer), opinions and certificates, and such other documentation as is customary for private placement agreements of equity securities of a substantially similar size, all reasonably acceptable to Dealer. In the case of a Private Placement Settlement, Dealer shall, in its good faith discretion, adjust the number of Restricted Shares to be delivered to Dealer hereunder and/or the Forward Price for the relevant Transaction in a commercially reasonable manner to reflect the fact that such Restricted Shares may not be freely returned to securities lenders by Dealer and may only be saleable by Dealer at a discount to reflect the lack of liquidity in Restricted Shares. Notwithstanding the Agreement, this Master Confirmation or any Supplemental Confirmation, the date of delivery of such Restricted Shares shall be the Clearance System Business Day following notice by Dealer to Counterparty of the number of Restricted Shares to be delivered pursuant to this clause (i). For the avoidance of doubt, delivery of Restricted Shares shall be due as set forth in the previous sentence and not be due on the Settlement Date for the relevant Transaction or Termination Settlement Date for the relevant Transaction that would otherwise be applicable.
- (ii) If Counterparty delivers any Restricted Shares in respect of any Transaction, Counterparty agrees that (i) such Shares may be transferred by and among Dealer and its affiliates and (ii) after the minimum "holding period" within the meaning of Rule 144(d) under the Securities Act has elapsed after the applicable Settlement Date, Counterparty shall promptly remove, or cause the transfer agent for the Shares to remove, any legends referring to any transfer restrictions from such Shares upon delivery by Dealer (or such affiliate of Dealer) to Counterparty or such transfer agent of any seller's and broker's representation letters customarily delivered by Dealer or its affiliates in connection with resales of restricted securities pursuant to Rule 144 under the Securities Act, each without any further requirement for the delivery of any certificate, consent, agreement, opinion of counsel, notice or any other document, any transfer tax stamps or payment of any other amount or any other action by Dealer (or such affiliate of Dealer).

April 28, 2023

To: **Portland General Electric Company**  
121 SW Salmon Street  
Portland, Oregon 97204

From: **Barclays Bank PLC**  
1 Churchill Place  
London E14 5HP  
United Kingdom  
Telephone: +44 (0)20 7623 2323

c/o Barclays Capital Inc.  
as Agent for Barclays Bank PLC  
745 Seventh Avenue  
New York, NY 10019  
Telephone: +1 212-526-7000

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Dear Sirs,

The purpose of this letter agreement (this "Master Confirmation") is to confirm the terms and conditions of certain transactions to be entered into from time to time between Barclays Bank PLC ("Dealer"), through its agent Barclays Capital Inc. (the "Agent") and Portland General Electric Company ("Counterparty") in accordance with the terms of the Equity Distribution Agreement, dated as of April 28, 2023 (the "Equity Distribution Agreement"), among Dealer, Barclays Capital Inc. and Counterparty, among others, on one or more Trade Dates specified herein (collectively, the "Transactions" and each, a "Transaction"). Each Transaction will be evidenced by a supplemental confirmation (each, a "Supplemental Confirmation," and each such Supplemental Confirmation, together with this Master Confirmation, a "Confirmation" for purposes of the Agreement specified below) substantially in the form of Exhibit A hereto. Dealer is not a member of the Securities Investor Protection Corporation. Dealer is authorized by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority.

1. The definitions and provisions contained in the 2006 ISDA Definitions (the "2006 Definitions") and the 2002 ISDA Equity Derivatives Definitions (the "2002 Definitions" and, together with the 2006 Definitions, the "Definitions"), each as published by the International Swaps and Derivatives Association, Inc., are incorporated into each Confirmation. In the event of any inconsistency among the Agreement, this Master Confirmation, any Supplemental Confirmation, the 2002 Definitions and the 2006 Definitions, the following will prevail in the order of precedence indicated: (i) such Supplemental Confirmation; (ii) this Master Confirmation; (iii) the 2002 Definitions; (iv) the 2006 Definitions; and (v) the Agreement.

Each party further agrees that each Confirmation together with the Agreement shall evidence a complete binding agreement between Dealer and Counterparty as to the subject matter and terms of the Transaction to which this Master Confirmation and the related Supplemental Confirmation relate, and shall supersede all prior or contemporaneous written or oral communications with respect thereto. Each Confirmation shall supplement, form a part of, and be subject to an agreement in the form of the 2002 ISDA Master Agreement (the "Agreement") as if Dealer and Counterparty had executed an agreement in such form on the date hereof (but without any Schedule except for (i) the election of the laws of the State of New York as the governing law and (ii) the election that the "Cross Default" provisions of Section 5(a)(vi) shall apply to Dealer with a "Threshold Amount" in respect of Dealer of 3% of the stockholders' equity of Dealer (including its equivalent in another currency); *provided* that (x) the words " , or becoming capable at such time of being declared," shall be deleted from clause (1) thereof, (y) "Specified Indebtedness" has the meaning specified in Section 14 of the Agreement, except that such term shall not include obligations in

respect of deposits received in the ordinary course of Dealer's banking business and (z) the following language shall be added to the end of such Section 5(a)(vi): "Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (X) the default was caused solely by error or omission of an administrative or operational nature; (Y) funds were available to enable the party to make the payment when due; and (Z) the payment is made within two Local Business Days of such party's receipt of written notice of its failure to pay;"). The parties hereby agree that no Transaction, other than the Transactions to which this Master Confirmation, together with each Supplemental Confirmation hereunder, relate, shall be governed by the Agreement. For purposes of the 2002 Definitions, each Transaction is a Share Forward Transaction.

Dealer and Counterparty each represents to the other with respect to each Transaction hereunder that it has entered into such Transaction in reliance upon such tax, accounting, regulatory, legal, and financial advice as it deems necessary and not upon any view expressed by the other.

2. The terms of each Transaction to which this Master Confirmation relates are as follows:

General Terms:

- Trade Date:** For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be, subject to the provisions under the heading "Acceleration Events" in Section 3 of this Master Confirmation and the provisions under the heading "Placement Notices" in Section 4 of this Master Confirmation, the last Trading Day (as defined in the Equity Distribution Agreement) of the Forward Hedge Selling Period (as defined in the Equity Distribution Agreement) for such Transaction.
- Effective Date:** For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be the date that is one Settlement Cycle following the Trade Date for such Transaction, or such later date on which the conditions set forth under "Conditions to Effectiveness" in Section 3 of this Master Confirmation shall have been satisfied, subject to the provisions under the heading "Acceleration Events" in Section 3 of this Master Confirmation and the provisions under the heading "Placement Notices" in Section 4 of this Master Confirmation.
- Base Amount:** For each Transaction, initially, as specified in the Supplemental Confirmation for such Transaction, to be the number of Shares equal to the Actual Sold Forward Amount (as defined in the Equity Distribution Agreement) for the Forward Hedge Selling Period for such Transaction. For each Transaction, on each Settlement Date for such Transaction, the Base Amount for such Transaction shall be reduced by the relevant number of Settlement Shares for such Settlement Date.
- Maturity Date:** For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be the date that follows the Trade Date for such Transaction by the number of days, months or years set forth as the "Term" in the Placement Notice (as defined in the Equity Distribution Agreement and amended by any corresponding Acceptance (as defined in the Equity Distribution Agreement), if applicable (the "Accepted Placement Notice")) for such Transaction (or, if such date is



not a Scheduled Trading Day, the next following Scheduled Trading Day).

**Forward Price:** For each Transaction, on the Effective Date for such Transaction, the Initial Forward Price for such Transaction, and on any other day, the Forward Price for such Transaction as of the immediately preceding calendar day multiplied by the sum of (i) 1 and (ii) the Daily Rate for such Transaction for such day; *provided* that on each Forward Price Reduction Date for such Transaction, the Forward Price for such Transaction in effect on such date shall be the Forward Price for such Transaction otherwise in effect on such date, *minus* the Forward Price Reduction Amount for such Forward Price Reduction Date. Notwithstanding the foregoing, to the extent Counterparty delivers Shares hereunder on or after a Forward Price Reduction Date for any Transaction and at or before the record date for an ordinary cash dividend with an ex-dividend date corresponding to such Forward Price Reduction Date, the Calculation Agent shall adjust the Forward Price for such Transaction to the extent it determines that such an adjustment is appropriate and necessary to preserve the economic intent of the parties to offset the economic effect of the Dealer having received the benefit of both (i) the Forward Price Reduction Amount for such Transaction and (ii) the ordinary cash dividend with an ex-dividend date corresponding to such Forward Price Reduction Amount (taking into account Dealer's commercially reasonable hedge positions in respect of such Transaction).

**Initial Forward Price:** For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be the product of (i) an amount equal to 1 *minus* the Forward Hedge Selling Commission Rate (as defined in the Equity Distribution Agreement) applicable to such Transaction *multiplied by* (ii) the Adjusted Volume-Weighted Hedge Price, subject to adjustment as set forth herein.

**Adjusted Volume-Weighted**

**Hedge Price:** For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be the volume-weighted average of the gross sales price per share of Forward Hedge Securities (as defined in the Equity Distribution Agreement) sold on each Trading Day of the Forward Hedge Selling Period for such Transaction, as determined by the Calculation Agent; *provided* that, solely for the purposes of calculating the Initial Forward Price, each such sales price (other than the sales price for the last day of the relevant Forward Hedge Selling Period) shall be subject to adjustment by the Calculation Agent in the same manner as the Forward Price pursuant to the definition thereof during the period from, and including, the date one Settlement Cycle immediately following the first Trading Day of the relevant Forward Hedge Selling Period on which Forward Hedge Securities are sold to, and including, the Effective Date of such Transaction.

**Daily Rate:** For each Transaction and for any day, (i)(A) the Overnight Bank Rate for such day, *minus* (B) the Spread for such Transaction, *divided by* (ii) 365.

**Overnight Bank Rate:** For any day, the rate set forth for such day opposite the caption "Overnight bank funding rate", as such rate is displayed on Bloomberg Screen "OBFR01 <Index> <GO>",

or any successor page; *provided* that, if no rate appears for a particular day on such page, the rate for the immediately preceding day for which a rate does so appear shall be used for such day.

Spread: For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be the "Spread" as specified in the Accepted Placement Notice for such Transaction.

Forward Price Reduction Dates: For each Transaction, as specified in Schedule I to the Supplemental Confirmation for such Transaction, to be each date set forth under the heading "Forward Price Reduction Dates" in the Accepted Placement Notice for such Transaction.

Forward Price Reduction Amount: For each Transaction, for each Forward Price Reduction Date for such Transaction, the Forward Price Reduction Amount set forth opposite such Forward Price Reduction Date on Schedule I to the Supplemental Confirmation for such Transaction, to be the "Forward Price Reduction Amount" set forth opposite such Forward Price Reduction Date in the Accepted Placement Notice for such Transaction.

Shares: Common stock, no par value, of Counterparty (also referred to herein as the "Issuer") (Exchange identifier: "POR").

Exchange: The New York Stock Exchange.

Related Exchange(s): All Exchanges.

Clearance System: DTC.

Calculation Agent: Dealer whose judgments, determinations and calculations shall be made in good faith and in a commercially reasonable manner; provided that, following the occurrence and during the continuance of an Event of Default of the type described in Section 5(a)(vii) of the Agreement with respect to which Dealer is the sole Defaulting Party, if the Calculation Agent fails to timely make any calculation, adjustment or determination required to be made by the Calculation Agent hereunder or to perform any obligation of the Calculation Agent hereunder, Counterparty shall have the right to designate a nationally recognized third-party dealer in over-the-counter corporate equity derivatives to act as the Calculation Agent.

Following any determination or calculation by the Calculation Agent hereunder, upon a request by Counterparty, the Calculation Agent shall promptly (but in any event within three Exchange Business Days) provide to Counterparty by e-mail to the e-mail address provided by Counterparty in such request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in

reasonable detail the basis for such determination or calculation (including any assumptions used in making such determination or calculation), it being understood that the Calculation Agent shall not be obligated to disclose any proprietary or confidential models or other proprietary or confidential information used by it for such determination or calculation.

Settlement Terms:

**Settlement Date:** With respect to any Transaction, any Scheduled Trading Day following the Effective Date for such Transaction and up to and including the Maturity Date for such Transaction, as designated by (a) Dealer pursuant to "Termination Settlement" below or (b) Counterparty in a written notice (a "Settlement Notice") that satisfies the Settlement Notice Requirements and is delivered to Dealer at least (i) two Scheduled Trading Days prior to such Settlement Date, which may be the Maturity Date for such Transaction, if Physical Settlement applies, and (ii) 50 Scheduled Trading Days prior to such Settlement Date, which may be the Maturity Date for such Transaction, if Cash Settlement or Net Share Settlement applies; *provided that* (i) the Maturity Date for such Transaction shall be a Settlement Date for such Transaction if on such date the Base Amount for such Transaction is greater than zero, (ii) if Physical Settlement or Net Share Settlement applies and such Settlement Date specified above (including a Settlement Date occurring on such Maturity Date) is not a Clearance System Business Day, such Settlement Date shall be the next following Clearance System Business Day and (iii) if Cash Settlement or Net Share Settlement applies and Dealer shall have fully unwound its commercially reasonable hedge with respect to the portion of such Transaction to be settled during an Unwind Period for such Transaction by a date that is more than two Scheduled Trading Days prior to such Settlement Date specified above. Dealer may, by written notice to Counterparty, specify any Scheduled Trading Day prior to such originally specified Settlement Date for such Transaction as the Settlement Date for such Transaction.

**Settlement Shares:** In respect of any Transaction and with respect to any Settlement Date for such Transaction, a number of Shares, not to exceed the Base Amount for such Transaction, designated as such by Counterparty in the related Settlement Notice or by Dealer pursuant to "Termination Settlement" below; *provided that* on the Maturity Date for such Transaction the number of Settlement Shares shall be equal to the Base Amount for such Transaction on such date.

**Settlement:** In respect of any Transaction, Physical Settlement, Cash Settlement or Net Share Settlement, at the election of Counterparty as set forth in a Settlement Notice for such Transaction delivered on or after the Effective Date for such Transaction that satisfies the Settlement Notice Requirements; *provided that* Physical Settlement shall apply (i) if no Settlement Method is validly selected, (ii) with respect to any Settlement Shares in respect of which Dealer is unable, in its judgment, to unwind its hedge in respect of such Transaction (or portion thereof, as applicable) by the end of the Unwind

Period for such Transaction in a manner that, in the reasonable judgment of Dealer based on the advice of counsel, is consistent with the requirements for qualifying for the safe harbor provided by Rule 10b-18 under the Exchange Act or due to the lack of sufficient liquidity in the Shares on any Exchange Business Day during such Unwind Period or (iii) to any Termination Settlement Date (as defined below under "Termination Settlement") for such Transaction.

**Settlement Notice**

**Requirements:** Notwithstanding any other provision hereof, a Settlement Notice delivered in respect of any Transaction by Counterparty that specifies Cash Settlement or Net Share Settlement will not be effective to establish a Settlement Date for such Transaction or require Cash Settlement or Net Share Settlement unless Counterparty delivers to Dealer with such Settlement Notice a representation signed by Counterparty substantially in the following form: "As of the date of this Settlement Notice, Counterparty is not aware of any material nonpublic information concerning itself or the Shares, and is designating the date contained herein as a Settlement Date and is electing Cash Settlement or Net Share Settlement, as the case may be, in good faith and not as part of a plan or scheme to evade compliance with the federal securities laws."

**Unwind Period:** For any Transaction, each Exchange Business Day that is not a Suspension Day during the period from and including the first Exchange Business Day following the date Counterparty validly elects Cash Settlement or Net Share Settlement in respect of a Settlement Date for such Transaction through the second Scheduled Trading Day preceding such Settlement Date (or the immediately preceding Exchange Business Day if such Scheduled Trading Day is not an Exchange Business Day); subject to "Termination Settlement" below. If any Exchange Business Day during an Unwind Period for any Transaction is a Disrupted Day, the Calculation Agent shall make commercially reasonable adjustments to the terms of such Transaction (including, without limitation, the Cash Settlement Amount, the number of Net Share Settlement Shares and the 10b-18 VWAP) to account for the occurrence of such Disrupted Day.

**Suspension Day:** Any Exchange Business Day on which Dealer determines based on the advice of counsel that Cash Settlement or Net Share Settlement may violate applicable securities laws. Dealer shall notify Counterparty if it receives such advice from its counsel.

**Market Disruption Event:** Section 6.3(a)(ii) of the 2002 Definitions is hereby amended by replacing clause (ii) in its entirety with "(ii) an Exchange Disruption, or" and inserting immediately following clause (iii) the phrase "; in each case that the Calculation Agent determines is material."

**Exchange Act:** The Securities Exchange Act of 1934, as amended from time to time.

**Physical Settlement:** In respect of any Transaction, on any Settlement Date for such Transaction in respect of which Physical Settlement applies, Counterparty shall deliver to Dealer through the Clearance System the Settlement Shares for such Settlement Date, and Dealer shall deliver to Counterparty, by wire transfer of

immediately available funds to an account designated by Counterparty, an amount in cash equal to the Physical Settlement Amount for such Transaction for such Settlement Date, on a delivery versus payment basis. If, on any Settlement Date for such Transaction, the Shares to be delivered by Counterparty to Dealer hereunder are not so delivered (the "Deferred Shares"), and a Forward Price Reduction Date for such Transaction occurs during the period from, and including, such Settlement Date to, but excluding, the date such Shares are actually delivered to Dealer, then the portion of the Physical Settlement Amount for such Transaction payable by Dealer to Counterparty in respect of the Deferred Shares shall be reduced by an amount equal to the Forward Price Reduction Amount for such Forward Price Reduction Date, *multiplied by* the number of Deferred Shares.

**Physical Settlement Amount:** In respect of any Transaction and for any Settlement Date for such Transaction in respect of which Physical Settlement applies, an amount in cash equal to the product of (i) the Forward Price for such Transaction on such Settlement Date and (ii) the number of Settlement Shares for such Transaction for such Settlement Date.

**Cash Settlement:** In respect of any Transaction, on any Settlement Date for such Transaction in respect of which Cash Settlement applies, if the Cash Settlement Amount for such Transaction for such Settlement Date is a positive number, Dealer will pay such Cash Settlement Amount to Counterparty. If the Cash Settlement Amount for such Transaction is a negative number, Counterparty will pay the absolute value of such Cash Settlement Amount to Dealer. Such amounts shall be paid on the relevant Settlement Date.

**Cash Settlement Amount:** In respect of any Transaction and for any Settlement Date for such Transaction in respect of which Cash Settlement applies, an amount determined by the Calculation Agent equal to (a) the product of (i) (A) the average Forward Price for such Transaction over the period beginning on, and including, the date that is one Settlement Cycle following the first day of the applicable Unwind Period for such Transaction and ending on, and including, such Settlement Date (calculated assuming no reduction to such Forward Price for any Forward Price Reduction Date for such Transaction that occurs during such Unwind Period, except as set forth in clause (b) below), *minus* USD 0.02, *minus* (B) the average of the 10b-18 VWAP prices per Share on each Exchange Business Day during such Unwind Period, *multiplied by* (ii) the number of Settlement Shares for such Transaction for such Settlement Date, *minus* (b) the product of (i) the Forward Price Reduction Amount for such Transaction for any Forward Price Reduction Date for such Transaction that occurs during such Unwind Period *and* (ii) the number of Settlement Shares for such Transaction for such Settlement Date with respect to which Dealer has not unwound its hedge (assuming Dealer has a commercially reasonable hedge position and unwinds its hedge position in a commercially reasonable manner), as of such Forward Price Reduction Date.

**Net Share Settlement:** In respect of any Transaction, on any Settlement Date for such Transaction in respect of which Net Share Settlement applies, if the number of Net Share Settlement Shares for such Transaction is a (i) negative number, Dealer shall deliver a

number of Shares to Counterparty equal to the absolute value of such Net Share Settlement Shares, or (ii) positive number, Counterparty shall deliver to Dealer such Net Share Settlement Shares; *provided* that if Dealer determines in its good faith and reasonable judgment that it would be required to deliver Net Share Settlement Shares to Counterparty, Dealer may elect to deliver a portion of such Net Share Settlement Shares on one or more dates prior to the applicable Settlement Date.

Net Share Settlement Shares: In respect of any Transaction, for any Settlement Date for such Transaction in respect of which Net Share Settlement applies, a number of Shares equal to (a) the number of Settlement Shares for such Settlement Date, *minus* (b) the number of Shares Dealer actually purchases during the Unwind Period for such Transaction for a total purchase price equal to the difference between (1) the product of (i) the average Forward Price for such Transaction over the period beginning on, and including, the date that is one Settlement Cycle following the first day of the applicable Unwind Period for such Transaction and ending on, and including, such Settlement Date (calculated assuming no reduction to such Forward Price for any Forward Price Reduction Date for such Transaction that occurs during such Unwind Period, except as set forth in clause (2) below), *minus* USD 0.02, *multiplied by* (ii) the number of Settlement Shares for such Transaction for such Settlement Date, *minus* (2) the product of (i) the Forward Price Reduction Amount for such Transaction for any Forward Price Reduction Date for such Transaction that occurs during such Unwind Period, *multiplied by* (ii) the number of Shares with respect to which Dealer has not unwound its hedge as of such Forward Price Reduction Date.

10b-18 VWAP: For any Transaction, for any Exchange Business Day during an Unwind Period for such Transaction which is not a Suspension Day, the volume-weighted average price at which the Shares trade as reported in the composite transactions for the Exchange on such Exchange Business Day, excluding (i) trades that do not settle regular way, (ii) opening (regular way) reported trades on the Exchange on such Exchange Business Day, (iii) trades that occur in the last ten minutes before the scheduled close of trading on the Exchange on such Exchange Business Day and ten minutes before the scheduled close of the primary trading session in the market where the trade is effected and (iv) trades on such Exchange Business Day that do not satisfy the requirements of Rule 10b-18(b)(3), as determined in good faith by the Calculation Agent. Counterparty acknowledges that Dealer may refer to the Bloomberg Page "POR <Equity> AQR SEC" (or any successor thereto), in its discretion, for such Exchange Business Day to determine the 10b-18 VWAP.

Settlement Currency: USD.

Failure to Deliver: Inapplicable.

Adjustments:

Method of Adjustment: Calculation Agent Adjustment; notwithstanding anything in the 2002 Definitions to the contrary, for any Transaction, the Calculation Agent may make an adjustment pursuant to Calculation Agent Adjustment to any one or more of the Base Amount for such Transaction, the Forward Price for such

Transaction and any other variable relevant to the settlement or payment terms of such Transaction.

**Additional Adjustment:** If, at any time, with respect to any Transaction, in Dealer's commercially reasonable judgment, the stock loan fee to Dealer (or an affiliate thereof), excluding the interest rate component payable by the relevant stock lender to Dealer or such affiliate (the "Stock Loan Fee"), over any 10 consecutive Scheduled Trading Day period, of borrowing a number of Shares equal to the Base Amount for such Transaction to hedge in a commercially reasonable manner its exposure to such Transaction exceeds a rate equal to the Initial Stock Loan Rate for such Transaction, the Calculation Agent shall reduce the Forward Price for such Transaction in order to compensate Dealer for the amount by which the Stock Loan Fee exceeded a rate equal to such Initial Stock Loan Rate for the period during which the Stock Loan Fee exceeded such rate. The Calculation Agent shall notify Counterparty prior to making any such adjustment to such Forward Price and, upon the request of Counterparty, Dealer shall provide an itemized list of the Stock Loan Fees for the applicable period. The "Initial Stock Loan Rate" for any Transaction shall be as specified in the Supplemental Confirmation for such Transaction, to be the "Initial Stock Loan Rate" as specified in the Accepted Placement Notice for such Transaction.

Account Details:

Payments to Dealer: To be advised under separate cover or telephone confirmed prior to each Settlement Date.

Payments to Counterparty: To be advised under separate cover or telephone confirmed prior to each Settlement Date.

Delivery of Shares to Dealer: To be advised.

Delivery of Shares to Counterparty: To be advised.

3. **Other Provisions:**

Conditions to Effectiveness:

The effectiveness of each Supplemental Confirmation and the related Transaction on the Effective Date for such Transaction shall be subject to (i) the condition that the representations and warranties of Counterparty contained in the Equity Distribution Agreement and any certificate delivered pursuant thereto by Counterparty are true and correct on such Effective Date as if made as of such Effective Date, (ii) the condition that Counterparty has performed all of the obligations required to be performed by it under the Equity Distribution Agreement on or prior to such Effective Date, (iii) the condition that Counterparty shall have delivered to Dealer an opinion of counsel dated as of the Trade Date for such Transaction with respect to matters set forth in Section 3(a) of the Agreement, (iv) the satisfaction of all of the conditions set forth in Section 9 of the Equity Distribution Agreement and (v) the condition that the Equity Distribution Agreement shall not have been terminated pursuant to Section 13 thereof.

Representations and Agreements of Counterparty:

Counterparty (i) has such knowledge and experience in financial and business affairs as to be capable of evaluating the merits and risks of entering into any Transaction hereunder; (ii) has consulted with its own legal, financial, accounting and tax advisors in connection with each Transaction hereunder; and (iii) is entering into each Transaction hereunder for a bona fide business purpose.

Counterparty is not and has not been the subject of any civil proceeding of a judicial or administrative body of competent jurisdiction that could reasonably be expected to impair materially Counterparty's ability to perform its obligations hereunder.

Counterparty will by the next succeeding New York Business Day notify Dealer upon obtaining knowledge of the occurrence of any event that would constitute an Event of Default, a Potential Event of Default or a Potential Adjustment Event.

Additional Representations, Warranties and Agreements of Counterparty: Counterparty hereby represents and warrants to, and agrees with, Dealer as of the date hereof, on each date a Placement Notice is effective, on each Trading Day in a Forward Hedge Selling Period, on each Forward Hedge Settlement Date (as defined in the Equity Distribution Agreement) and on the Trade Date for any Transaction hereunder that:

- (a) Any Shares, when issued and delivered in accordance with the terms of any Transaction hereunder, will be duly authorized and validly issued, fully paid and nonassessable, and the issuance thereof will not be subject to any preemptive or similar rights.
- (b) Counterparty has reserved and will keep available at all times, free from preemptive rights, out of its authorized but unissued Shares, solely for the purpose of issuance upon settlement of any Transaction hereunder as herein provided, the full number of Shares as shall be issuable at such time upon settlement of such Transaction. All Shares so issuable shall, upon such issuance, be accepted for listing or quotation on the Exchange.
- (c) No filing with, or approval, authorization, consent, license registration, qualification, order or decree of, any court or governmental authority or agency, domestic or foreign, is necessary or required for the execution, delivery and performance by Counterparty of this Master Confirmation or any Supplemental Confirmation and the consummation of any Transaction (including, without limitation, the issuance and delivery of Shares on any Settlement Date for a Transaction hereunder) except (i) such as have been obtained under the Securities Act of 1933, as amended (the "Securities Act"), and (ii) as may be required to be obtained under state securities laws.
- (d) Counterparty agrees not to repurchase, directly or indirectly, any Shares if, immediately following such Issuer Repurchase, the Base Amount Percentage for all Transactions hereunder would be equal to or greater than 8.0%. The "Base Amount Percentage" as of any day is the fraction (1) the numerator of which is the Base Amount and (2) the denominator of which is the number of Shares outstanding on such day.
- (e) Counterparty is not insolvent, nor will Counterparty be rendered insolvent as a result of any Transaction hereunder.
- (f) Neither Counterparty nor any of its affiliated purchasers (as defined in Rule 10b-18 under the Exchange Act) shall take or refrain from taking any action (including, without limitation, any direct purchases by Counterparty or any of its affiliates or any purchases by a party to a derivative transaction with Counterparty or any of its affiliates), either under this Master Confirmation, under any Supplemental Confirmation, under an agreement with another party or otherwise, that might be reasonably expected to cause any purchases of Shares by Dealer or any of its affiliates in connection with any Cash Settlement or Net Share Settlement of any Transaction hereunder not to meet the requirements of the safe harbor provided by Rule 10b-18 under the Exchange Act determined as if all such purchases were made by Counterparty.
- (g) Counterparty will not engage in any "distribution" (as defined in Regulation M under the Exchange Act ("Regulation M")) that would cause a "restricted period" (as defined in Regulation M) to occur during any Unwind Period for any Transaction hereunder, other than a distribution meeting, in each case, the requirements of an exception set forth in Rule 101(b) and Rule 102(b) of Regulation M.
- (h) Counterparty is an "eligible contract participant" (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended) and the Agreement and all Transactions hereunder are subject to individual negotiation by the parties and have not been executed or



traded on a "trading facility" as defined in Section 1a(51) of the Commodity Exchange Act, as amended.

- (i) In addition to any other requirements set forth herein, Counterparty agrees not to elect Cash Settlement or Net Share Settlement in respect of any Transaction if, in the reasonable judgment of either Dealer or Counterparty, such settlement or Dealer's related market activity would result in a violation of the U.S. federal securities laws or any other federal or state law or regulation applicable to Counterparty.
- (j) Counterparty (i) is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies involving a security or securities; (ii) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing; and (iii) has total assets of at least \$50 million as of the date hereof.
- (k) Counterparty acknowledges and agrees that, for any Transaction:
  - (i) during the term of such Transaction, Dealer and its Affiliates may buy or sell Shares or other securities or buy or sell options or futures contracts or enter into swaps or other derivative securities in order to establish, adjust or unwind its hedge position with respect to such Transaction;
  - (ii) Dealer and its Affiliates may also be active in the market for the Shares and Share-linked transactions other than in connection with hedging activities in relation to such Transaction;
  - (iii) Dealer shall make its own determination as to whether, when or in what manner any hedging or market activities in Counterparty's securities shall be conducted and shall do so in a manner that it deems appropriate to hedge its price and market risk with respect to the Forward Price for such Transaction and the 10b-18 VWAP for such Transaction;
  - (iv) any market activities of Dealer and its Affiliates with respect to the Shares may affect the market price and volatility of the Shares, as well as the Forward Price for such Transaction and the 10b-18 VWAP for such Transaction, each in a manner that may be adverse to Counterparty; and
  - (v) such Transaction is a derivatives transaction in which it has granted Dealer the right, under certain circumstances, to receive cash or Shares, as the case may be; Dealer may purchase Shares for its own account at an average price that may be greater than, or less than, the effective price paid by Counterparty under the terms of such Transaction.
- (l) The assets of Counterparty do not constitute "plan assets" under the Employee Retirement Income Security Act of 1974, as amended, the Department of Labor Regulations promulgated thereunder or similar law.
- (m) Counterparty is not aware of any material non-public information with respect to Counterparty or the Shares.

Covenants of Counterparty:

- (a) The parties acknowledge and agree that any Shares delivered by Counterparty to Dealer on any Settlement Date for a Transaction hereunder will be newly issued Shares and when delivered by Dealer (or an affiliate of Dealer) to securities lenders from whom Dealer (or an affiliate of Dealer) borrowed Shares in connection with hedging its exposure to such Transaction will be freely saleable without further registration or other restrictions under the Securities Act, in the hands of those securities lenders, irrespective of whether such stock loan is effected by Dealer or an affiliate of Dealer. Accordingly, Counterparty agrees that, subject to the provisions set forth under "Private Placement Procedures", the Shares that it delivers to Dealer on each Settlement Date for a Transaction hereunder will not bear a restrictive legend and that such Shares will be deposited in, and the delivery thereof shall be effected through the facilities of, the Clearance System.

- (b) Counterparty will promptly execute each properly completed Supplemental Confirmation delivered to Counterparty by Dealer following the delivery by Counterparty to Dealer of a Accepted Placement Notice relating to a Forward (as such term is defined in the Equity Distribution Agreement).

Covenants of Dealer:

- (a) Unless the provisions set forth below under "Private Placement Procedures" shall be applicable, Dealer shall use any Shares delivered by Counterparty to Dealer on any Settlement Date for a Transaction hereunder to return to securities lenders to close out open Share loans created by Dealer or an affiliate of Dealer in the course of Dealer's or such affiliate's hedging activities related to Dealer's exposure under this Master Confirmation and the relevant Supplemental Confirmation.
- (b) In connection with bids and purchases of Shares in connection with any Cash Settlement or Net Share Settlement of any Transaction, Dealer shall use its good faith and commercially reasonable efforts to conduct its activities, or cause its affiliates to conduct their activities, in a manner consistent with the requirements of the safe harbor provided by Rule 10b-18 under the Exchange Act, as if such provisions were applicable to such purchases.

Insolvency Filing:

Notwithstanding anything to the contrary herein, in any Supplemental Confirmation, in the Agreement or in the Definitions, upon any Insolvency Filing in respect of the Issuer, each Transaction hereunder shall automatically terminate on the date thereof without further liability of either party to this Master Confirmation or any related Supplemental Confirmation to the other party (except for any liability in respect of any breach of representation or covenant by a party under this Master Confirmation or any Supplemental Confirmation prior to the date of such Insolvency Filing).

Extraordinary Dividends:

If an ex-dividend date for an Extraordinary Dividend occurs on or after the Trade Date for any Transaction and on or prior to the Maturity Date for such Transaction (or, if later, the last date on which Shares are delivered by Counterparty to Dealer in settlement of such Transaction), Counterparty shall pay an amount, as determined by the Calculation Agent, in cash equal to the product of such Extraordinary Dividend and the Base Amount for such Transaction to Dealer on the earlier of (i) the date on which such Extraordinary Dividend is paid by the Issuer to holders of record of the Shares or (ii) the Maturity Date for such Transaction. "Extraordinary Dividend" means the per Share amount of any cash dividend or distribution declared by the Issuer with respect to the Shares that is specified by the board of directors of the Issuer as an "extraordinary" dividend.

Acceleration Events:

The following events shall each constitute an "Acceleration Event" in respect of each Transaction:

- (a) Stock Borrow Events. In the commercially reasonable judgment of Dealer (i) Dealer (or its affiliate) is unable to hedge in a commercially reasonable manner Dealer's exposure to such Transaction because of the lack of sufficient Shares being made available for Share borrowing by lenders, or (ii) the Stock Loan Fee of borrowing (or maintaining a borrow of) a number of Shares equal to the Base Amount for such Transaction to hedge in a commercially reasonable manner its exposure to the Transaction exceeds a rate equal to the Maximum Stock Loan Rate for such Transaction (each, a "Stock Borrow Event");
- (b) Dividends and Other Distributions. On any day occurring after the Trade Date for such Transaction, Counterparty declares a distribution, issue or dividend to existing holders of the Shares of (i) any cash dividend (other than an Extraordinary Dividend) to the extent all cash dividends having an ex-dividend date during the period from and including any Forward Price Reduction Date for such Transaction (with the Trade Date for such Transaction being a Forward Price Reduction Date for purposes of this clause (b) only) to but excluding the next subsequent Forward Price Reduction Date for such Transaction exceeds, on a per Share basis,

the Forward Price Reduction Amount set forth opposite the first date of any such period on Schedule I to the relevant Supplemental Confirmation or (ii) share capital or securities of another issuer acquired or owned (directly or indirectly) by Counterparty as a result of a spin-off or other similar transaction or (iii) any other type of securities (other than Shares), rights or warrants or other assets, for payment (cash or other consideration) at less than the prevailing market price as determined in a commercially reasonable manner by Dealer;

- (c) ISDA Early Termination Date. Either Dealer or Counterparty has the right to designate an Early Termination Date pursuant to Section 6 of the Agreement;
- (d) Other ISDA Events. The announcement of any event that if consummated, would result in a Merger Event, Tender Offer, Nationalization or Insolvency or the occurrence of any Hedging Disruption, any Change in Law or a Delisting; *provided* that in case of a Delisting, in addition to the provisions of Section 12.6(a)(iii) of the 2002 Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or their respective successors); and *provided further* that the definition of "Change in Law" provided in Section 12.9(a)(ii) of the 2002 Definitions is hereby amended by (i) replacing the phrase "the interpretation" in the third line thereof with the phrase "or public announcement of, the formal or informal interpretation", (ii) replacing the parenthetical beginning after the word "regulation" in the second line thereof the words "(including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption, effectiveness or promulgation of new regulations authorized or mandated by existing statute)" and (iii) immediately following the word "Transaction" in clause (X) thereof, adding the phrase "in the manner contemplated by Dealer on the effective date of the Accepted Placement Notice for the relevant Transaction"; or
- (e) Ownership Event. In the good faith judgment of Dealer, on any day, the Share Amount for such day exceeds the Post-Effective Limit for such day (if any applies).

The "Maximum Stock Loan Rate" for any Transaction shall be as specified in the Supplemental Confirmation for such Transaction, to be the "Maximum Stock Loan Rate" as specified in the Accepted Placement Notice for such Transaction.

For purposes of clause (e) above, the "Share Amount" as of any day is the number of Shares that Dealer and any of its affiliates and any person whose ownership position would be aggregated with that of Dealer, including any "group" (within the meaning of Section 13 of the Exchange Act) of which Dealer is or may be deemed to be a part (Dealer or any such person or group, a "Dealer Person") under any law, rule, regulation or regulatory order or any organizational document or contract of Counterparty that is applicable to ownership of Shares as of the date hereof or for any reason becomes applicable to ownership of Shares after the date hereof ("Applicable Laws"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership of under the Applicable Laws, as determined by Dealer in its reasonable discretion. The "Post-Effective Limit" means (x) the minimum number of Shares that would give rise to reporting or registration obligations (except for any filing requirements on Form 13F, Schedule 13D or Schedule 13G under the Exchange Act, in each case, as in effect on the date hereof) or other requirements (including obtaining prior approval from any person or entity) of a Dealer Person, or would result in an adverse effect on a Dealer Person, under the Applicable Laws, as determined by Dealer in its reasonable discretion, *minus* (y) 1% of the number of Shares outstanding.

#### Termination Settlement:

Upon the occurrence of any Acceleration Event in respect of any Transaction, Dealer shall have the right to designate, upon at least one Scheduled Trading Day's notice, any Scheduled Trading Day following such occurrence to be a Settlement Date under such Transaction (a "Termination Settlement Date" for such Transaction) to which Physical Settlement shall apply, and to select the number of Settlement Shares relating to such Termination Settlement Date; *provided* that (i) in the case of an Acceleration Event arising out of an Ownership Event, the number of Settlement Shares for the relevant Transaction so designated by Dealer shall not exceed the number of Shares necessary to reduce the Share Amount to the Post-Effective Limit and (ii) in the case of an Acceleration Event arising out of a Stock Borrow Event the number of Settlement Shares the

relevant Transaction so designated by Dealer shall not exceed the number of Shares as to which such Stock Borrow Event exists. If, upon designation of a Termination Settlement Date by Dealer pursuant to the preceding sentence, Counterparty fails to deliver the Settlement Shares relating to such Termination Settlement Date when due or otherwise fails to perform obligations within its control in respect of the relevant Transaction, it shall be an Event of Default with respect to Counterparty and Section 6 of the Agreement shall apply. If an Acceleration Event occurs during an Unwind Period for any Transaction relating to a number of Settlement Shares for the relevant Transaction to which Cash Settlement or Net Share Settlement applies, then on the Termination Settlement Date for such Transaction relating to such Acceleration Event, notwithstanding any election to the contrary by Counterparty, Cash Settlement or Net Share Settlement shall apply to the portion of such Settlement Shares relating to such Unwind Period as to which Dealer has unwound its hedge (assuming that Dealer has a commercially reasonable hedge and unwinds its hedge in a commercially reasonable manner) and Physical Settlement shall apply in respect of (x) the remainder (if any) of such Settlement Shares and (y) the Settlement Shares designated by Dealer in respect of such Termination Settlement Date.

#### Private Placement Procedures

If Counterparty is unable to comply with the provisions of "Covenant of Counterparty" above because of a change in law or a change in the policy of the Securities and Exchange Commission or its staff, or Dealer otherwise determines that in its reasonable opinion and based on the advice of counsel any Settlement Shares to be delivered to Dealer by Counterparty may not be freely returned by Dealer or its affiliates to securities lenders as described under "Covenant of Counterparty" above, then delivery of any such Settlement Shares (the "Restricted Shares") shall be effected pursuant to Annex A hereto, unless waived by Dealer.

#### Securities Law Acknowledgments

Counterparty acknowledges that (i) during any Unwind Period, Counterparty does not have, and shall not attempt to exercise, any influence over how, when or whether to effect purchases of Shares by Dealer (or its agent or affiliate) in connection with this Master Confirmation or any Supplemental Confirmation and (ii) Counterparty is entering into the Agreement, this Master Confirmation and each Supplemental Confirmation in good faith and not as part of a plan or scheme to evade compliance with federal securities laws.

Counterparty hereby agrees with Dealer that during any Unwind Period, Counterparty shall not communicate, directly or indirectly, any Material Non-Public Information (as defined herein) to any EDG Personnel (as defined below). For purposes of each Transaction, "Material Non-Public Information" means information relating to Counterparty or the Shares that (a) has not been widely disseminated by wire service, in one or more newspapers of general circulation, by communication from Counterparty to its shareholders or in a press release, or contained in a public filing made by Counterparty with the Securities and Exchange Commission and (b) a reasonable investor might consider to be of importance in making an investment decision to buy, sell or hold Shares. For the avoidance of doubt and solely by way of illustration, information should be presumed "material" if it relates to such matters as dividend increases or decreases, earnings estimates, changes in previously released earnings estimates, significant expansion or curtailment of operations, a significant increase or decline of orders, significant merger or acquisition proposals or agreements, significant new products or discoveries, extraordinary borrowing, major litigation, liquidity problems, extraordinary management developments, purchase or sale of substantial assets, or other similar information. For purposes of the Transaction, "EDG Personnel" means any employee on the trading side of the Equity Derivatives Group of Dealer and does not include Mr. Matthew Danton, Mr. Eric Wang, Ms. Truc Doan, Mr. Kevin Cheng or any other of Dealer's "private side" equity or equity-linked personnel (including, without limitation, any Dealer equity or equity-linked legal personnel) or any other person or persons designated from time to time in writing to Counterparty by Dealer.

#### Maximum Share Delivery

Notwithstanding any other provision of this Master Confirmation or any Supplemental Confirmation, for any Transaction, in no event shall Counterparty be required to deliver to Dealer, in the aggregate, in respect of all Settlement Dates for such Transaction and other dates on which

Shares are delivered in respect of any amount owed under such Transaction, a number of Shares equal to 1.5 multiplied by the initial Base Amount for such Transaction.

Transfer and Assignment:

Dealer may assign or transfer any of its rights or delegate any of its duties hereunder and under each Supplemental Confirmation to (A) an affiliate of Dealer, whose obligations hereunder and under each Supplemental Confirmation are fully and unconditionally guaranteed by Dealer, or (B) any other affiliate of Dealer with a long-term issuer rating equal to or better than the credit rating of Dealer at the time of transfer without the prior written consent of Counterparty; *provided* that, (x) whether as a matter of law or by virtue of a gross-up and/or indemnity from the transferee, (i) Counterparty shall not be required to pay or deliver to the transferee or assignee under Section 2(d)(i)(4) of the Agreement any amount or number of Shares greater than the amount Counterparty would have been required to pay or deliver to Dealer in the absence of such transfer or assignment and (ii) Counterparty shall not receive from the transferee or assignee any amount or number of Shares less than it would have been entitled to receive in the absence of such transfer or assignment and (y) such transferee or assignee shall provide such documentation as may be reasonably requested by Counterparty to permit Counterparty to determine that the results described in clause (x) will not occur upon or after such assignment; *provided further* that, at all times, Dealer or any transferee or assignee shall be eligible to provide a U.S. Internal Revenue Service Form W-9 or W-8ECI, or any successor form thereto, with respect to any payments or deliveries under the Agreement. Notwithstanding any other provision in this Master Confirmation or any Supplemental Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities to or from Counterparty, Dealer may designate any of its affiliates to purchase, sell, receive or deliver such Shares or other securities and otherwise to perform Dealer's obligations in respect of any Transaction and any such designee may assume such obligations. Dealer shall be discharged of its obligations to Counterparty to the extent of any such performance.

Role of Agent.

Each of Dealer and Counterparty acknowledges and agrees with the other party hereto and to and with the Agent that (i) the Agent is acting as agent for Dealer under the Transactions pursuant to instructions from such party, (ii) the Agent is not a principal or party to any Transaction, and may transfer its rights and obligations with respect to the Transactions, (iii) the Agent shall have no responsibility, obligation or liability, by way of issuance, guaranty, endorsement or otherwise in any manner with respect to the performance of either party under any Transaction, (iv) Dealer and the Agent have not given, and Counterparty is not relying (for purposes of making any investment decision or otherwise) upon, any statements, opinions or representations (whether written or oral) of Dealer or the Agent, other than the representations expressly set forth in this Master Confirmation or the Agreement, and (v) each party agrees to proceed solely against the other party, and not the Agent, to collect or recover any money or securities owed to it in connection with the Transactions. Each party hereto acknowledges and agrees that the Agent is an intended third party beneficiary hereunder. Counterparty acknowledges that the Agent is an affiliate of Dealer. Dealer will be acting for its own account in respect of this Master Confirmation and the Transactions contemplated hereunder.

Indemnity

Counterparty agrees to indemnify Dealer and its affiliates and their respective directors, officers, agents and controlling parties (Dealer and each such affiliate or person being an "Indemnified Party") from and against any and all losses, claims, damages and liabilities, joint and several, incurred by or asserted against such Indemnified Party arising out of any breach of any covenant or representation made by Counterparty in this Master Confirmation, any Supplemental Confirmation or the Agreement and will reimburse any Indemnified Party for all reasonable expenses (including reasonable legal fees and expenses) as they are incurred in connection with the investigation of, preparation for, or defense of any pending or threatened claim or any action or proceeding arising therefrom, whether or not such Indemnified Party is a party thereto. Counterparty will not be liable under this Indemnity paragraph to the extent that any loss, claim, damage, liability or expense is found in a final and nonappealable judgment by a court of competent jurisdiction to have resulted from Dealer's gross negligence, fraud, bad faith and/or

willful misconduct or from a breach of any representation or covenant of Dealer contained in this Master Confirmation, any Supplemental Confirmation or the Agreement.

Notice

Non-Reliance: Applicable

Additional Acknowledgments: Applicable

Agreements and Acknowledgments  
Regarding Hedging Activities: Applicable

4. The Agreement is further supplemented by the following provisions:

No Collateral or Setoff:

Notwithstanding Section 6(f) or any other provision of the Agreement or any other agreement between the parties to the contrary, the obligations of Counterparty under the Transactions are not secured by any collateral. Obligations in respect of the Transactions shall not be set off against any other obligations of the parties, whether arising under the Agreement, this Master Confirmation, any Supplemental Confirmation, under any other agreement between the parties hereto, by operation of law or otherwise, and no other obligations of the parties shall be set off against obligations in respect of any Transaction, whether arising under the Agreement, this Master Confirmation, any Supplemental Confirmation, under any other agreement between the parties hereto, by operation of law or otherwise, and each party hereby waives any such right of setoff. In calculating any amounts under Section 6(e) of the Agreement with respect to any Transaction, notwithstanding anything to the contrary in the Agreement, (a) separate amounts shall be calculated as set forth in such Section 6(e) with respect to (i) such Transaction and (ii) all other Transactions, and (b) such separate amounts shall be payable pursuant to Section 6(d)(ii) of the Agreement.

Status of Claims in Bankruptcy:

Dealer acknowledges and agrees that neither this Master Confirmation nor any Supplemental Confirmation is intended to convey to Dealer rights with respect to the Transactions contemplated hereby that are senior to the claims of Counterparty's common stockholders in any U.S. bankruptcy proceedings of Counterparty; *provided, however*, that nothing herein shall limit or shall be deemed to limit Dealer's right to pursue remedies in the event of a breach by Counterparty of its obligations and agreements with respect to this Master Confirmation, any Supplemental Confirmation and the Agreement; and *provided further*, that nothing herein shall limit or shall be deemed to limit Dealer's rights in respect of any transaction other than the Transactions.

Limit on Beneficial Ownership:

Notwithstanding any other provisions hereof, Dealer shall not have an "interest" in (within the meaning of NYSE Rule 312.04(e)) Shares hereunder and Dealer shall not be entitled to take delivery of any Shares deliverable hereunder in respect of any Transaction (in each case, whether in connection with the purchase of Shares on any Settlement Date or any Termination Settlement Date, any Private Placement Settlement or otherwise) to the extent (but only to the extent) that, after such receipt of any Shares hereunder, (i) the Share Amount would exceed the Post-Effective Limit, (ii) the Section 16 Percentage would exceed 7.5% or (iii) Dealer and each person subject to aggregation of Shares with Dealer under Section 13 or Section 16 of the Exchange Act and rules promulgated thereunder (the "Dealer Group") would directly or indirectly beneficially own (as such term is defined for purposes of Section 13 or Section 16 of the Exchange Act and rules promulgated thereunder) in excess of the Threshold Number of Shares for such Transaction. Any purported delivery hereunder in respect of any Transaction shall be void and have no effect to the extent (but only to the extent) that, after such delivery, (i) the Share Amount would exceed the Post-Effective Limit, (ii) the Section 16 Percentage would exceed 7.5% or (iii) Dealer Group would directly or indirectly so beneficially own in excess of the Threshold Number of Shares. If any delivery owed to Dealer hereunder in respect of any Transaction is not made, in whole or in part, as a result of this provision, Counterparty's obligation to make such delivery shall not be

extinguished and Counterparty shall make such delivery as promptly as practicable after, but in no event later than one Exchange Business Day after, Dealer gives notice to Counterparty that, after such delivery, (i) the Share Amount would not exceed the Post-Effective Limit, (ii) the Section 16 Percentage would not exceed 7.5% and (iii) Dealer Group would not directly or indirectly so beneficially own in excess of the Threshold Number of Shares. The "Threshold Number of Shares" for any Transaction means a number of Shares equal to 4.9% of the outstanding Shares on the Trade Date for such Transaction. The "Section 16 Percentage" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates or any other person subject to aggregation with Dealer for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act, or any "group" (within the meaning of Section 13 of the Exchange Act) of which Dealer is or may be deemed to be a part beneficially owns (within the meaning of Section 13 of the Exchange Act), without duplication, on such day (or, to the extent that for any reason the equivalent calculation under Section 16 of the Exchange Act and the rules and regulations thereunder results in a higher number, such higher number) and (B) the denominator of which is the number of Shares outstanding on such day.

In addition, notwithstanding anything herein to the contrary, if any delivery owed to Dealer hereunder is not made, in whole or in part, as a result of the immediately preceding paragraph, Dealer shall be permitted to make any payment due in respect of such Shares to Counterparty in two or more tranches that correspond in amount to the number of Shares delivered by Counterparty to Dealer pursuant to the immediately preceding paragraph.

#### New York General Obligations Law:

Counterparty and Dealer agree and acknowledge that: (A) the Transactions contemplated by this Master Confirmation will be entered into in reliance on the fact that this Master Confirmation and each Supplemental Confirmation hereto form a single agreement between Counterparty and Dealer, and Dealer would not otherwise enter into such Transactions; (B) this Master Confirmation, together with each Supplemental Confirmation hereto, is a "qualified financial contract", as such term is defined in Section 5-701(b)(2) of the New York General Obligations Law; (C) each Supplemental Confirmation hereto, regardless of whether transmitted electronically or otherwise, constitutes a "confirmation in writing sufficient to indicate that a contract has been made between the parties" hereto, as set forth in Section 5-701(b)(3)(b) of the New York General Obligations Law; and (D) this Master Confirmation and each Supplemental Confirmation hereto constitute a prior "written contract", as set forth in Section 5-701(b)(1)(b) of the New York General Obligations Law, and each party hereto intends and agrees to be bound by this Master Confirmation and such Supplemental Confirmation.

#### Placement Notices

Counterparty and Dealer agree that, upon the effectiveness of any Accepted Placement Notice relating to a Forward, in respect of the Transaction to which such Accepted Placement Notice relates, each of the representations, warranties, covenants, agreements and other provisions of this Master Confirmation and the Supplemental Confirmation for such Transaction (including, without limitation, the provisions above in Section 3 of this Master Confirmation under the heading "Extraordinary Dividends," Dealer's right to designate a Termination Settlement Date in respect of such Transaction and the termination of such Transaction following an Insolvency Filing) shall govern, and be applicable to, such Transaction as of the first Trading Day of the Forward Hedge Selling Period for such Transaction as if the Trade Date for such Transaction were such first Trading Day. Notwithstanding anything to the contrary in this Master Confirmation, any Supplemental Confirmation, the Agreement, the 2002 Definitions or the 2006 Definitions, if Dealer designates a Termination Settlement Date with respect to a Transaction (1) following the occurrence of an Acceleration Event, and such Termination Settlement Date is to occur before the date that is one Settlement Cycle after the last day of the Forward Hedge Selling Period for such Transaction or (2) prior to Counterparty's execution of the Supplemental Confirmation relating to such Transaction, then, for purposes of such Termination Settlement Date, a Supplemental Confirmation relating to such Transaction reasonably completed by Dealer (as if the Trade Date for such Transaction were the last day of the Forward Hedge Selling Period on which the Forward Seller (as defined in the Equity Distribution Agreement) sold Forward Hedge Securities for such Transaction) shall, notwithstanding the provisions under "Conditions to Effectiveness" above, be deemed to be immediately effective.

Wall Street Transparency and Accountability Act:

In connection with Section 739 of the Wall Street Transparency and Accountability Act of 2010 (the "WSTAA"), the parties hereby agree that neither the enactment of the WSTAA or any regulation under the WSTAA, nor any requirement under the WSTAA or any amendment made by the WSTAA, shall limit or otherwise impair either party's otherwise applicable rights to terminate, renegotiate, modify, amend or supplement this Master Confirmation, any Supplemental Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Master Confirmation, any Supplemental Confirmation, the 2002 Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from any Acceleration Event or Illegality (as defined in the Agreement)).

Miscellaneous:

- (a) Addresses for Notices. For the purpose of Section 12(a) of the Agreement:

Address for notices or communications to Dealer:

Barclays Bank PLC  
c/o Barclays Capital Inc.  
745 Seventh Avenue  
New York, NY 10019  
Attention: Kevin Cheng  
Telephone: 212-526-8627  
Email: kevin.cheng@barclays.com

With a copy to:

Attention: Equity Linked Hybrid Solutions  
Email: [ELHSNotifications@barclays.com](mailto:ELHSNotifications@barclays.com)

(Note that this is a group email address which may include one or more persons on the public side of Dealer. This group email address is only to be used for notifications sent to Dealer for the Transaction, this Master Confirmation and the Agreement.)

Address for notices or communications to Counterparty:

Portland General Electric Company  
121 SW Salmon Street  
Portland, Oregon 97204  
Attention: Sujata Pagedar  
Telephone: (510) 913-2713  
Email: sujata.pagedar@pgn.com

- (b) **Waiver of Right to Trial by Jury. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this Master Confirmation and/or any Supplemental Confirmation.** Each party (i) certifies that no representative, agent or attorney of the other party has represented, expressly or otherwise, that such other party would not, in the event of such a suit action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into this Master Confirmation and each Supplemental Confirmation by, among other things, the mutual waivers and certifications herein.

Acknowledgements

The parties hereto intend for:



- (a) each Transaction to be a “securities contract” as defined in Section 741(7) of Title 11 of the United States Code (the “Bankruptcy Code”), qualifying for the protections under Section 555 of the Bankruptcy Code;
- (b) a party’s right to liquidate each Transaction and to exercise any other remedies upon the occurrence of any Event of Default under the Agreement with respect to the other party to constitute a “contractual right” as defined in the Bankruptcy Code;
- (c) Dealer to be a “financial institution” within the meaning of Section 101(22) of the Bankruptcy Code; and
- (d) all payments for, under or in connection with each Transaction, all payments for the Shares and the transfer of such Shares to constitute “settlement payments” as defined in the Bankruptcy Code.

Amendment to Master Agreement.

Section 12(a) of the Agreement is hereby amended by (1) deleting the phrase “or email” in the third line thereof and (2) deleting the phrase “or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Local Business Day” in the final clause thereof.

Other Forward Transactions:

Dealer acknowledges that Counterparty has entered or may enter in the future into one or more substantially similar forward transactions for its Shares (each, an “Other Forward” and collectively, the “Other Forwards”) with one or more dealers (each, an “Other Dealer” and collectively, the “Other Dealers”). Dealer and Counterparty agree that if Counterparty designates a “Settlement Date” with respect to one or more Other Forwards for which “Cash Settlement” or “Net Share Settlement” is applicable, and the resulting “Unwind Period” for any Other Forward coincides for any period of time with an Unwind Period for a Transaction (the “Overlap Unwind Period”), Counterparty shall notify Dealer prior to the commencement of such Overlap Unwind Period of the first Scheduled Trading Day and length of such Overlap Unwind Period, and Dealer shall only be permitted to purchase Shares to unwind its hedge in respect of such Transaction only on alternating Scheduled Trading Days during such Overlap Unwind Period, commencing on the first, second, third or later Scheduled Trading Day of such Overlap Unwind Period, as notified to Dealer by Counterparty at least one Scheduled Trading Day prior to such Overlap Unwind Period (which alternating Scheduled Trading Days, for the avoidance of doubt, shall be every other Scheduled Trading Day if there is only one Other Dealer, every third Scheduled Trading Day if there are two Other Dealers, etc.).

Severability.

If any term, provision, covenant or condition of this Master Confirmation or any Supplemental Confirmation or the application thereof to any party or circumstance, shall be held to be invalid or unenforceable in whole or in part for any reason, the remaining terms, provisions, covenants, and conditions hereof shall continue in full force and effect as if this Master Confirmation and the related Supplemental Confirmation had been executed with the invalid or unenforceable provision eliminated, so long as this Master Confirmation and such related Supplemental Confirmation as so modified continues to express, without material change, the original intentions of the parties as to the subject matter of this Master Confirmation and such Supplemental Confirmation and the deletion of such portion of this Master Confirmation and/or such Supplemental Confirmation will not substantially impair the respective benefits or expectations of parties to this Master Confirmation and such Supplemental Confirmation; *provided, however*, that this severability provision shall not be applicable if any provision of Section 2, 5, 6 or 13 of the Agreement (or any definition or provision in Section 14 to the extent that it relates to, or is used in or in connection with any such Section) shall be so held to be invalid or unenforceable.

Regulatory Provisions.

The time of dealing for a Transaction will be confirmed by Dealer upon written request by Counterparty. The Agent will furnish to Counterparty upon written request a statement as to the

source and amount of any remuneration received or to be received by the Agent in connection with a Transaction.

Method of Delivery.

Whenever delivery of funds or other assets is required hereunder by or to Counterparty, such delivery shall be effected through the Agent. In addition, all notices, demands and communications of any kind relating to a Transaction between Dealer and Counterparty shall be transmitted exclusively through the Agent.

EMIR Portfolio Reconciliation, Dispute Resolution and Disclosure Protocol.

The parties agree that the terms of the 2020 UK EMIR Portfolio Reconciliation, Dispute Resolution and Disclosure Protocol published by ISDA on 17 December 2020 ("Protocol") apply to the Agreement as if the parties had adhered to the Protocol without amendment. In respect of the Attachment to the Protocol, (i) the definition of "Adherence Letter" shall be deemed to be deleted and references to "Adherence Letter" shall be deemed to be to this section (and references to "such party's Adherence Letter" and "its Adherence Letter" shall be read accordingly), (ii) references to "adheres to the Protocol" shall be deemed to be "enters into the Agreement", (iii) references to "Protocol Covered Agreement" shall be deemed to be references to the Agreement (and each "Protocol Covered Agreement" shall be read accordingly), and (iv) references to "Implementation Date" shall be deemed to be references to the date of this Master Confirmation. For the purposes of this section:

- a) Dealer is a Portfolio Data Sending Entity and Counterparty is a Portfolio Data Receiving Entity.
- b) Dealer and Counterparty may use a Third Party Service Provider, and each of Dealer and Counterparty consents to such use including the communication of the relevant data in relation to Dealer and Counterparty to such Third Party Service Provider for the purposes of the reconciliation services provided by such entity.
- c) The Local Business Days for such purposes in relation to Dealer and Counterparty is New York, New York, USA.
- d) The following are the applicable email addresses.

Portfolio Data: Dealer: MarginServicesPortRec@barclays.com  
Counterparty: jim.ajello@pgn.com

Notice of discrepancy: Dealer: PortRecDiscrepancy@barclays.com  
Counterparty: jim.ajello@pgn.com

Dispute Notice: Dealer: EMIRdisputenotices@barclays.com  
Counterparty: jim.ajello@pgn.com

NFC Representation Protocol.

Counterparty represents and warrants to Dealer (which representation and warranty will be deemed to be made under the Agreement and repeated at all times while a Transaction remains outstanding, unless Counterparty notifies Dealer promptly otherwise of any change in its status from that represented) that:

- (i) it is an entity established outside the European Union and the United Kingdom of Great Britain and Northern Ireland (the "UK") that would constitute (i) a non-financial counterparty (as such term is defined in Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories dated 4 July 2012 ("EMIR")) if it were established in the European Union, and (ii) a non-financial counterparty (as defined in EMIR as it forms part of 'retained EU

law' (as defined in the European Union (Withdrawal) Act 2018 (as amended from time to time)) ("UK EMIR") if it were established in the United Kingdom; and

- (ii) as at the date of the trade, the entity would not have executed a sufficient amount of derivative activity such that the month-end average notional during the previous 12 months would classify the entity as exceeding the "clearing" threshold, as established by EMIR or UK EMIR, as relevant, if the entity were established in the European Union or the United Kingdom.

#### Bail-in Protocol

The parties agree that the provisions set out in the attachment (the "Attachment") to the ISDA 2016 Bail-in Article 55 BRRD Protocol (Dutch/French/German/Irish/Italian/Luxembourg/Spanish/UK entity-in-resolution version) are incorporated into and form part of the Agreement, provided that the definition of "UK Bail-in Power" in the Attachment shall be deleted and replaced with the following definition:

"UK Bail-in Power" means any write-down or conversion power existing from time to time (including, without limitation, any power to amend or alter the maturity of eligible liabilities of an institution under resolution or amend the amount of interest payable under such eligible liabilities or the date on which interest becomes payable, including by suspending payment for a temporary period) under, and exercised in compliance with, any laws, regulations, rules or requirements (together, the "UK Regulations") in effect in the United Kingdom, including but not limited to, the Banking Act 2009 as amended from time to time, and the instruments, rules and standards created thereunder, pursuant to which the obligations of a regulated entity (or other affiliate of a regulated entity) can be reduced (including to zero), cancelled or converted into shares, other securities, or other obligations of such regulated entity or any other person.

A reference to a "regulated entity" is to any BRRD Undertaking as such term is defined under the PRA Rulebook promulgated by the United Kingdom Prudential Regulation Authority or to any person falling within IFPRU 11.6, of the FCA Handbook promulgated by the United Kingdom Financial Conduct Authority, both as amended from time to time, which includes, certain credit institutions, investment firms, and certain of their parent or holding companies.

The Agreement shall be deemed a "Protocol Covered Agreement" for the purposes of the Attachment and the Implementation Date for the purposes of the Attachment shall be deemed to be the date of this Master Confirmation. In the event of any inconsistencies between the Attachment and the other provisions of the Agreement, the Attachment will prevail.

#### Contractual Recognition of UK Stay Resolution

Notwithstanding anything contained in the Agreement, the parties agree that the provisions of the 2020 UK (PRA Rule) Jurisdictional Module (the "UK Module") published by the International Swaps and Derivatives Association, Inc. on 22 December 2020, as amended from time to time, shall be deemed to be incorporated into the Agreement as if references in those provisions to "Covered Agreement" were references to the Agreement, and on the basis that: (i) Dealer shall be treated as a "Regulated Entity" and as a "Regulated Entity Counterparty" with respect to Counterparty, (ii) Counterparty shall be treated as a "Module Adhering Party", and (iii) references to the "Implementation Date" in the UK Module shall be deemed to be the date of this Master Confirmation.

#### Tax Matters

- (a) For the purpose of Section 3(e) of the Agreement, each of Dealer and Counterparty makes the following representation: It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 9(h) of this Agreement and any other payments of interest and penalty charges for late payment) to be made by it to the other party under this Agreement. In making this representation, it may rely on (i) the accuracy of any representations made by the other party pursuant to Section 3(f) of this Agreement; (ii) the satisfaction of the agreement contained in Section 4(a)(i) or 4(a)(iii) of this Agreement and the accuracy and effectiveness of any

document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii) of this Agreement; and (iii) the satisfaction of the agreement of the other party contained in Section 4(d) of this Agreement; *provided* that it shall not be a breach of this representation where reliance is placed on clause (ii) above and the other party does not deliver a form or document under Section 4(a)(iii) by reason of material prejudice to its legal or commercial position.

- (b) For the purpose of Section 3(f) of the Agreement:
  - (i) Dealer makes the following representation(s):
    - (A) Each payment received or to be received by it in connection with the Agreement is effectively connected with its conduct of a trade or business within the United States; and
    - (B) it is a "foreign person" (as that term is used in Section 1.6041-4(a)(4) of the United States Treasury Regulations) for United States federal income tax purposes.
  - (ii) Counterparty makes the following representation(s):
    - (A) It is a "U.S. person" (as that term is used in section 1.1441-4(a)(3)(ii) of United States Treasury Regulations) for U.S. federal income tax purposes.
    - (B) It is a corporation for U.S. federal income tax purposes and is organized under the laws of the State of Oregon, and is an exempt recipient under Treasury Regulation Section 1.6049-4(c)(1)(ii)(A).
- (c) Withholding Tax imposed on payments to non-US counterparties under the United States Foreign Account Tax Compliance Act, "Tax" and "Indemnifiable Tax", each as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the "Code"), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code (a "FATCA Withholding Tax"). For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.
- (d) HIRE Act, "Tax" and "Indemnifiable Tax", each as defined in Section 14 of the Agreement, shall not include any tax imposed on payments treated as dividends from sources within the United States under Section 871(m) of the Code or any regulations issued thereunder.
- (e) Tax Documentation. For purposes of Section 4(a)(i) and Section 4(a)(ii) of the Agreement:
  - (i) Counterparty shall deliver to Dealer a valid and duly executed U.S. Internal Revenue Service Form W-9, or any successor form thereto, (A) on or before the date of execution of this Master Confirmation and each Supplemental Confirmation, (B) promptly upon demand by Dealer and (C) promptly upon learning that any such tax form previously provided by Counterparty has become inaccurate or incorrect.
  - (ii) Dealer shall provide to Counterparty a valid and duly executed U.S. Internal Revenue Service Form W-8ECI, or any successor form thereto, (A) on or before the date of execution of this Master Confirmation, (B) promptly upon reasonable demand by Counterparty and (C) promptly upon learning that any such tax form previously provided by Dealer has become inaccurate or incorrect.

[Remainder of page intentionally left blank]

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

Yours faithfully,

**BARCLAYS BANK PLC**

By:

/s/ Kevin Cheng

Name:

Kevin Cheng

Title:

Authorized Signatory

Confirmed as of the date first written above:

**PORTLAND GENERAL ELECTRIC COMPANY**

By: /s/ James A. Ajello  
Name: James A. Ajello  
Title: Senior Vice President of Finance, Chief Financial Officer, Treasurer and Corporate Compliance Officer

## FORM OF SUPPLEMENTAL CONFIRMATION

<b>To:</b>	<b>Portland General Electric Company</b> 121 SW Salmon Street Portland, Oregon 97204
<b>From:</b>	<b>Barclays Bank PLC</b> 1 Churchill Place London E14 5HP United Kingdom Telephone: +44 (0)20 7623 2323  c/o Barclays Capital Inc. as Agent for Barclays Bank PLC 745 Seventh Avenue New York, NY 10019 Telephone: +1 212-526-7000
<b>Date:</b>	[____], 20[__]

Dear Sir(s):

The purpose of this Supplemental Confirmation is to confirm the terms and conditions of the Transaction entered into between Barclays Bank PLC (“Dealer”), through its agent Barclays Capital Inc. (the “Agent”) and Portland General Electric Company (“Counterparty”) (together, the “Contracting Parties”) on the Trade Date specified below. This Supplemental Confirmation is a binding contract between Dealer and Counterparty as of the relevant Trade Date for the Transaction referenced below. Dealer is not a member of the Securities Investor Protection Corporation. Dealer is not a member of the Securities Investor Protection Corporation. Dealer is authorized by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority.

1. This Supplemental Confirmation supplements, forms part of, and is subject to the Master Confirmation dated as of April 28, 2023 (the “Master Confirmation”) between the Contracting Parties, as amended and supplemented from time to time. All provisions contained in the Master Confirmation govern this Supplemental Confirmation except as expressly modified below.
2. The terms of the Transaction to which this Supplemental Confirmation relates are as follows:

Trade Date: [\_\_\_\_], 20[\_\_\_\_]  
Effective Date: [\_\_\_\_], 20[\_\_\_\_]  
Maturity Date: [\_\_\_\_], 20[\_\_\_\_]  
[\_\_\_\_]  
Base Amount:  
Initial Forward Price: USD [\_\_\_\_]  
Spread: [\_\_\_\_]%  
Adjusted Volume-Weighted Hedge Price: USD [\_\_\_\_]  
Initial Stock Loan Rate: [\_\_\_\_] basis points per annum  
Maximum Stock Loan Rate: [\_\_\_\_] basis points per annum



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

Very truly yours,

**BARCLAYS BANK PLC**

By:  
Name:  
Title:

Accepted and confirmed as  
of the Trade Date:

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name:  
Title:

FORWARD PRICE REDUCTION DATES AND AMOUNTS

**Forward Price Reduction Date**

Trade Date  
[\_\_\_\_\_, \_\_\_\_]  
[\_\_\_\_\_, \_\_\_\_]  
[\_\_\_\_\_, \_\_\_\_]  
[\_\_\_\_\_, \_\_\_\_]  
[\_\_\_\_\_, \_\_\_\_]

**Forward Price Reduction Amount**

USD 0.00  
USD [\_\_\_\_]  
USD [\_\_\_\_]  
USD [\_\_\_\_]  
USD [\_\_\_\_]  
USD [\_\_\_\_]<sup>1</sup>

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<sup>1</sup> Include one Forward Price Reduction Date that falls after the Maturity Date.

## PRIVATE PLACEMENT PROCEDURES

- (i) If Counterparty delivers the Restricted Shares pursuant to this clause (i) (a “Private Placement Settlement”), then delivery of Restricted Shares by Counterparty shall be effected in private placement procedures customary for private placements of equity securities of substantially similar size with respect to such Restricted Shares reasonably acceptable to Dealer; *provided* that if, on or before the date that a Private Placement Settlement would occur, Counterparty has taken, or caused to be taken, any action that would make unavailable either the exemption pursuant to Section 4(a)(2) of the Securities Act for the sale by Counterparty to Dealer (or any affiliate designated by Dealer) of the Restricted Shares or the exemption pursuant to Section 4(a)(1) or Section 4(a)(3) of the Securities Act for resales of the Restricted Shares by Dealer (or any such affiliate of Dealer) or Counterparty fails to deliver the Restricted Shares when due or otherwise fails to perform obligations within its control in respect of a Private Placement Settlement, it shall be an Event of Default with respect to Counterparty and Section 6 of the Agreement shall apply. The Private Placement Settlement of such Restricted Shares shall include customary representations, covenants, blue sky and other governmental filings and/or registrations, indemnities to Dealer, due diligence rights (for Dealer or any designated buyer of the Restricted Shares by Dealer), opinions and certificates, and such other documentation as is customary for private placement agreements of equity securities of a substantially similar size, all reasonably acceptable to Dealer. In the case of a Private Placement Settlement, Dealer shall, in its good faith discretion, adjust the number of Restricted Shares to be delivered to Dealer hereunder and/or the Forward Price for the relevant Transaction in a commercially reasonable manner to reflect the fact that such Restricted Shares may not be freely returned to securities lenders by Dealer and may only be saleable by Dealer at a discount to reflect the lack of liquidity in Restricted Shares. Notwithstanding the Agreement, this Master Confirmation or any Supplemental Confirmation, the date of delivery of such Restricted Shares shall be the Clearance System Business Day following notice by Dealer to Counterparty of the number of Restricted Shares to be delivered pursuant to this clause (i). For the avoidance of doubt, delivery of Restricted Shares shall be due as set forth in the previous sentence and not be due on the Settlement Date for the relevant Transaction or Termination Settlement Date for the relevant Transaction that would otherwise be applicable.
- (ii) If Counterparty delivers any Restricted Shares in respect of any Transaction, Counterparty agrees that (i) such Shares may be transferred by and among Dealer and its affiliates and (ii) after the minimum “holding period” within the meaning of Rule 144(d) under the Securities Act has elapsed after the applicable Settlement Date, Counterparty shall promptly remove, or cause the transfer agent for the Shares to remove, any legends referring to any transfer restrictions from such Shares upon delivery by Dealer (or such affiliate of Dealer) to Counterparty or such transfer agent of any seller’s and broker’s representation letters customarily delivered by Dealer or its affiliates in connection with resales of restricted securities pursuant to Rule 144 under the Securities Act, each without any further requirement for the delivery of any certificate, consent, agreement, opinion of counsel, notice or any other document, any transfer tax stamps or payment of any other amount or any other action by Dealer (or such affiliate of Dealer).

April 28, 2023

To: **Portland General Electric Company**  
121 SW Salmon Street  
Portland, Oregon 97204

From: **Bank of America, N.A.**  
One Bryant Park  
New York, NY 10036

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Dear Sirs,

The purpose of this letter agreement (this "Master Confirmation") is to confirm the terms and conditions of certain transactions to be entered into from time to time between Bank of America, N.A. ("Dealer") and Portland General Electric Company ("Counterparty") in accordance with the terms of the Equity Distribution Agreement, dated as of April 28, 2023 (the "Equity Distribution Agreement"), among Dealer, BofA Securities, Inc. and Counterparty, among others, on one or more Trade Dates specified herein (collectively, the "Transactions" and each, a "Transaction"). Each Transaction will be evidenced by a supplemental confirmation (each, a "Supplemental Confirmation," and each such Supplemental Confirmation, together with this Master Confirmation, a "Confirmation" for purposes of the Agreement specified below) substantially in the form of Exhibit A hereto.

1. The definitions and provisions contained in the 2006 ISDA Definitions (the "2006 Definitions") and the 2002 ISDA Equity Derivatives Definitions (the "2002 Definitions" and, together with the 2006 Definitions, the "Definitions"), each as published by the International Swaps and Derivatives Association, Inc., are incorporated into each Confirmation. In the event of any inconsistency among the Agreement, this Master Confirmation, any Supplemental Confirmation, the 2002 Definitions and the 2006 Definitions, the following will prevail in the order of precedence indicated: (i) such Supplemental Confirmation; (ii) this Master Confirmation; (iii) the 2002 Definitions; (iv) the 2006 Definitions; and (v) the Agreement.

Each party further agrees that each Confirmation together with the Agreement shall evidence a complete binding agreement between Dealer and Counterparty as to the subject matter and terms of the Transaction to which this Master Confirmation and the related Supplemental Confirmation relate, and shall supersede all prior or contemporaneous written or oral communications with respect thereto. Each Confirmation shall supplement, form a part of, and be subject to an agreement in the form of the 2002 ISDA Master Agreement (the "Agreement") as if Dealer and Counterparty had executed an agreement in such form on the date hereof (but without any Schedule except for (i) the election of the laws of the State of New York as the governing law and (ii) the election that the "Cross Default" provisions of Section 5(a)(vi) shall apply to Dealer with a "Threshold Amount" in respect of Dealer of 3% of the stockholders' equity of Dealer (including its equivalent in another currency); *provided* that (x) the words " , or becoming capable at such time of being declared," shall be deleted from clause (1) thereof, (y) "Specified Indebtedness" has the meaning specified in Section 14 of the Agreement, except that such term shall not include obligations in respect of deposits received in the ordinary course of Dealer's banking business and (z) the following language shall be added to the end of such Section 5(a)(vi): "Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (X) the default was caused solely by error or omission of an administrative or operational nature; (Y) funds were available to enable the party to make the payment when due; and (Z) the payment is made within two Local Business Days of such party's receipt of written notice of its failure to pay;"). The parties hereby agree that no Transaction, other than the Transactions to which this Master Confirmation, together with each Supplemental Confirmation hereunder,

relate, shall be governed by the Agreement. For purposes of the 2002 Definitions, each Transaction is a Share Forward Transaction.

Dealer and Counterparty each represents to the other with respect to each Transaction hereunder that it has entered into such Transaction in reliance upon such tax, accounting, regulatory, legal, and financial advice as it deems necessary and not upon any view expressed by the other.

2. The terms of each Transaction to which this Master Confirmation relates are as follows:

General Terms:

- Trade Date: For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be, subject to the provisions under the heading "Acceleration Events" in Section 3 of this Master Confirmation and the provisions under the heading "Placement Notices" in Section 4 of this Master Confirmation, the last Trading Day (as defined in the Equity Distribution Agreement) of the Forward Hedge Selling Period (as defined in the Equity Distribution Agreement) for such Transaction.
- Effective Date: For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be the date that is one Settlement Cycle following the Trade Date for such Transaction, or such later date on which the conditions set forth under "Conditions to Effectiveness" in Section 3 of this Master Confirmation shall have been satisfied, subject to the provisions under the heading "Acceleration Events" in Section 3 of this Master Confirmation and the provisions under the heading "Placement Notices" in Section 4 of this Master Confirmation.
- Base Amount: For each Transaction, initially, as specified in the Supplemental Confirmation for such Transaction, to be the number of Shares equal to the Actual Sold Forward Amount (as defined in the Equity Distribution Agreement) for the Forward Hedge Selling Period for such Transaction. For each Transaction, on each Settlement Date for such Transaction, the Base Amount for such Transaction shall be reduced by the relevant number of Settlement Shares for such Settlement Date.
- Maturity Date: For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be the date that follows the Trade Date for such Transaction by the number of days, months or years set forth as the "Term" in the Placement Notice (as defined in the Equity Distribution Agreement and amended by any corresponding Acceptance (as defined in the Equity Distribution Agreement), if applicable (the "Accepted Placement Notice")) for such Transaction (or, if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day).
- Forward Price: For each Transaction, on the Effective Date for such Transaction, the Initial Forward Price for such Transaction, and on any other day, the Forward Price for such Transaction as of the immediately preceding calendar day multiplied by the sum of (i) 1 and (ii) the Daily Rate for such Transaction for such day; *provided* that on each Forward Price Reduction Date for such Transaction, the Forward Price for such Transaction in effect on such date shall be the Forward Price

for such Transaction otherwise in effect on such date, *minus* the Forward Price Reduction Amount for such Forward Price Reduction Date. Notwithstanding the foregoing, to the extent Counterparty delivers Shares hereunder on or after a Forward Price Reduction Date for any Transaction and at or before the record date for an ordinary cash dividend with an ex-dividend date corresponding to such Forward Price Reduction Date, the Calculation Agent shall adjust the Forward Price for such Transaction to the extent it determines that such an adjustment is appropriate and necessary to preserve the economic intent of the parties to offset the economic effect of the Dealer having received the benefit of both (i) the Forward Price Reduction Amount for such Transaction and (ii) the ordinary cash dividend with an ex-dividend date corresponding to such Forward Price Reduction Amount (taking into account Dealer's commercially reasonable hedge positions in respect of such Transaction).

**Initial Forward Price:** For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be the product of (i) an amount equal to 1 *minus* the Forward Hedge Selling Commission Rate (as defined in the Equity Distribution Agreement) applicable to such Transaction *multiplied by* (ii) the Adjusted Volume-Weighted Hedge Price, subject to adjustment as set forth herein.

**Adjusted Volume-Weighted**

**Hedge Price:** For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be the volume-weighted average of the gross sales price per share of Forward Hedge Securities (as defined in the Equity Distribution Agreement) sold on each Trading Day of the Forward Hedge Selling Period for such Transaction, as determined by the Calculation Agent; *provided* that, solely for the purposes of calculating the Initial Forward Price, each such sales price (other than the sales price for the last day of the relevant Forward Hedge Selling Period) shall be subject to adjustment by the Calculation Agent in the same manner as the Forward Price pursuant to the definition thereof during the period from, and including, the date one Settlement Cycle immediately following the first Trading Day of the relevant Forward Hedge Selling Period on which Forward Hedge Securities are sold to, and including, the Effective Date of such Transaction.

**Daily Rate:** For each Transaction and for any day, (i)(A) the Overnight Bank Rate for such day, *minus* (B) the Spread for such Transaction, *divided by* (ii) 365.

**Overnight Bank Rate:** For any day, the rate set forth for such day opposite the caption "Overnight bank funding rate", as such rate is displayed on Bloomberg Screen "OBFR01 <Index> <GO>", or any successor page; *provided* that, if no rate appears for a particular day on such page, the rate for the immediately preceding day for which a rate does so appear shall be used for such day.

**Spread:** For each Transaction, as specified in the Supplemental Confirmation for such Transaction, to be the "Spread" as specified in the Accepted Placement Notice for such Transaction.

Forward Price Reduction Dates: For each Transaction, as specified in Schedule I to the Supplemental Confirmation for such Transaction, to be each date set forth under the heading "Forward Price Reduction Dates" in the Accepted Placement Notice for such Transaction.

Forward Price Reduction

Amount: For each Transaction, for each Forward Price Reduction Date for such Transaction, the Forward Price Reduction Amount set forth opposite such Forward Price Reduction Date on Schedule I to the Supplemental Confirmation for such Transaction, to be the "Forward Price Reduction Amount" set forth opposite such Forward Price Reduction Date in the Accepted Placement Notice for such Transaction.

Shares: Common stock, no par value, of Counterparty (also referred to herein as the "Issuer") (Exchange identifier: "POR").

Exchange: The New York Stock Exchange.

Related Exchange(s): All Exchanges.

Clearance System: DTC.

Calculation Agent: Dealer whose judgments, determinations and calculations shall be made in good faith and in a commercially reasonable manner; provided that, following the occurrence and during the continuance of an Event of Default of the type described in Section 5(a)(vii) of the Agreement with respect to which Dealer is the sole Defaulting Party, if the Calculation Agent fails to timely make any calculation, adjustment or determination required to be made by the Calculation Agent hereunder or to perform any obligation of the Calculation Agent hereunder, Counterparty shall have the right to designate a nationally recognized third-party dealer in over-the-counter corporate equity derivatives to act as the Calculation Agent.

Following any determination or calculation by the Calculation Agent hereunder, upon a request by Counterparty, the Calculation Agent shall promptly (but in any event within three Exchange Business Days) provide to Counterparty by e-mail to the e-mail address provided by Counterparty in such request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any assumptions used in making such determination or calculation), it being understood that the Calculation Agent shall not be obligated to disclose any proprietary or confidential models or other proprietary or confidential information used by it for such determination or calculation.

Settlement Terms:

Settlement Date: With respect to any Transaction, any Scheduled Trading Day following the Effective Date for such Transaction and up to and including the Maturity Date for such Transaction, as designated by (a) Dealer pursuant to "Termination Settlement" below or (b) Counterparty in a written notice (a "Settlement Notice") that satisfies the Settlement Notice Requirements and is delivered to Dealer at least (i) two Scheduled Trading Days prior to such Settlement Date, which may be the Maturity Date for such Transaction, if Physical Settlement applies, and (ii) 50 Scheduled Trading Days prior to such Settlement Date, which may be the Maturity Date for such Transaction, if Cash Settlement or Net Share Settlement applies; *provided that* (i) the Maturity Date for such Transaction shall be a Settlement Date for such Transaction if on such date the Base Amount for such Transaction is greater than zero, (ii) if Physical Settlement or Net Share Settlement applies and such Settlement Date specified above (including a Settlement Date occurring on such Maturity Date) is not a Clearance System Business Day, such Settlement Date shall be the next following Clearance System Business Day and (iii) if Cash Settlement or Net Share Settlement applies and Dealer shall have fully unwound its commercially reasonable hedge with respect to the portion of such Transaction to be settled during an Unwind Period for such Transaction by a date that is more than two Scheduled Trading Days prior to such Settlement Date specified above, Dealer may, by written notice to Counterparty, specify any Scheduled Trading Day prior to such originally specified Settlement Date for such Transaction as the Settlement Date for such Transaction.

Settlement Shares: In respect of any Transaction and with respect to any Settlement Date for such Transaction, a number of Shares, not to exceed the Base Amount for such Transaction, designated as such by Counterparty in the related Settlement Notice or by Dealer pursuant to "Termination Settlement" below; *provided that* on the Maturity Date for such Transaction the number of Settlement Shares shall be equal to the Base Amount for such Transaction on such date.

Settlement: In respect of any Transaction, Physical Settlement, Cash Settlement or Net Share Settlement, at the election of Counterparty as set forth in a Settlement Notice for such Transaction delivered on or after the Effective Date for such Transaction that satisfies the Settlement Notice Requirements; *provided that* Physical Settlement shall apply (i) if no Settlement Method is validly selected, (ii) with respect to any Settlement Shares in respect of which Dealer is unable, in its judgment, to unwind its hedge in respect of such Transaction (or portion thereof, as applicable) by the end of the Unwind Period for such Transaction in a manner that, in the reasonable judgment of Dealer based on the advice of counsel, is consistent with the requirements for qualifying for the safe harbor provided by Rule 10b-18 under the Exchange Act or due to the lack of sufficient liquidity in the Shares on any Exchange Business Day during such Unwind Period or (iii) to any Termination Settlement Date (as defined below under "Termination Settlement") for such Transaction.

Settlement Notice



**Requirements:** Notwithstanding any other provision hereof, a Settlement Notice delivered in respect of any Transaction by Counterparty that specifies Cash Settlement or Net Share Settlement will not be effective to establish a Settlement Date for such Transaction or require Cash Settlement or Net Share Settlement unless Counterparty delivers to Dealer with such Settlement Notice a representation signed by Counterparty substantially in the following form: "As of the date of this Settlement Notice, Counterparty is not aware of any material nonpublic information concerning itself or the Shares, and is designating the date contained herein as a Settlement Date and is electing Cash Settlement or Net Share Settlement, as the case may be, in good faith and not as part of a plan or scheme to evade compliance with the federal securities laws."

**Unwind Period:** For any Transaction, each Exchange Business Day that is not a Suspension Day during the period from and including the first Exchange Business Day following the date Counterparty validly elects Cash Settlement or Net Share Settlement in respect of a Settlement Date for such Transaction through the second Scheduled Trading Day preceding such Settlement Date (or the immediately preceding Exchange Business Day if such Scheduled Trading Day is not an Exchange Business Day); subject to "Termination Settlement" below. If any Exchange Business Day during an Unwind Period for any Transaction is a Disrupted Day, the Calculation Agent shall make commercially reasonable adjustments to the terms of such Transaction (including, without limitation, the Cash Settlement Amount, the number of Net Share Settlement Shares and the 10b-18 VWAP) to account for the occurrence of such Disrupted Day.

**Suspension Day:** Any Exchange Business Day on which Dealer determines based on the advice of counsel that Cash Settlement or Net Share Settlement may violate applicable securities laws. Dealer shall notify Counterparty if it receives such advice from its counsel.

**Market Disruption Event:** Section 6.3(a)(ii) of the 2002 Definitions is hereby amended by replacing clause (ii) in its entirety with "(ii) an Exchange Disruption, or" and inserting immediately following clause (iii) the phrase "; in each case that the Calculation Agent determines is material."

**Exchange Act:** The Securities Exchange Act of 1934, as amended from time to time.

**Physical Settlement:** In respect of any Transaction, on any Settlement Date for such Transaction in respect of which Physical Settlement applies, Counterparty shall deliver to Dealer through the Clearance System the Settlement Shares for such Settlement Date, and Dealer shall deliver to Counterparty, by wire transfer of immediately available funds to an account designated by Counterparty, an amount in cash equal to the Physical Settlement Amount for such Transaction for such Settlement Date, on a delivery versus payment basis. If, on any Settlement Date for such Transaction, the Shares to be delivered by Counterparty to Dealer hereunder are not so delivered (the "Deferred Shares"), and a Forward Price Reduction Date for such Transaction occurs during the period from, and including, such Settlement Date to, but excluding, the date such Shares are actually delivered to Dealer, then the

portion of the Physical Settlement Amount for such Transaction payable by Dealer to Counterparty in respect of the Deferred Shares shall be reduced by an amount equal to the Forward Price Reduction Amount for such Forward Price Reduction Date, *multiplied by* the number of Deferred Shares.

**Physical Settlement Amount:** In respect of any Transaction and for any Settlement Date for such Transaction in respect of which Physical Settlement applies, an amount in cash equal to the product of (i) the Forward Price for such Transaction on such Settlement Date and (ii) the number of Settlement Shares for such Transaction for such Settlement Date.

**Cash Settlement:** In respect of any Transaction, on any Settlement Date for such Transaction in respect of which Cash Settlement applies, if the Cash Settlement Amount for such Transaction for such Settlement Date is a positive number, Dealer will pay such Cash Settlement Amount to Counterparty. If the Cash Settlement Amount for such Transaction is a negative number, Counterparty will pay the absolute value of such Cash Settlement Amount to Dealer. Such amounts shall be paid on the relevant Settlement Date.

**Cash Settlement Amount:** In respect of any Transaction and for any Settlement Date for such Transaction in respect of which Cash Settlement applies, an amount determined by the Calculation Agent equal to (a) the product of (i) (A) the average Forward Price for such Transaction over the period beginning on, and including, the date that is one Settlement Cycle following the first day of the applicable Unwind Period for such Transaction and ending on, and including, such Settlement Date (calculated assuming no reduction to such Forward Price for any Forward Price Reduction Date for such Transaction that occurs during such Unwind Period, except as set forth in clause (b) below), *minus* USD 0.02, *minus* (B) the average of the 10b-18 VWAP prices per Share on each Exchange Business Day during such Unwind Period, *multiplied by* (ii) the number of Settlement Shares for such Transaction for such Settlement Date, *minus* (b) the product of (i) the Forward Price Reduction Amount for such Transaction for any Forward Price Reduction Date for such Transaction that occurs during such Unwind Period *and* (ii) the number of Settlement Shares for such Transaction for such Settlement Date with respect to which Dealer has not unwound its hedge (assuming Dealer has a commercially reasonable hedge position and unwinds its hedge position in a commercially reasonable manner), as of such Forward Price Reduction Date.

**Net Share Settlement:** In respect of any Transaction, on any Settlement Date for such Transaction in respect of which Net Share Settlement applies, if the number of Net Share Settlement Shares for such Transaction is a (i) negative number, Dealer shall deliver a number of Shares to Counterparty equal to the absolute value of such Net Share Settlement Shares, or (ii) positive number, Counterparty shall deliver to Dealer such Net Share Settlement Shares; *provided* that if Dealer determines in its good faith and reasonable judgment that it would be required to deliver Net Share Settlement Shares to Counterparty, Dealer may elect to deliver a portion of such Net Share Settlement Shares on one or more dates prior to the applicable Settlement Date.

Net Share Settlement Shares: In respect of any Transaction, for any Settlement Date for such Transaction in respect of which Net Share Settlement applies, a number of Shares equal to (a) the number of Settlement Shares for such Settlement Date, *minus* (b) the number of Shares Dealer actually purchases during the Unwind Period for such Transaction for a total purchase price equal to the difference between (1) the product of (i) the average Forward Price for such Transaction over the period beginning on, and including, the date that is one Settlement Cycle following the first day of the applicable Unwind Period for such Transaction and ending on, and including, such Settlement Date (calculated assuming no reduction to such Forward Price for any Forward Price Reduction Date for such Transaction that occurs during such Unwind Period, except as set forth in clause (2) below), *minus* USD 0.02, *multiplied by* (ii) the number of Settlement Shares for such Transaction for such Settlement Date, *minus* (2) the product of (i) the Forward Price Reduction Amount for such Transaction for any Forward Price Reduction Date for such Transaction that occurs during such Unwind Period, *multiplied by* (ii) the number of Shares with respect to which Dealer has not unwound its hedge as of such Forward Price Reduction Date.

10b-18 VWAP: For any Transaction, for any Exchange Business Day during an Unwind Period for such Transaction which is not a Suspension Day, the volume-weighted average price at which the Shares trade as reported in the composite transactions for the Exchange on such Exchange Business Day, excluding (i) trades that do not settle regular way, (ii) opening (regular way) reported trades on the Exchange on such Exchange Business Day, (iii) trades that occur in the last ten minutes before the scheduled close of trading on the Exchange on such Exchange Business Day and ten minutes before the scheduled close of the primary trading session in the market where the trade is effected and (iv) trades on such Exchange Business Day that do not satisfy the requirements of Rule 10b-18(b)(3), as determined in good faith by the Calculation Agent. Counterparty acknowledges that Dealer may refer to the Bloomberg Page "POR <Equity> AQR SEC" (or any successor thereto), in its discretion, for such Exchange Business Day to determine the 10b-18 VWAP.

Settlement Currency: USD.

Failure to Deliver: Inapplicable.

Adjustments:

Method of Adjustment: Calculation Agent Adjustment; notwithstanding anything in the 2002 Definitions to the contrary, for any Transaction, the Calculation Agent may make an adjustment pursuant to Calculation Agent Adjustment to any one or more of the Base Amount for such Transaction, the Forward Price for such Transaction and any other variable relevant to the settlement or payment terms of such Transaction.

Additional Adjustment: If, at any time, with respect to any Transaction, in Dealer's commercially reasonable judgment, the stock loan fee to Dealer (or an affiliate thereof), excluding the interest rate component payable by the relevant stock lender to Dealer or such affiliate (the "Stock Loan Fee"), over any 10 consecutive Scheduled Trading Day period, of borrowing a number of

Shares equal to the Base Amount for such Transaction to hedge in a commercially reasonable manner its exposure to such Transaction exceeds a rate equal to the Initial Stock Loan Rate for such Transaction, the Calculation Agent shall reduce the Forward Price for such Transaction in order to compensate Dealer for the amount by which the Stock Loan Fee exceeded a rate equal to such Initial Stock Loan Rate for the period during which the Stock Loan Fee exceeded such rate. The Calculation Agent shall notify Counterparty prior to making any such adjustment to such Forward Price and, upon the request of Counterparty, Dealer shall provide an itemized list of the Stock Loan Fees for the applicable period. The "Initial Stock Loan Rate" for any Transaction shall be as specified in the Supplemental Confirmation for such Transaction, to be the "Initial Stock Loan Rate" as specified in the Accepted Placement Notice for such Transaction.

Account Details:

Payments to Dealer: To be advised under separate cover or telephone confirmed prior to each Settlement Date.

Payments to Counterparty: To be advised under separate cover or telephone confirmed prior to each Settlement Date.

Delivery of Shares to Dealer: To be advised.

Delivery of Shares to Counterparty: To be advised.

3. Other Provisions:

Conditions to Effectiveness:

The effectiveness of each Supplemental Confirmation and the related Transaction on the Effective Date for such Transaction shall be subject to (i) the condition that the representations and warranties of Counterparty contained in the Equity Distribution Agreement and any certificate delivered pursuant thereto by Counterparty are true and correct on such Effective Date as if made as of such Effective Date, (ii) the condition that Counterparty has performed all of the obligations required to be performed by it under the Equity Distribution Agreement on or prior to such Effective Date, (iii) the condition that Counterparty shall have delivered to Dealer an opinion of counsel dated as of the Trade Date for such Transaction with respect to matters set forth in Section 3(a) of the Agreement, (iv) the satisfaction of all of the conditions set forth in Section 9 of the Equity Distribution Agreement and (v) the condition that the Equity Distribution Agreement shall not have been terminated pursuant to Section 13 thereof.

Representations and Agreements of Counterparty:

Counterparty (i) has such knowledge and experience in financial and business affairs as to be capable of evaluating the merits and risks of entering into any Transaction hereunder; (ii) has consulted with its own legal, financial, accounting and tax advisors in connection with each Transaction hereunder; and (iii) is entering into each Transaction hereunder for a bona fide business purpose.

Counterparty is not and has not been the subject of any civil proceeding of a judicial or administrative body of competent jurisdiction that could reasonably be expected to impair materially Counterparty's ability to perform its obligations hereunder.

Counterparty will by the next succeeding New York Business Day notify Dealer upon obtaining knowledge of the occurrence of any event that would constitute an Event of Default, a Potential Event of Default or a Potential Adjustment Event.

Additional Representations, Warranties and Agreements of Counterparty: Counterparty hereby represents and warrants to, and agrees with, Dealer as of the date hereof, on each date a Placement Notice is effective, on each Trading Day in a Forward Hedge Selling Period, on each Forward Hedge Settlement Date (as defined in the Equity Distribution Agreement) and on the Trade Date for any Transaction hereunder that:

- (a) Any Shares, when issued and delivered in accordance with the terms of any Transaction hereunder, will be duly authorized and validly issued, fully paid and nonassessable, and the issuance thereof will not be subject to any preemptive or similar rights.
- (b) Counterparty has reserved and will keep available at all times, free from preemptive rights, out of its authorized but unissued Shares, solely for the purpose of issuance upon settlement of any Transaction hereunder as herein provided, the full number of Shares as shall be issuable at such time upon settlement of such Transaction. All Shares so issuable shall, upon such issuance, be accepted for listing or quotation on the Exchange.
- (c) No filing with, or approval, authorization, consent, license registration, qualification, order or decree of, any court or governmental authority or agency, domestic or foreign, is necessary or required for the execution, delivery and performance by Counterparty of this Master Confirmation or any Supplemental Confirmation and the consummation of any Transaction (including, without limitation, the issuance and delivery of Shares on any Settlement Date for a Transaction hereunder) except (i) such as have been obtained under the Securities Act of 1933, as amended (the "Securities Act"), and (ii) as may be required to be obtained under state securities laws.
- (d) Counterparty agrees not to repurchase, directly or indirectly, any Shares if, immediately following such Issuer Repurchase, the Base Amount Percentage for all Transactions hereunder would be equal to or greater than 8.0%. The "Base Amount Percentage" as of any day is the fraction (1) the numerator of which is the Base Amount and (2) the denominator of which is the number of Shares outstanding on such day.
- (e) Counterparty is not insolvent, nor will Counterparty be rendered insolvent as a result of any Transaction hereunder.
- (f) Neither Counterparty nor any of its affiliated purchasers (as defined in Rule 10b-18 under the Exchange Act) shall take or refrain from taking any action (including, without limitation, any direct purchases by Counterparty or any of its affiliates or any purchases by a party to a derivative transaction with Counterparty or any of its affiliates), either under this Master Confirmation, under any Supplemental Confirmation, under an agreement with another party or otherwise, that might be reasonably expected to cause any purchases of Shares by Dealer or any of its affiliates in connection with any Cash Settlement or Net Share Settlement of any Transaction hereunder not to meet the requirements of the safe harbor provided by Rule 10b-18 under the Exchange Act determined as if all such purchases were made by Counterparty.
- (g) Counterparty will not engage in any "distribution" (as defined in Regulation M under the Exchange Act ("Regulation M")) that would cause a "restricted period" (as defined in Regulation M) to occur during any Unwind Period for any Transaction hereunder, other than a distribution meeting, in each case, the requirements of an exception set forth in Rule 101(b) and Rule 102(b) of Regulation M.
- (h) Counterparty is an "eligible contract participant" (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended) and the Agreement and all Transactions hereunder are subject to individual negotiation by the parties and have not been executed or traded on a "trading facility" as defined in Section 1a(51) of the Commodity Exchange Act, as amended.
- (i) In addition to any other requirements set forth herein, Counterparty agrees not to elect Cash Settlement or Net Share Settlement in respect of any Transaction if, in the reasonable judgment of either Dealer or Counterparty, such settlement or Dealer's related market activity would result in a violation of the U.S. federal securities laws or any other federal or state law or regulation applicable to Counterparty.

- (j) Counterparty (i) is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies involving a security or securities; (ii) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing; and (iii) has total assets of at least \$50 million as of the date hereof.
- (k) Counterparty acknowledges and agrees that, for any Transaction:
  - (i) during the term of such Transaction, Dealer and its Affiliates may buy or sell Shares or other securities or buy or sell options or futures contracts or enter into swaps or other derivative securities in order to establish, adjust or unwind its hedge position with respect to such Transaction;
  - (ii) Dealer and its Affiliates may also be active in the market for the Shares and Share-linked transactions other than in connection with hedging activities in relation to such Transaction;
  - (iii) Dealer shall make its own determination as to whether, when or in what manner any hedging or market activities in Counterparty's securities shall be conducted and shall do so in a manner that it deems appropriate to hedge its price and market risk with respect to the Forward Price for such Transaction and the 10b-18 VWAP for such Transaction;
  - (iv) any market activities of Dealer and its Affiliates with respect to the Shares may affect the market price and volatility of the Shares, as well as the Forward Price for such Transaction and the 10b-18 VWAP for such Transaction, each in a manner that may be adverse to Counterparty; and
  - (v) such Transaction is a derivatives transaction in which it has granted Dealer the right, under certain circumstances, to receive cash or Shares, as the case may be; Dealer may purchase Shares for its own account at an average price that may be greater than, or less than, the effective price paid by Counterparty under the terms of such Transaction.
- (l) The assets of Counterparty do not constitute "plan assets" under the Employee Retirement Income Security Act of 1974, as amended, the Department of Labor Regulations promulgated thereunder or similar law.
- (m) Counterparty is not aware of any material non-public information with respect to Counterparty or the Shares.

Covenants of Counterparty:

- (a) The parties acknowledge and agree that any Shares delivered by Counterparty to Dealer on any Settlement Date for a Transaction hereunder will be newly issued Shares and when delivered by Dealer (or an affiliate of Dealer) to securities lenders from whom Dealer (or an affiliate of Dealer) borrowed Shares in connection with hedging its exposure to such Transaction will be freely saleable without further registration or other restrictions under the Securities Act, in the hands of those securities lenders, irrespective of whether such stock loan is effected by Dealer or an affiliate of Dealer. Accordingly, Counterparty agrees that, subject to the provisions set forth under "Private Placement Procedures", the Shares that it delivers to Dealer on each Settlement Date for a Transaction hereunder will not bear a restrictive legend and that such Shares will be deposited in, and the delivery thereof shall be effected through the facilities of, the Clearance System.
- (b) Counterparty will promptly execute each properly completed Supplemental Confirmation delivered to Counterparty by Dealer following the delivery by Counterparty to Dealer of a Accepted Placement Notice relating to a Forward (as such term is defined in the Equity Distribution Agreement).

Covenants of Dealer:

- (a) Unless the provisions set forth below under “Private Placement Procedures” shall be applicable, Dealer shall use any Shares delivered by Counterparty to Dealer on any Settlement Date for a Transaction hereunder to return to securities lenders to close out open Share loans created by Dealer or an affiliate of Dealer in the course of Dealer’s or such affiliate’s hedging activities related to Dealer’s exposure under this Master Confirmation and the relevant Supplemental Confirmation.
- (b) In connection with bids and purchases of Shares in connection with any Cash Settlement or Net Share Settlement of any Transaction, Dealer shall use its good faith and commercially reasonable efforts to conduct its activities, or cause its affiliates to conduct their activities, in a manner consistent with the requirements of the safe harbor provided by Rule 10b-18 under the Exchange Act, as if such provisions were applicable to such purchases.

Insolvency Filing:

Notwithstanding anything to the contrary herein, in any Supplemental Confirmation, in the Agreement or in the Definitions, upon any Insolvency Filing in respect of the Issuer, each Transaction hereunder shall automatically terminate on the date thereof without further liability of either party to this Master Confirmation or any related Supplemental Confirmation to the other party (except for any liability in respect of any breach of representation or covenant by a party under this Master Confirmation or any Supplemental Confirmation prior to the date of such Insolvency Filing).

Extraordinary Dividends:

If an ex-dividend date for an Extraordinary Dividend occurs on or after the Trade Date for any Transaction and on or prior to the Maturity Date for such Transaction (or, if later, the last date on which Shares are delivered by Counterparty to Dealer in settlement of such Transaction), Counterparty shall pay an amount, as determined by the Calculation Agent, in cash equal to the product of such Extraordinary Dividend and the Base Amount for such Transaction to Dealer on the earlier of (i) the date on which such Extraordinary Dividend is paid by the Issuer to holders of record of the Shares or (ii) the Maturity Date for such Transaction. “Extraordinary Dividend” means the per Share amount of any cash dividend or distribution declared by the Issuer with respect to the Shares that is specified by the board of directors of the Issuer as an “extraordinary” dividend.

Acceleration Events:

The following events shall each constitute an “Acceleration Event” in respect of each Transaction:

- (a) Stock Borrow Events. In the commercially reasonable judgment of Dealer (i) Dealer (or its affiliate) is unable to hedge in a commercially reasonable manner Dealer’s exposure to such Transaction because of the lack of sufficient Shares being made available for Share borrowing by lenders, or (ii) the Stock Loan Fee of borrowing (or maintaining a borrow of) a number of Shares equal to the Base Amount for such Transaction to hedge in a commercially reasonable manner its exposure to the Transaction exceeds a rate equal to the Maximum Stock Loan Rate for such Transaction (each, a “Stock Borrow Event”);
- (b) Dividends and Other Distributions. On any day occurring after the Trade Date for such Transaction, Counterparty declares a distribution, issue or dividend to existing holders of the Shares of (i) any cash dividend (other than an Extraordinary Dividend) to the extent all cash dividends having an ex-dividend date during the period from and including any Forward Price Reduction Date for such Transaction (with the Trade Date for such Transaction being a Forward Price Reduction Date for purposes of this clause (b) only) to but excluding the next subsequent Forward Price Reduction Date for such Transaction exceeds, on a per Share basis, the Forward Price Reduction Amount set forth opposite the first date of any such period on Schedule I to the relevant Supplemental Confirmation or (ii) share capital or securities of another issuer acquired or owned (directly or indirectly) by Counterparty as a result of a spin-off or other similar transaction or (iii) any other type of securities (other than Shares), rights or warrants or other assets, for payment (cash or other consideration) at less than the prevailing market price as determined in a commercially reasonable manner by Dealer;

(c) ISDA Early Termination Date. Either Dealer or Counterparty has the right to designate an Early Termination Date pursuant to Section 6 of the Agreement;

(d) Other ISDA Events. The announcement of any event that if consummated, would result in a Merger Event, Tender Offer, Nationalization or Insolvency or the occurrence of any Hedging Disruption, any Change in Law or a Delisting; *provided* that in case of a Delisting, in addition to the provisions of Section 12.6(a)(iii) of the 2002 Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or their respective successors); and *provided further* that the definition of "Change in Law" provided in Section 12.9(a)(ii) of the 2002 Definitions is hereby amended by (i) replacing the phrase "the interpretation" in the third line thereof with the phrase "or public announcement of, the formal or informal interpretation", (ii) replacing the parenthetical beginning after the word "regulation" in the second line thereof with the words "(including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption, effectiveness or promulgation of new regulations authorized or mandated by existing statute)" and (iii) immediately following the word "Transaction" in clause (X) thereof, adding the phrase "in the manner contemplated by Dealer on the effective date of the Accepted Placement Notice for the relevant Transaction", or

(e) Ownership Event. In the good faith judgment of Dealer, on any day, the Share Amount for such day exceeds the Post-Effective Limit for such day (if any applies).

The "Maximum Stock Loan Rate" for any Transaction shall be as specified in the Supplemental Confirmation for such Transaction, to be the "Maximum Stock Loan Rate" as specified in the Accepted Placement Notice for such Transaction.

For purposes of clause (e) above, the "Share Amount" as of any day is the number of Shares that Dealer and any of its affiliates and any person whose ownership position would be aggregated with that of Dealer, including any "group" (within the meaning of Section 13 of the Exchange Act) of which Dealer is or may be deemed to be a part (Dealer or any such person or group, a "Dealer Person") under any law, rule, regulation or regulatory order or any organizational document or contract of Counterparty that is applicable to ownership of Shares as of the date hereof or for any reason becomes applicable to ownership of Shares after the date hereof ("Applicable Laws"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership of under the Applicable Laws, as determined by Dealer in its reasonable discretion. The "Post-Effective Limit" means (x) the minimum number of Shares that would give rise to reporting or registration obligations (except for any filing requirements on Form 13F, Schedule 13D or Schedule 13G under the Exchange Act, in each case, as in effect on the date hereof) or other requirements (including obtaining prior approval from any person or entity) of a Dealer Person, or would result in an adverse effect on a Dealer Person, under the Applicable Laws, as determined by Dealer in its reasonable discretion, *minus* (y) 1% of the number of Shares outstanding.

#### Termination Settlement:

Upon the occurrence of any Acceleration Event in respect of any Transaction, Dealer shall have the right to designate, upon at least one Scheduled Trading Day's notice, any Scheduled Trading Day following such occurrence to be a Settlement Date under such Transaction (a "Termination Settlement Date" for such Transaction) to which Physical Settlement shall apply, and to select the number of Settlement Shares relating to such Termination Settlement Date; *provided* that (i) in the case of an Acceleration Event arising out of an Ownership Event, the number of Settlement Shares for the relevant Transaction so designated by Dealer shall not exceed the number of Shares necessary to reduce the Share Amount to the Post-Effective Limit and (ii) in the case of an Acceleration Event arising out of a Stock Borrow Event the number of Settlement Shares the relevant Transaction so designated by Dealer shall not exceed the number of Shares as to which such Stock Borrow Event exists. If, upon designation of a Termination Settlement Date by Dealer pursuant to the preceding sentence, Counterparty fails to deliver the Settlement Shares relating to such Termination Settlement Date when due or otherwise fails to perform obligations within its control in respect of the relevant Transaction, it shall be an Event of Default with respect to Counterparty and Section 6 of the Agreement shall apply. If an Acceleration Event occurs during an Unwind Period for any Transaction relating to a number of Settlement Shares for the relevant



Transaction to which Cash Settlement or Net Share Settlement applies, then on the Termination Settlement Date for such Transaction relating to such Acceleration Event, notwithstanding any election to the contrary by Counterparty, Cash Settlement or Net Share Settlement shall apply to the portion of such Settlement Shares relating to such Unwind Period as to which Dealer has unwound its hedge (assuming that Dealer has a commercially reasonable hedge and unwinds its hedge in a commercially reasonable manner) and Physical Settlement shall apply in respect of (x) the remainder (if any) of such Settlement Shares and (y) the Settlement Shares designated by Dealer in respect of such Termination Settlement Date.

Private Placement Procedures

If Counterparty is unable to comply with the provisions of "Covenant of Counterparty" above because of a change in law or a change in the policy of the Securities and Exchange Commission or its staff, or Dealer otherwise determines that in its reasonable opinion and based on the advice of counsel any Settlement Shares to be delivered to Dealer by Counterparty may not be freely returned by Dealer or its affiliates to securities lenders as described under "Covenant of Counterparty" above, then delivery of any such Settlement Shares (the "Restricted Shares") shall be effected pursuant to Annex A hereto, unless waived by Dealer.

Securities Law Acknowledgments

Counterparty acknowledges that (i) during any Unwind Period, Counterparty does not have, and shall not attempt to exercise, any influence over how, when or whether to effect purchases of Shares by Dealer (or its agent or affiliate) in connection with this Master Confirmation or any Supplemental Confirmation and (ii) Counterparty is entering into the Agreement, this Master Confirmation and each Supplemental Confirmation in good faith and not as part of a plan or scheme to evade compliance with federal securities laws.

Counterparty hereby agrees with Dealer that during any Unwind Period, Counterparty shall not communicate, directly or indirectly, any Material Non-Public Information (as defined herein) to any EDG Personnel (as defined below). For purposes of each Transaction, "Material Non-Public Information" means information relating to Counterparty or the Shares that (a) has not been widely disseminated by wire service, in one or more newspapers of general circulation, by communication from Counterparty to its shareholders or in a press release, or contained in a public filing made by Counterparty with the Securities and Exchange Commission and (b) a reasonable investor might consider to be of importance in making an investment decision to buy, sell or hold Shares. For the avoidance of doubt and solely by way of illustration, information should be presumed "material" if it relates to such matters as dividend increases or decreases, earnings estimates, changes in previously released earnings estimates, significant expansion or curtailment of operations, a significant increase or decline of orders, significant merger or acquisition proposals or agreements, significant new products or discoveries, extraordinary borrowing, major litigation, liquidity problems, extraordinary management developments, purchase or sale of substantial assets, or other similar information. For purposes of the Transaction, "EDG Personnel" means any employee on the trading side of the Equity Derivatives Group of Dealer and does not include Mr. Robert Stewart or Ms. So Young Lee or any other of Dealer's "private side" equity or equity-linked personnel (including, without limitation, any Dealer equity or equity-linked legal personnel) (or any other person or persons designated from time to time in writing to Counterparty by Dealer).

Maximum Share Delivery

Notwithstanding any other provision of this Master Confirmation or any Supplemental Confirmation, for any Transaction, in no event shall Counterparty be required to deliver to Dealer, in the aggregate, in respect of all Settlement Dates for such Transaction and other dates on which Shares are delivered in respect of any amount owed under such Transaction, a number of Shares equal to 1.5 multiplied by the initial Base Amount for such Transaction.

Transfer and Assignment

Dealer may assign or transfer any of its rights or delegate any of its duties hereunder and under each Supplemental Confirmation to (A) an affiliate of Dealer, whose obligations hereunder and under each Supplemental Confirmation are fully and unconditionally guaranteed by Dealer, or (B)

any other affiliate of Dealer with a long-term issuer rating equal to or better than the credit rating of Dealer at the time of transfer without the prior written consent of Counterparty; *provided that*, (x) whether as a matter of law or by virtue of a gross-up and/or indemnity from the transferee, (i) Counterparty shall not be required to pay or deliver to the transferee or assignee under Section 2(d)(i)(4) of the Agreement any amount or number of Shares greater than the amount Counterparty would have been required to pay or deliver to Dealer in the absence of such transfer or assignment and (ii) Counterparty shall not receive from the transferee or assignee any amount or number of Shares less than it would have been entitled to receive in the absence of such transfer or assignment and (y) such transferee or assignee shall provide such documentation as may be reasonably requested by Counterparty to permit Counterparty to determine that the results described in clause (x) will not occur upon or after such assignment, *provided further that*, at all times, Dealer or any transferee or assignee shall be eligible to provide a U.S. Internal Revenue Service Form W-9 or W-8ECI, or any successor form thereto, with respect to any payments or deliveries under the Agreement. Notwithstanding any other provision in this Master Confirmation or any Supplemental Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities to or from Counterparty, Dealer may designate any of its affiliates to purchase, sell, receive or deliver such Shares or other securities and otherwise to perform Dealer's obligations in respect of any Transaction and any such designee may assume such obligations. Dealer shall be discharged of its obligations to Counterparty to the extent of any such performance.

Indemnity

Counterparty agrees to indemnify Dealer and its affiliates and their respective directors, officers, agents and controlling parties (Dealer and each such affiliate or person being an "Indemnified Party") from and against any and all losses, claims, damages and liabilities, joint and several, incurred by or asserted against such Indemnified Party arising out of any breach of any covenant or representation made by Counterparty in this Master Confirmation, any Supplemental Confirmation or the Agreement and will reimburse any Indemnified Party for all reasonable expenses (including reasonable legal fees and expenses) as they are incurred in connection with the investigation of, preparation for, or defense of any pending or threatened claim or any action or proceeding arising therefrom, whether or not such Indemnified Party is a party thereto. Counterparty will not be liable under this Indemnity paragraph to the extent that any loss, claim, damage, liability or expense is found in a final and nonappealable judgment by a court of competent jurisdiction to have resulted from Dealer's gross negligence, fraud, bad faith and/or willful misconduct or from a breach of any representation or covenant of Dealer contained in this Master Confirmation, any Supplemental Confirmation or the Agreement.

Notice

Non-Reliance:           Applicable

Additional Acknowledgments:   Applicable

Agreements and Acknowledgments  
Regarding Hedging Activities:   Applicable

4. The Agreement is further supplemented by the following provisions:

No Collateral or Setoff:

Notwithstanding Section 6(f) or any other provision of the Agreement or any other agreement between the parties to the contrary, the obligations of Counterparty under the Transactions are not secured by any collateral. Obligations in respect of the Transactions shall not be set off against any other obligations of the parties, whether arising under the Agreement, this Master Confirmation, any Supplemental Confirmation, under any other agreement between the parties hereto, by operation of law or otherwise, and no other obligations of the parties shall be set off against obligations in respect of any Transaction, whether arising under the Agreement, this Master Confirmation, any Supplemental Confirmation, under any other agreement between the parties hereto, by operation of law or otherwise, and each party hereby waives any such right of setoff. In calculating any amounts under Section 6(e) of the Agreement with respect to any

Transaction, notwithstanding anything to the contrary in the Agreement, (a) separate amounts shall be calculated as set forth in such Section 6(e) with respect to (i) such Transaction and (ii) all other Transactions, and (b) such separate amounts shall be payable pursuant to Section 6(d)(ii) of the Agreement.

Status of Claims in Bankruptcy:

Dealer acknowledges and agrees that neither this Master Confirmation nor any Supplemental Confirmation is intended to convey to Dealer rights with respect to the Transactions contemplated hereby that are senior to the claims of Counterparty's common stockholders in any U.S. bankruptcy proceedings of Counterparty; *provided, however*, that nothing herein shall limit or shall be deemed to limit Dealer's right to pursue remedies in the event of a breach by Counterparty of its obligations and agreements with respect to this Master Confirmation, any Supplemental Confirmation and the Agreement; and *provided further*, that nothing herein shall limit or shall be deemed to limit Dealer's rights in respect of any transaction other than the Transactions.

Limit on Beneficial Ownership:

Notwithstanding any other provisions hereof, Dealer shall not have an "interest" in (within the meaning of NYSE Rule 312.04(e)) Shares hereunder and Dealer shall not be entitled to take delivery of any Shares deliverable hereunder in respect of any Transaction (in each case, whether in connection with the purchase of Shares on any Settlement Date or any Termination Settlement Date, any Private Placement Settlement or otherwise) to the extent (but only to the extent) that, after such receipt of any Shares hereunder, (i) the Share Amount would exceed the Post-Effective Limit, (ii) the Section 16 Percentage would exceed 7.5% or (iii) Dealer and each person subject to aggregation of Shares with Dealer under Section 13 or Section 16 of the Exchange Act and rules promulgated thereunder (the "Dealer Group") would directly or indirectly beneficially own (as such term is defined for purposes of Section 13 or Section 16 of the Exchange Act and rules promulgated thereunder) in excess of the Threshold Number of Shares for such Transaction. Any purported delivery hereunder in respect of any Transaction shall be void and have no effect to the extent (but only to the extent) that, after such delivery, (i) the Share Amount would exceed the Post-Effective Limit, (ii) the Section 16 Percentage would exceed 7.5% or (iii) Dealer Group would directly or indirectly so beneficially own in excess of the Threshold Number of Shares. If any delivery owed to Dealer hereunder in respect of any Transaction is not made, in whole or in part, as a result of this provision, Counterparty's obligation to make such delivery shall not be extinguished and Counterparty shall make such delivery as promptly as practicable after, but in no event later than one Exchange Business Day after, Dealer gives notice to Counterparty that, after such delivery, (i) the Share Amount would not exceed the Post-Effective Limit, (ii) the Section 16 Percentage would not exceed 7.5% and (iii) Dealer Group would not directly or indirectly so beneficially own in excess of the Threshold Number of Shares. The "Threshold Number of Shares" for any Transaction means a number of Shares equal to 4.9% of the outstanding Shares on the Trade Date for such Transaction. The "Section 16 Percentage" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates or any other person subject to aggregation with Dealer for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act, or any "group" (within the meaning of Section 13 of the Exchange Act) of which Dealer is or may be deemed to be a part beneficially owns (within the meaning of Section 13 of the Exchange Act), without duplication, on such day (or, to the extent that for any reason the equivalent calculation under Section 16 of the Exchange Act and the rules and regulations thereunder results in a higher number, such higher number) and (B) the denominator of which is the number of Shares outstanding on such day.

In addition, notwithstanding anything herein to the contrary, if any delivery owed to Dealer hereunder is not made, in whole or in part, as a result of the immediately preceding paragraph, Dealer shall be permitted to make any payment due in respect of such Shares to Counterparty in two or more tranches that correspond in amount to the number of Shares delivered by Counterparty to Dealer pursuant to the immediately preceding paragraph.

New York General Obligations Law:

Counterparty and Dealer agree and acknowledge that: (A) the Transactions contemplated by this Master Confirmation will be entered into in reliance on the fact that this Master Confirmation and each Supplemental Confirmation hereto form a single agreement between Counterparty and

Dealer, and Dealer would not otherwise enter into such Transactions; (B) this Master Confirmation, together with each Supplemental Confirmation hereto, is a "qualified financial contract", as such term is defined in Section 5-701(b)(2) of the New York General Obligations Law; (C) each Supplemental Confirmation hereto, regardless of whether transmitted electronically or otherwise, constitutes a "confirmation in writing sufficient to indicate that a contract has been made between the parties" hereto, as set forth in Section 5-701(b)(3)(b) of the New York General Obligations Law; and (D) this Master Confirmation and each Supplemental Confirmation hereto constitute a prior "written contract", as set forth in Section 5-701(b)(1)(b) of the New York General Obligations Law, and each party hereto intends and agrees to be bound by this Master Confirmation and such Supplemental Confirmation.

#### Placement Notices

Counterparty and Dealer agree that, upon the effectiveness of any Accepted Placement Notice relating to a Forward, in respect of the Transaction to which such Accepted Placement Notice relates, each of the representations, warranties, covenants, agreements and other provisions of this Master Confirmation and the Supplemental Confirmation for such Transaction (including, without limitation, the provisions above in Section 3 of this Master Confirmation under the heading "Extraordinary Dividends," Dealer's right to designate a Termination Settlement Date in respect of such Transaction and the termination of such Transaction following an Insolvency Filing) shall govern, and be applicable to, such Transaction as of the first Trading Day of the Forward Hedge Selling Period for such Transaction as if the Trade Date for such Transaction were such first Trading Day. Notwithstanding anything to the contrary in this Master Confirmation, any Supplemental Confirmation, the Agreement, the 2002 Definitions or the 2006 Definitions, if Dealer designates a Termination Settlement Date with respect to a Transaction (1) following the occurrence of an Acceleration Event, and such Termination Settlement Date is to occur before the date that is one Settlement Cycle after the last day of the Forward Hedge Selling Period for such Transaction or (2) prior to Counterparty's execution of the Supplemental Confirmation relating to such Transaction, then, for purposes of such Termination Settlement Date, a Supplemental Confirmation relating to such Transaction reasonably completed by Dealer (as if the Trade Date for such Transaction were the last day of the Forward Hedge Selling Period on which the Forward Seller (as defined in the Equity Distribution Agreement) sold Forward Hedge Securities for such Transaction) shall, notwithstanding the provisions under "Conditions to Effectiveness" above, be deemed to be immediately effective.

#### Wall Street Transparency and Accountability Act:

In connection with Section 739 of the Wall Street Transparency and Accountability Act of 2010 (the "WSTAA"), the parties hereby agree that neither the enactment of the WSTAA or any regulation under the WSTAA, nor any requirement under the WSTAA or any amendment made by the WSTAA, shall limit or otherwise impair either party's otherwise applicable rights to terminate, renegotiate, modify, amend or supplement this Master Confirmation, any Supplemental Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Master Confirmation, any Supplemental Confirmation, the 2002 Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from any Acceleration Event or Illegality (as defined in the Agreement)).

#### Miscellaneous:

(a) Addresses for Notices. For the purpose of Section 12(a) of the Agreement:

Address for notices or communications to Dealer:

Bank of America, N.A.  
c/o BofA Securities, Inc.  
Bank of America Tower at One Bryant Park  
New York, NY 10036  
Attention: Robert Stewart, Assistant General Counsel  
Telephone: (646) 855-0711  
Email: [rstewart4@bofa.com](mailto:rstewart4@bofa.com)

With a copy to:  
Bank of America, N.A.  
c/o BofA Securities, Inc.  
Bank of America Tower at One Bryant Park  
New York, NY 10036  
Attention: Christine Roemer  
Telephone: (646) 855-8901  
Email: [christine.roemer@bofa.com](mailto:christine.roemer@bofa.com)

Address for notices or communications to Counterparty:

Portland General Electric Company  
121 SW Salmon Street  
Portland, Oregon 97204  
Attention: Sujata Pagedar  
Telephone: (510) 913-2713  
Email: [sujata.pagedar@pgn.com](mailto:sujata.pagedar@pgn.com)

- (b) **Waiver of Right to Trial by Jury.** Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this Master Confirmation and/or any Supplemental Confirmation. Each party (i) certifies that no representative, agent or attorney of the other party has represented, expressly or otherwise, that such other party would not, in the event of such a suit action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into this Master Confirmation and each Supplemental Confirmation by, among other things, the mutual waivers and certifications herein.

Acknowledgements.

The parties hereto intend for:

- (a) each Transaction to be a "securities contract" as defined in Section 741(7) of Title 11 of the United States Code (the "Bankruptcy Code"), qualifying for the protections under Section 555 of the Bankruptcy Code;
- (b) a party's right to liquidate each Transaction and to exercise any other remedies upon the occurrence of any Event of Default under the Agreement with respect to the other party to constitute a "contractual right" as defined in the Bankruptcy Code;
- (c) Dealer to be a "financial institution" within the meaning of Section 101(22) of the Bankruptcy Code; and
- (d) all payments for, under or in connection with each Transaction, all payments for the Shares and the transfer of such Shares to constitute "settlement payments" as defined in the Bankruptcy Code.

Amendment to Master Agreement.

Section 12(a) of the Agreement is hereby amended by (1) deleting the phrase "or email" in the third line thereof and (2) deleting the phrase "or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Local Business Day" in the final clause thereof.

Other Forward Transactions:

Dealer acknowledges that Counterparty has entered or may enter in the future into one or more substantially similar forward transactions for its Shares (each, an "Other Forward" and collectively, the "Other Forwards") with one or more dealers (each, an "Other Dealer" and collectively, the "Other Dealers"). Dealer and Counterparty agree that if Counterparty designates a "Settlement Date" with respect to one or more Other Forwards for which "Cash Settlement" or "Net Share Settlement" is applicable, and the resulting "Unwind Period" for any Other Forward

coincides for any period of time with an Unwind Period for a Transaction (the "Overlap Unwind Period"), Counterparty shall notify Dealer prior to the commencement of such Overlap Unwind Period of the first Scheduled Trading Day and length of such Overlap Unwind Period, and Dealer shall only be permitted to purchase Shares to unwind its hedge in respect of such Transaction only on alternating Scheduled Trading Days during such Overlap Unwind Period, commencing on the first, second, third or later Scheduled Trading Day of such Overlap Unwind Period, as notified to Dealer by Counterparty at least one Scheduled Trading Day prior to such Overlap Unwind Period (which alternating Scheduled Trading Days, for the avoidance of doubt, shall be every other Scheduled Trading Day if there is only one Other Dealer, every third Scheduled Trading Day if there are two Other Dealers, etc.).

#### Severability.

If any term, provision, covenant or condition of this Master Confirmation or any Supplemental Confirmation or the application thereof to any party or circumstance, shall be held to be invalid or unenforceable in whole or in part for any reason, the remaining terms, provisions, covenants, and conditions hereof shall continue in full force and effect as if this Master Confirmation and the related Supplemental Confirmation had been executed with the invalid or unenforceable provision eliminated, so long as this Master Confirmation and such related Supplemental Confirmation as so modified continues to express, without material change, the original intentions of the parties as to the subject matter of this Master Confirmation and such Supplemental Confirmation and the deletion of such portion of this Master Confirmation and/or such Supplemental Confirmation will not substantially impair the respective benefits or expectations of parties to this Master Confirmation and such Supplemental Confirmation; *provided, however*, that this severability provision shall not be applicable if any provision of Section 2, 5, 6 or 13 of the Agreement (or any definition or provision in Section 14 to the extent that it relates to, or is used in or in connection with any such Section) shall be held to be invalid or unenforceable.

#### U.S. Resolution Stay.

The parties acknowledge and agree that (i) to the extent that prior to the date hereof both parties have adhered to the 2018 ISDA U.S. Resolution Stay Protocol (the "Protocol"), the terms of the Protocol are incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a Protocol Covered Agreement, Dealer shall be deemed a Regulated Entity and Counterparty shall be deemed an Adhering Party; (ii) to the extent that prior to the date hereof the parties have executed a separate agreement the effect of which is to amend the qualified financial contracts between them to conform with the requirements of the QFC Stay Rules (the "Bilateral Agreement"), the terms of the Bilateral Agreement are incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a Covered Agreement, Dealer shall be deemed a Covered Entity and Counterparty shall be deemed a Counterparty Entity; or (iii) if clause (i) and clause (ii) do not apply, the terms of Section 1 and Section 2 and the related defined terms (together, the "Bilateral Terms") of the form of bilateral template entitled "Full-Length Omnibus (for use between U.S. G-SIBs and Corporate Groups)" published by ISDA on November 2, 2018 (currently available on the 2018 ISDA U.S. Resolution Stay Protocol page at [www.isda.org](http://www.isda.org) and, a copy of which is available upon request), the effect of which is to amend the qualified financial contracts between the parties thereto to conform with the requirements of the QFC Stay Rules, are hereby incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a "Covered Agreement," Dealer shall be deemed a "Covered Entity" and Counterparty shall be deemed a "Counterparty Entity." In the event that, after the date of the Agreement, both parties hereto become adhering parties to the Protocol, the terms of the Protocol will replace the terms of this paragraph. In the event of any inconsistencies between the Agreement and the terms of the Protocol, the Bilateral Agreement or the Bilateral Terms (each, the "QFC Stay Terms"), as applicable, the QFC Stay Terms will govern. Terms used in this paragraph without definition shall have the meanings assigned to them under the QFC Stay Rules. For purposes of this paragraph, references to "the Agreement" include any related credit enhancements entered into between the parties or provided by one to the other. In addition, the parties agree that the terms of this paragraph shall be incorporated into any related covered affiliate credit enhancements, with all references to Dealer replaced by references to the covered affiliate support provider. "QFC Stay Rules" means the regulations codified at 12 C.F.R. 252.2, 252.81-8, 12 C.F.R. 382.1-7 and 12 C.F.R. 47.1-8, which, subject to limited exceptions, require an express recognition of the stay-and-transfer powers of the FDIC under the Federal Deposit Insurance Act and the Orderly Liquidation Authority under Title II of the Dodd Frank Wall Street

Reform and Consumer Protection Act and the override of default rights related directly or indirectly to the entry of an affiliate into certain insolvency proceedings and any restrictions on the transfer of any covered affiliate credit enhancements.

Tax Matters:

- (a) For the purpose of Section 3(e) of the Agreement, each of Dealer and Counterparty makes the following representation: It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 9(h) of this Agreement and any other payments of interest and penalty charges for late payment) to be made by it to the other party under this Agreement. In making this representation, it may rely on (i) the accuracy of any representations made by the other party pursuant to Section 3(f) of this Agreement; (ii) the satisfaction of the agreement contained in Section 4(a)(i) or 4(a)(iii) of this Agreement and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii) of this Agreement; and (iii) the satisfaction of the agreement of the other party contained in Section 4(d) of this Agreement; *provided* that it shall not be a breach of this representation where reliance is placed on clause (ii) above and the other party does not deliver a form or document under Section 4(a)(iii) by reason of material prejudice to its legal or commercial position.
- (b) For the purpose of Section 3(f) of the Agreement:
  - (i) Dealer makes the following representation(s):
    - (A) It is a "U.S. person" (as that term is used in section 1.1441-4(a)(3)(ii) of United States Treasury Regulations) for U.S. federal income tax purposes.
    - (B) It is a national banking association organized and existing under the laws of the United States of America and is an exempt recipient under Treasury Regulation Section 1.6049-4(c)(1)(ii).
  - (ii) Counterparty makes the following representation(s):
    - (A) It is a "U.S. person" (as that term is used in section 1.1441-4(a)(3)(ii) of United States Treasury Regulations) for U.S. federal income tax purposes.
    - (B) It is a corporation for U.S. federal income tax purposes and is organized under the laws of the State of Oregon, and is an exempt recipient under Treasury Regulation Section 1.6049-4(c)(1)(ii)(A).
- (c) Withholding Tax imposed on payments to non-US counterparties under the United States Foreign Account Tax Compliance Act. "Tax" and "Indemnifiable Tax", each as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the "Code"), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code (a "FATCA Withholding Tax"). For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.
- (d) HIRE Act. "Tax" and "Indemnifiable Tax", each as defined in Section 14 of the Agreement, shall not include any tax imposed on payments treated as dividends from sources within the United States under Section 871(m) of the Code or any regulations issued thereunder.
- (e) Tax Documentation. For purposes of Section 4(a)(i) and Section 4(a)(ii) of the Agreement:
  - (i) Counterparty shall deliver to Dealer a valid and duly executed U.S. Internal Revenue Service Form W-9, or any successor form thereto, (A) on or before the date of execution of

this Master Confirmation and each Supplemental Confirmation, (B) promptly upon demand by Dealer and (C) promptly upon learning that any such tax form previously provided by Counterparty has become inaccurate or incorrect.

(ii) Dealer shall provide to Counterparty a valid and duly executed U.S. Internal Revenue Service Form W-9, or any successor form thereto, (A) on or before the date of execution of this Master Confirmation, (B) promptly upon reasonable demand by Counterparty and (C) promptly upon learning that any such tax form previously provided by Dealer has become inaccurate or incorrect.

[Remainder of page intentionally left blank]



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

Yours faithfully,

**BANK OF AMERICA, N.A.**

By: /s/ Rohan Handa  
Name: Rohan Handa  
Title: Managing Director

Confirmed as of the date first written above:

**PORTLAND GENERAL ELECTRIC COMPANY**

By: /s/ James A. Ajello  
Name: James A. Ajello  
Title: Senior Vice President of Finance, Chief Financial Officer, Treasurer and Corporate Compliance Officer

## FORM OF SUPPLEMENTAL CONFIRMATION

<b>To:</b>	<b>Portland General Electric Company</b> 121 SW Salmon Street Portland, Oregon 97204
<b>From:</b>	<b>Bank of America, N.A.</b> One Bryant Park New York, NY 10036
<b>Date:</b>	[_____] , 20[___]

Dear Sir(s):

The purpose of this Supplemental Confirmation is to confirm the terms and conditions of the Transaction entered into between Bank of America, N.A. ("Dealer") and Portland General Electric Company ("Counterparty") (together, the "Contracting Parties") on the Trade Date specified below. This Supplemental Confirmation is a binding contract between Dealer and Counterparty as of the relevant Trade Date for the Transaction referenced below.

1. This Supplemental Confirmation supplements, forms part of, and is subject to the Master Confirmation dated as of April 28, 2023 (the "Master Confirmation") between the Contracting Parties, as amended and supplemented from time to time. All provisions contained in the Master Confirmation govern this Supplemental Confirmation except as expressly modified below.

2. The terms of the Transaction to which this Supplemental Confirmation relates are as follows:

Trade Date:	[_____] , 20[___]
Effective Date:	[_____] , 20[___]
Maturity Date:	[_____] , 20[___] [_____]
Base Amount:	
Initial Forward Price:	USD [_____]
Spread:	[_____]%
Adjusted Volume-Weighted Hedge Price:	USD [_____]
Initial Stock Loan Rate:	[_____] basis points per annum
Maximum Stock Loan Rate:	[_____] basis points per annum

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

Very truly yours,

**BANK OF AMERICA, N.A.**

By: \_\_\_\_\_  
Name:  
Title:

Accepted and confirmed as  
of the Trade Date:

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name:  
Title:

FORWARD PRICE REDUCTION DATES AND AMOUNTS

**Forward Price Reduction Date**

Trade Date  
[ ], [ ]  
[ ], [ ]  
[ ], [ ]  
[ ], [ ]  
[ ], [ ]

**Forward Price Reduction Amount**

USD 0.00  
USD [ ]  
USD [ ]  
USD [ ]  
USD [ ]  
USD [ ]<sup>1</sup>

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<sup>1</sup> Include one Forward Price Reduction Date that falls after the Maturity Date.

## PRIVATE PLACEMENT PROCEDURES

- (i) If Counterparty delivers the Restricted Shares pursuant to this clause (i) (a “Private Placement Settlement”), then delivery of Restricted Shares by Counterparty shall be effected in private placement procedures customary for private placements of equity securities of substantially similar size with respect to such Restricted Shares reasonably acceptable to Dealer; *provided* that if, on or before the date that a Private Placement Settlement would occur, Counterparty has taken, or caused to be taken, any action that would make unavailable either the exemption pursuant to Section 4(a)(2) of the Securities Act for the sale by Counterparty to Dealer (or any affiliate designated by Dealer) of the Restricted Shares or the exemption pursuant to Section 4(a)(1) or Section 4(a)(3) of the Securities Act for resales of the Restricted Shares by Dealer (or any such affiliate of Dealer) or Counterparty fails to deliver the Restricted Shares when due or otherwise fails to perform obligations within its control in respect of a Private Placement Settlement, it shall be an Event of Default with respect to Counterparty and Section 6 of the Agreement shall apply. The Private Placement Settlement of such Restricted Shares shall include customary representations, covenants, blue sky and other governmental filings and/or registrations, indemnities to Dealer, due diligence rights (for Dealer or any designated buyer of the Restricted Shares by Dealer), opinions and certificates, and such other documentation as is customary for private placement agreements of equity securities of a substantially similar size, all reasonably acceptable to Dealer. In the case of a Private Placement Settlement, Dealer shall, in its good faith discretion, adjust the number of Restricted Shares to be delivered to Dealer hereunder and/or the Forward Price for the relevant Transaction in a commercially reasonable manner to reflect the fact that such Restricted Shares may not be freely returned to securities lenders by Dealer and may only be saleable by Dealer at a discount to reflect the lack of liquidity in Restricted Shares. Notwithstanding the Agreement, this Master Confirmation or any Supplemental Confirmation, the date of delivery of such Restricted Shares shall be the Clearance System Business Day following notice by Dealer to Counterparty of the number of Restricted Shares to be delivered pursuant to this clause (i). For the avoidance of doubt, delivery of Restricted Shares shall be due as set forth in the previous sentence and not be due on the Settlement Date for the relevant Transaction or Termination Settlement Date for the relevant Transaction that would otherwise be applicable.
- (ii) If Counterparty delivers any Restricted Shares in respect of any Transaction, Counterparty agrees that (i) such Shares may be transferred by and among Dealer and its affiliates and (ii) after the minimum “holding period” within the meaning of Rule 144(d) under the Securities Act has elapsed after the applicable Settlement Date, Counterparty shall promptly remove, or cause the transfer agent for the Shares to remove, any legends referring to any transfer restrictions from such Shares upon delivery by Dealer (or such affiliate of Dealer) to Counterparty or such transfer agent of any seller’s and broker’s representation letters customarily delivered by Dealer or its affiliates in connection with resales of restricted securities pursuant to Rule 144 under the Securities Act, each without any further requirement for the delivery of any certificate, consent, agreement, opinion of counsel, notice or any other document, any transfer tax stamps or payment of any other amount or any other action by Dealer (or such affiliate of Dealer).

April 28, 2023

Portland General Electric Company  
121 S.W. Salmon Street  
Portland, Oregon 97204

Re: Portland General Electric Company Registration Statement on Form S-3

Ladies and Gentlemen:

I am General Counsel of Portland General Electric Company, an Oregon corporation (the "Company"), and in such capacity have acted as counsel to the Company in connection with the sale of shares (the "Shares") of common stock of the Company, without par value (the "Common Stock"), by (i) the Company through or to Wells Fargo Securities, LLC, BofA Securities, LLC and Barclays Capital Inc. as sales agents and/or principals, as applicable (in such capacity, each a "Sales Agent" and collectively, the "Sales Agents") and/or (ii) Wells Fargo Bank, National Association, Barclays Bank PLC and Bank of America, N.A., (in such capacity, each a "Forward Purchaser" and, collectively, the "Forward Purchasers"), through the Sales Agents as forward sellers from time to time, having an aggregate sales price of up to \$300 million, pursuant to a registration statement on Form S-3 under the Securities Act of 1933, as amended (the "Act"), filed with the Securities and Exchange Commission (the "Commission") on August 2, 2022 (Registration No. 333-266454) (as so filed and as amended, the "Registration Statement"), a base prospectus dated August 2, 2022 (the "Base Prospectus"), and a prospectus supplement dated April 28, 2023 filed with the Commission pursuant to Rule 424(b) under the Act (the "Prospectus Supplement", and together with the Base Prospectus, the "Prospectus"), that certain Equity Distribution Agreement, dated April 28, 2023, by and among the Company, the Sales Agents, and the Forward Purchasers, as applicable, (the "Equity Distribution Agreement"), and concurrently one or more forward stock purchase transactions with any of the Forward Purchasers, as set forth in one or more separate letter agreements, each in substantially the form attached as Exhibit G to the Equity Distribution Agreement (each a "Forward Confirmation" and collectively, the "Forward Confirmations"). Any Shares to be delivered by the Company to the Forward Purchasers in settlement of all or any portion of the Company's obligations under the Forward Confirmations are hereinafter sometimes called the "Confirmation Shares".

I or attorneys under my supervision (with whom I have consulted) have examined the Registration Statement, the Prospectus and documents and records of the Company and other documents, matters of fact and questions of law that I have deemed necessary for the purposes of this opinion. In my examination, I or attorneys under my supervision (with whom I have consulted) have assumed the authenticity of original documents and the genuineness of all signatures, the conformity to the originals of all documents submitted to us as copies, and the truth, accuracy, and completeness of the information, representations, and warranties contained in the records, documents, instruments, and certificates I or others under my supervision (with whom I have consulted) have reviewed.

Based upon the foregoing, I am of the opinion that the Shares and the Confirmation Shares have been duly authorized by all necessary corporate action of the Company and, when issued in accordance with the terms of the Equity Distribution Agreement, the Forward Confirmations, the Registration Statement and the Prospectus, the Shares and the Confirmation Shares will be validly issued, fully paid and nonassessable.

I hereby consent to the filing of this opinion as Exhibit 5.1 to the Current Report on Form 8-K of even date herewith, incorporated by reference into the Registration Statement, and to the reference to this firm under the heading "Legal Matters" in the Prospectus. In giving this consent, I do not hereby admit that I am in the category of persons whose consent is required under Section 7 of the Securities Act or related rules nor do I admit that I am an expert with respect to any part of the Registration Statement within the meaning of the term "expert" as used in the Securities Act or related rules. This opinion is expressed as of the date hereof unless otherwise expressly stated, and I disclaim any undertaking to advise you of any subsequent changes in the facts stated or assumed herein or of any subsequent changes in applicable laws.

Very truly yours,

/s/ Angelica Espinosa

Angelica Espinosa



April 28, 2023

**Media Contact:**

Sarah Hamaker  
Corporate Communications  
Phone: 435-513-0799

**Investor Contact:**

Jardon Jaramillo  
Investor Relations  
Phone: 503-464-7051

**Portland General Electric Announces First Quarter 2023 Results**

- Entered an agreement to construct a 200 MW company-owned battery storage project, a \$360 million investment; also entered a storage capacity agreement to secure an incremental 200 MW of battery storage
- Financial results reflect strong energy demand, continued energy-market volatility, and effective cost controls
- Reaffirming 2023 adjusted earnings guidance of \$2.60 to \$2.75 per diluted share

**PORTLAND, Ore.** — Portland General Electric Company (NYSE: POR) today reported net income based on generally accepted accounting principles (GAAP) of \$74 million, or \$0.80 per diluted share, for the first quarter of 2023. This compares with GAAP net income of \$60 million, or \$0.67 per diluted share, for the first quarter of 2022, which included the \$0.14 per diluted share deferral reversal charge related to the 2022 General Rate Case Final order. After adjusting for the impact of the deferral reversal charge, first quarter 2022 non-GAAP net income was \$72 million, or \$0.81 per diluted share.

“This quarter we advanced Oregon’s clean energy transition, strengthened our organization, and tackled challenging energy markets,” said Maria Pope, PGE President and CEO. “We are excited to announce new battery storage projects that will be critical to serving customers and the integration of renewable resources.”

**First Quarter 2023 Compared to First Quarter 2022**

Total revenues increased, driven by higher demand from digital and semiconductor customers, colder weather, and a favorable customer price mix. Purchased power and fuel expense increased primarily due to increased loads combined with higher power market prices. Operating and administrative expenses remained largely flat, excluding amortization of major deferrals, due to continued implementation of operational efficiencies and cost controls. Other income increased due to gains on non-qualified benefit plan assets from improved market performance.

**Company Updates**

**2021 All-Source Request for Proposal Update**

After a robust and competitive bidding and negotiating process, PGE has entered an agreement to construct a 200 MW PGE-owned lithium-ion battery energy storage system (BESS) and entered a storage capacity agreement for a 200 MW BESS. All BESS projects will be emission-free dispatchable capacity resources directly interconnected to PGE’s system. Project agreements include:



#### PGE-owned Resource

- *Seaside Grid* - PGE and Eolian, L.P. entered into an agreement to construct a 200 MW BESS in Portland, Oregon. PGE will own the resource, with an investment of approximately \$360 million, excluding AFUDC. The project has an estimated commercial operation date of June 30, 2025.

#### Capacity Agreement Resource

- *Troutdale Grid* - PGE and Eolian L.P. entered into a storage capacity agreement for a 200 MW BESS in Troutdale, Oregon. The project was subsequently acquired by NextEra Energy Resources, LLC, who will own the resource and will sell the capacity to PGE under a 20-year storage capacity agreement. The project has an estimated commercial operation date of December 31, 2024.

PGE continues to negotiate with a remaining 2021 All-Source RFP short-list bidder that could result in an agreement to construct a company-owned 75 MW BESS project. If parties are able to reach a definitive agreement, the Clearwater agreements and all BESS agreements would represent the final projects to be procured from the 2021 All-Source RFP. Resources required to meet remaining needs are anticipated to be procured through future acquisition processes, including but not limited to the 2023 All-Source RFP and future RFPs.

#### **Resource Planning and 2023 All-Source RFP Updates**

On March 31, 2023, PGE filed its first combined Clean Energy Plan (CEP) and Integrated Resource Plan (IRP) with the OPUC. PGE's inaugural CEP articulates the Company's strategy to meet the 2030, 2035, and 2040 emission reduction targets, as mandated by Oregon law, through an equitable transition to a decarbonized grid. The CEP is based on, and was filed in connection with, the Company's 2023 IRP. The combined filing projects PGE's resource and capacity needs over the next 20 years and proposes an Action Plan to meet near-term needs, subject to new state emissions reduction requirements.

Consistent with the IRP Action Plan and CEP, PGE filed notice with the OPUC in January 2023 that an RFP in 2023 is needed to procure resources to meet forecasted capacity needs and to make continued progress toward decarbonization targets. Additional milestones in the 2023 All-Source RFP will take place throughout 2023 and 2024.

#### **2024 General Rate Case Update**

On February 15, 2023, PGE filed with the OPUC a General Rate Case based on a 2024 test year (2024 GRC). Regulatory review of the 2024 GRC (OPUC Docket UE 416) will continue throughout 2023, with a final order expected to be issued by the OPUC in December 2023, for new customer prices effective January 1, 2024.

#### **At-the-market Offering Program**

On April 28, 2023, PGE registered a \$300 million at-the-market offering program. Any proceeds from the issuances of common stock will be used for general corporate purposes and investments in renewables and non-emitting dispatchable capacity.

#### **Quarterly Dividend**

As previously announced, on April 21, 2023, the board of directors of Portland General Electric Company approved an increase in the annual dividend of 5.0%, or \$0.09 per share, declaring a quarterly common stock dividend of \$0.475 per share. The quarterly dividend is payable on or before July 17, 2023 to shareholders of record at the close of business on June 26, 2023.

#### **2023 Earnings Guidance**

PGE is reaffirming its estimate for full-year 2023 adjusted earnings guidance of \$2.60 to \$2.75 per diluted share based on the following assumptions:

- An increase in energy deliveries between 2.5% and 3%, weather adjusted;
- Normal temperatures in its utility service territory;
- Hydro conditions for the year that reflect current estimates;
- Wind generation based on five years of historical levels or forecast studies when historical data is not available;
- Normal thermal plant operations;
- Operating and maintenance expense between \$695 million and \$715 million which includes approximately \$45 million of storm, wildfire and related deferral and other expenses that are offset in revenue and other income statement lines;
- Depreciation and amortization expense between \$445 million and \$465 million;
- Effective tax rate of 15% to 20%;
- Cash from operations of \$550 to \$600 million;
- Capital expenditures of \$1,325 million; and
- Average construction work in progress balance of \$560 million.

**First Quarter 2023 Earnings Call and Webcast — April 28, 2023**

PGE will host a conference call with financial analysts and investors on Friday, April 28, 2023, at 11 a.m. ET. The conference call will be webcast live on the PGE website at [investors.portlandgeneral.com](https://investors.portlandgeneral.com). A webcast replay will also be available on PGE's investor website "Events & Presentations" page beginning at 2 p.m. ET on April 28, 2023.

Maria Pope, President and CEO; Jim Ajello, Senior Vice President of Finance, CFO, Treasurer and CCO; and Jardon Jaramillo, Senior Director, Finance, Investor Relations, and Risk Management, will participate in the call. Management will respond to questions following formal comments.

The attached unaudited condensed consolidated statements of income and comprehensive income, balance sheets and statements of cash flows, as well as the supplemental operating statistics, are an integral part of this earnings release.

**Non-GAAP Financial Measures**

This press release contains certain non-GAAP measures, such as adjusted earnings, adjusted EPS and adjusted earnings guidance. These non-GAAP financial measures exclude significant items that are generally not related to our ongoing business activities, are infrequent in nature, or both. PGE believes that excluding the effects of these items provides a meaningful representation of the Company's comparative earnings per share and enables investors to evaluate the Company's ongoing operating financial performance. Management utilizes non-GAAP measures to assess the Company's current and forecasted performance, and for communications with shareholders, analysts and investors. Non-GAAP financial measures are supplementary information that should be considered in addition to, but not as a substitute for, the information prepared in accordance with GAAP.

Items in the periods presented, which PGE believes impact the comparability of comparative earnings and do not represent ongoing operating financial performance, include the following:

- Non-cash Wildfire and COVID deferral reversal charge associated with the year ended 2020, resulting from the OPUC's 2022 GRC Final Order earnings test.

PGE's reconciliation of non-GAAP earnings for the quarter ended March 31, 2022 is below.

**Non-GAAP Earnings Reconciliation for the quarter ended March 31, 2022**

	Net Income	Diluted EPS
<b>GAAP as reported for the quarter ended March 31, 2022</b>	\$ 60	\$ 0.67
Exclusion of released deferrals related to 2020	17	0.19
Tax effect <sup>(1)</sup>	(5)	(0.05)
<b>Non-GAAP as reported for the quarter ended March 31, 2022</b>	\$ 72	\$ 0.81

(1) Tax effects were determined based on the Company's full-year blended federal and state statutory tax rate

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**About Portland General Electric Company**

Portland General Electric (NYSE: POR) is a fully integrated energy company that generates, transmits and distributes electricity to over 900,000 customers in 51 cities across the state of Oregon. For more than 130 years, Portland General Electric (PGE) has powered the advancement of society, delivering safe, affordable, reliable and increasingly clean energy. To deliver on its strategy and meet state targets, PGE and its approximately 3,000 employees are committed to collaborating with stakeholders to achieve at least an 80% reduction in greenhouse gas emissions from power served to customers by 2030 and 100% reduction by 2040. PGE customers set the standard for prioritizing clean energy with the No. 1 voluntary renewable energy program in the country. Additionally, for the fifth year in a row, PGE was recognized by the Bloomberg Gender-Equality Index which highlights companies committed to creating a more equal and inclusive workplace. As a reflection of the company's commitment to the community it serves, in 2022, PGE employees, retirees and the PGE Foundation donated nearly \$5.5 million and volunteered more than 18,000 hours with more than 400 nonprofits across Oregon. For more information visit [www.PortlandGeneral.com/news](http://www.PortlandGeneral.com/news).

**Safe Harbor Statement**

Statements in this press release that relate to future plans, objectives, expectations, performance, events and the like may constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995, Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. These forward-looking statements represent our estimates and assumptions as of the date of this report. The Company assumes no obligation to update or revise any forward-looking statement as a result of new information, future events or other factors.

Forward-looking statements include statements regarding the Company's full-year earnings guidance (including expectations regarding annual retail deliveries, hydro conditions, wind generation, normal thermal plant operations, operating and maintenance expense and depreciation and amortization expense) as well as other statements containing words such as "anticipates," "based on," "believes," "conditioned upon," "considers," "could," "estimates," "expects," "forecast," "goals," "intends," "needs," "plans," "predicts," "projects," "promises," "seeks," "should," "subject to," "targets," "will likely result," "will continue," or similar expressions.

Investors are cautioned that any such forward-looking statements are subject to risks and uncertainties, including, without limitation: the timing or outcome of various legal and regulatory actions; changing customer expectations and choices that may reduce demand for electricity; the sale of excess energy during periods of low demand or low wholesale market prices; operational risks relating to the Company's generation and battery storage facilities, including hydro conditions, wind conditions, disruption of transmission and distribution, disruption of fuel supply, and unscheduled plant outages, which may result in unanticipated operating, maintenance and repair costs, as well as replacement power costs; delays in the supply chain and increased supply costs (including application of tariffs impacting solar module imports), failure to complete capital projects on schedule or within budget, inability to complete negotiations on contracts for capital projects, failure of counterparties to perform under agreement, or the abandonment of capital projects, which could result in the Company's inability to recover project costs, or impact

our competitive position, market share, revenues and project margins in material ways; default or nonperformance of counterparties from whom PGE purchases capacity or energy, which require the purchase of replacement power and renewable attributes at increased costs; complications arising from PGE's jointly-owned plant, including ownership changes, regulatory outcomes or operational failures; the costs of compliance with environmental laws and regulations, including those that govern emissions from thermal power plants; changes in weather, hydroelectric and energy market conditions, which could affect the availability and cost of purchased power and fuel; the development of alternative technologies; changes in capital and credit market conditions, including volatility of equity markets, reductions in demand for investment-grade commercial paper or interest rates, which could affect the access to and availability or cost of capital and result in delay or cancellation of capital projects or execution of the Company's strategic plan as currently envisioned; general economic and financial market conditions, including inflation; the effects of climate change, whether global or local in nature; unseasonable or severe weather conditions, wildfires, and other natural phenomena and natural disasters that could result in operational disruptions, unanticipated restoration costs, third party liability or that may affect energy costs or consumption; the effectiveness of PGE's risk management policies and procedures; PGE's ability to effectively implement Public Safety Power Shutoffs (PSPS) and de-energize its system in the event of heightened wildfire risk; cyber security attacks, data security breaches, physical attacks and security breaches, or other malicious acts, which could disrupt operations, require significant expenditures, or result in claims against the Company; employee workforce factors, including potential strikes, work stoppages, transitions in senior management, and the ability to recruit and retain key employees and other talent and turnover due to macroeconomic trends; PGE business activities are concentrated in one region and future performance may be affected by events and factors unique to Oregon; widespread health emergencies or outbreaks of infectious diseases such as COVID-19, which may affect our financial position, results of operations and cash flows; failure to achieve the Company's greenhouse gas emission goals or being perceived to have either failed to act responsibly with respect to the environment or effectively responded to legislative requirements concerning greenhouse gas emission reductions; political and economic conditions; and risks and uncertainties related to 2021 All-Source RFP final shortlist projects. As a result, actual results may differ materially from those projected in the forward-looking statements.

Risks and uncertainties to which the Company are subject are further discussed in the reports that the Company has filed with the United States Securities and Exchange Commission (SEC). These reports are available through the EDGAR system free-of-charge on the SEC's website, [www.sec.gov](http://www.sec.gov) and on the Company's website, [investors.portlandgeneral.com](http://investors.portlandgeneral.com). Investors should not rely unduly on any forward-looking statements.

**PORTLAND GENERAL ELECTRIC COMPANY AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF INCOME**  
**AND COMPREHENSIVE INCOME**

(Dollars in millions, except per share amounts)  
(Unaudited)

	<b>Three Months Ended March 31,</b>	
	<b>2023</b>	<b>2022</b>
<b>Revenues:</b>		
Revenues, net	\$ 745	\$ 625
Alternative revenue programs, net of amortization	3	1
Total revenues	748	626
<b>Operating expenses:</b>		
Purchased power and fuel	304	202
Generation, transmission and distribution	93	90
Administrative and other	80	89
Depreciation and amortization	111	99
Taxes other than income taxes	43	40
Total operating expenses	631	520
<b>Income from operations</b>	<b>117</b>	<b>106</b>
<b>Interest expense, net</b>	44	38
<b>Other income:</b>		
Allowance for equity funds used during construction	3	3
Miscellaneous income, net	12	—
Other income, net	15	3
<b>Income before income tax expense</b>	<b>88</b>	<b>71</b>
Income tax expense	14	11
<b>Net income</b>	<b>74</b>	<b>60</b>
Weighted-average common shares outstanding (in thousands):		
Basic	91,840	89,396
Diluted	92,571	89,527
<b>Earnings per share:</b>		
Basic	\$ 0.81	\$ 0.67
Diluted	\$ 0.80	\$ 0.67

**PORTLAND GENERAL ELECTRIC COMPANY AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**

(Dollars in millions)  
(Unaudited)

<b>ASSETS</b>	<b>March 31, 2023</b>	<b>December 31, 2022</b>
<b>Current assets:</b>		
Cash and cash equivalents	\$ 12	\$ 165
Accounts receivable, net	362	398
Inventories	95	95
Regulatory assets—current	65	54
Other current assets	232	498
<b>Total current assets</b>	<b>766</b>	<b>1,210</b>
Electric utility plant, net	8,611	8,465
Regulatory assets—noncurrent	481	473
Nuclear decommissioning trust	38	39
Non-qualified benefit plan trust	38	38
Other noncurrent assets	217	234
<b>Total assets</b>	<b>\$ 10,151</b>	<b>\$ 10,459</b>

**PORTLAND GENERAL ELECTRIC COMPANY AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED BALANCE SHEETS, continued**

(Dollars in millions)  
(Unaudited)

<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>	<b>March 31, 2023</b>	<b>December 31, 2022</b>
<b>Current liabilities:</b>		
Accounts payable	\$ 242	\$ 457
Liabilities from price risk management activities—current	100	118
Short-term debt	68	—
Current portion of long-term debt	—	260
Current portion of finance lease obligation	20	20
Accrued expenses and other current liabilities	321	641
<b>Total current liabilities</b>	<b>751</b>	<b>1,496</b>
Long-term debt, net of current portion	3,485	3,386
Regulatory liabilities—noncurrent	1,398	1,389
Deferred income taxes	447	439
Unfunded status of pension and postretirement plans	170	170
Liabilities from price risk management activities—noncurrent	70	75
Asset retirement obligations	250	257
Non-qualified benefit plan liabilities	81	83
Finance lease obligations, net of current portion	293	294
Other noncurrent liabilities	94	91
<b>Total liabilities</b>	<b>7,039</b>	<b>7,680</b>
<b>Shareholders' Equity:</b>		
Preferred stock, no par value, 30,000,000 shares authorized; none issued and outstanding as of March 31, 2023 and December 31, 2022	—	—
Common stock, no par value, 160,000,000 shares authorized; 96,620,972 and 89,283,353 shares issued and outstanding as of March 31, 2023 and December 31, 2022, respectively	1,548	1,249
Accumulated other comprehensive loss	(4)	(4)
Retained earnings	1,568	1,534
<b>Total shareholders' equity</b>	<b>3,112</b>	<b>2,779</b>
<b>Total liabilities and shareholders' equity</b>	<b>\$ 10,151</b>	<b>\$ 10,459</b>

**PORTLAND GENERAL ELECTRIC COMPANY AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**

(In millions)  
(Unaudited)

	Three Months Ended March 31,	
	2023	2022
<b>Cash flows from operating activities:</b>		
Net income	\$ 74	\$ 60
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	111	99
Deferred income taxes	4	4
Pension and other postretirement benefits	1	3
Allowance for equity funds used during construction	(3)	(3)
Decoupling mechanism deferrals, net of amortization	(3)	(1)
Regulatory assets	(6)	(15)
Regulatory liabilities	8	5
2020 Labor Day wildfire earnings test reserve	—	15
Other non-cash income and expenses, net	10	15
Changes in working capital:		
Decrease in accounts receivable, net	34	21
Decrease in inventories	—	6
Decrease in margin deposits	86	23
(Decrease) in accounts payable and accrued liabilities	(174)	(44)
(Decrease)/increase in margin deposits from wholesale counterparties	(140)	99
Other working capital items, net	(27)	(27)
Other, net	(14)	(11)
<b>Net cash (used in) provided by operating activities</b>	<b>(39)</b>	<b>249</b>



**PORTLAND GENERAL ELECTRIC COMPANY AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS, continued**

(In millions)  
(Unaudited)

	Three Months Ended March 31,	
	2023	2022
<b>Cash flows from investing activities:</b>		
Capital expenditures	(274)	(167)
Sales of Nuclear decommissioning trust securities	—	2
Purchases of Nuclear decommissioning trust securities	—	(2)
Proceeds from sale of properties	2	12
Other, net	(4)	1
<b>Net cash used in investing activities</b>	<b>(276)</b>	<b>(154)</b>
<b>Cash flows from financing activities:</b>		
Proceeds from issuance of common stock	\$ 300	\$ —
Proceeds from issuance of long-term debt	100	—
Payments on long-term debt	(260)	—
Issuance of commercial paper, net	68	—
Proceeds from Pelton/Round Butte financing arrangement	—	25
Dividends paid	(40)	(38)
Repurchase of common stock	—	(18)
Other	(6)	(6)
<b>Net cash provided by (used in) financing activities</b>	<b>162</b>	<b>(37)</b>
<b>(Decrease) Increase in cash and cash equivalents</b>	<b>(153)</b>	<b>58</b>
<b>Cash and cash equivalents, beginning of period</b>	<b>165</b>	<b>52</b>
<b>Cash and cash equivalents, end of period</b>	<b>\$ 12</b>	<b>\$ 110</b>
<b>Supplemental cash flow information is as follows:</b>		
Cash paid for interest, net of amounts capitalized	\$ 22	\$ 18
Cash paid for income taxes	2	2
Non-cash investing and financing activities:		
Assets obtained under leasing arrangements	—	29

**PORTLAND GENERAL ELECTRIC COMPANY AND SUBSIDIARIES**  
**SUPPLEMENTAL OPERATING STATISTICS**  
(Unaudited)

	Three Months Ended March 31,			
	2023		2022	
<b>Revenues (dollars in millions):</b>				
Retail:				
Residential	\$ 362	48 %	\$ 308	49 %
Commercial	197	27	178	29
Industrial	82	11	69	11
Direct Access	6	1	8	1
Subtotal	<u>647</u>	<u>87</u>	<u>563</u>	<u>90</u>
Alternative revenue programs, net of amortization	3	—	1	—
Other accrued revenues, net	1	—	—	—
Total retail revenues	<u>651</u>	<u>87</u>	<u>564</u>	<u>90</u>
Wholesale revenues	88	12	56	9
Other operating revenues	9	1	6	1
Total revenues	<u>\$ 748</u>	<u>100 %</u>	<u>\$ 626</u>	<u>100 %</u>
<b>Energy deliveries (MWhs in thousands):</b>				
Retail:				
Residential	2,327	33 %	2,216	32
Commercial	1,657	24	1,634	24
Industrial	1,071	15	974	14
Subtotal	<u>5,055</u>	<u>72</u>	<u>4,824</u>	<u>70</u>
Direct access:				
Commercial	129	2	131	2
Industrial	436	6	413	7
Subtotal	<u>565</u>	<u>8</u>	<u>544</u>	<u>9</u>
Total retail energy deliveries	<u>5,620</u>	<u>80</u>	<u>5,368</u>	<u>79</u>
Wholesale energy deliveries	1,396	20	1,507	21
Total energy deliveries	<u>7,016</u>	<u>100 %</u>	<u>6,875</u>	<u>100 %</u>
<b>Average number of retail customers:</b>				
Residential	813,955	88 %	806,553	88 %
Commercial	112,475	12	111,668	12
Industrial	194	—	192	—
Direct access	542	—	550	—
Total	<u>927,166</u>	<u>100 %</u>	<u>918,963</u>	<u>100 %</u>

**PORTLAND GENERAL ELECTRIC COMPANY AND SUBSIDIARIES**  
**SUPPLEMENTAL OPERATING STATISTICS, continued**  
(Unaudited)

	Three Months Ended March 31,			
	2023		2022	
<b>Sources of energy (MWhs in thousands):</b>				
Generation:				
Thermal:				
Natural gas	2,896	43 %	2,149	32 %
Coal	596	9	610	9
Total thermal	3,492	52	2,759	41
Hydro	295	4	273	4
Wind	481	7	392	6
Total generation	4,268	63	3,424	51
Purchased power:				
Hydro	1,080	16	1,562	23
Wind	232	3	195	3
Solar	145	2	113	2
Natural Gas	11	—	2	—
Waste, Wood and Landfill Gas	43	1	37	1
Source not specified	1,005	15	1,315	20
Total purchased power	2,516	37	3,224	49
Total system load	6,784	100 %	6,648	100 %
Less: wholesale sales	(1,396)		(1,507)	
Retail load requirement	5,388		5,141	

The following table indicates the number of heating and cooling degree-days for the three months ended March 31, 2023 and 2022, along with 15-year averages based on weather data provided by the National Weather Service, as measured at Portland International Airport:

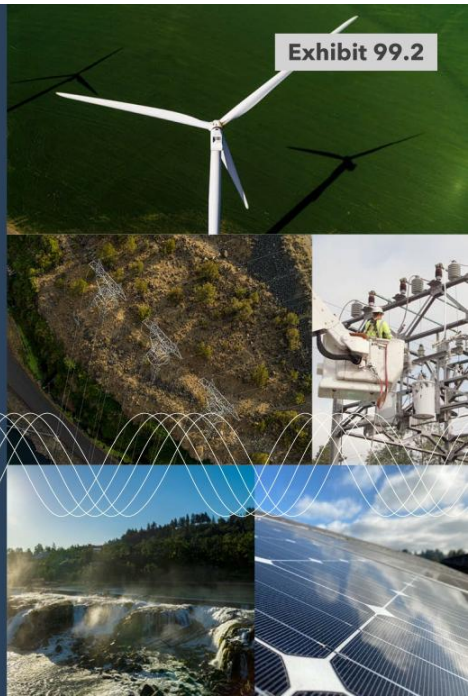
	Heating Degree-days		
	2023	2022	Avg.
January	667	710	713
February	658	591	599
March	602	460	528
Year-to-date	1,927	1,761	1,840
Increase/(decrease) from the 15-year average	5 %	(4)%	

# Portland General Electric

EARNINGS CONFERENCE CALL  
FIRST QUARTER 2023



Exhibit 99.2



# Cautionary statement

## Information Current as of April 28, 2023

Except as expressly noted, the information in this presentation is current as of April 28, 2023 – the date on which PGE filed its Quarterly Report on Form 10-Q for the quarter ended March 31, 2023 – and should not be relied upon as being current as of any subsequent date. PGE undertakes no duty to update this presentation, except as may be required by law.

## Forward-Looking Statement

Statements in this presentation that relate to future plans, objectives, expectations, performance, events and the like may constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995, Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. These forward-looking statements represent our estimates and assumptions as of the date of this report. The Company assumes no obligation to update or revise any forward-looking statement as a result of new information, future events or other factors.

Forward-looking statements include statements regarding the Company's full-year earnings guidance (including expectations regarding annual retail deliveries, hydro conditions, wind generation, normal thermal plant operations, operating and maintenance expense and depreciation and amortization expense) as well as other statements containing words such as "anticipates," "based on," "believes," "conditioned upon," "considers," "could," "estimates," "expects," "forecast," "goals," "intends," "needs," "plans," "predicts," "projects," "promises," "seeks," "should," "subject to," "targets," "will likely result," "will continue," or similar expressions.

Investors are cautioned that any such forward-looking statements are subject to risks and uncertainties, including, without limitation: the timing or outcome of various legal and regulatory actions; changing customer expectations and choices that may reduce demand for electricity; the sale of excess energy during periods of low demand or low wholesale market prices; operational risks relating to the Company's generation and battery storage facilities, including hydro conditions, wind conditions, disruption of transmission and distribution, disruption of fuel supply, and unscheduled plant outages, which may result in unanticipated operating, maintenance and repair costs, as well as replacement power costs; delays in the supply chain and increased supply costs (including application of tariffs impacting solar module imports); failure to complete capital projects on schedule or within budget; inability to complete negotiations on contracts for capital projects, failure of counterparties to perform under agreement, or the abandonment of capital projects, which could result in the Company's inability to recover project costs, or impact our competitive position, market share, revenues and project margins in material ways; default or nonperformance of counterparties from whom PGE purchases capacity or energy, which require the purchase of replacement power and renewable attributes at increased costs; complications arising from PGE's jointly-owned plant, including ownership changes, regulatory outcomes or operational failures; the costs of compliance with environmental laws and regulations, including those that govern emissions from thermal power plants; changes in weather, hydroelectric and energy market conditions, which could affect the availability and cost of purchased power and fuel; the development of alternative technologies; changes in capital and credit market conditions, including volatility of equity markets, reductions in demand for investment-grade commercial paper or interest rates, which could affect the access to and availability or cost of capital and result in delay or cancellation of capital projects or execution of the Company's strategic plan as currently envisioned; general economic and financial market conditions, including inflation; the effects of climate change, whether global or local in nature; unseasonable or severe weather conditions, wildfires, and other natural phenomena and natural disasters that could result in operational disruptions, unanticipated restoration costs, third party liability or that may affect energy costs or consumption; the effectiveness of PGE's risk management policies and procedures; PGE's ability to effectively implement Public Safety Power Shutoffs (PSPS) and de-energize its system in the event of heightened wildfire risk; cyber security attacks, data security breaches, physical attacks and security breaches, or other malicious acts, which could disrupt operations, require significant expenditures, or result in claims against the Company; employee workforce factors, including potential strikes, work stoppages, transitions in senior management, and the ability to recruit and retain key employees and other talent and turnover due to macroeconomic trends; PGE business activities are concentrated in one region and future performance may be affected by events and factors unique to Oregon; widespread health emergencies or outbreaks of infectious diseases such as COVID-19, which may affect our financial position, results of operations and cash flows; failure to achieve the Company's greenhouse gas emission goals or being perceived to have either failed to act responsibly with respect to the environment or effectively responded to legislative requirements concerning greenhouse gas emission reductions; political and economic conditions; and risks and uncertainties related to 2021 All-Source RFP final shortlist projects. As a result, actual results may differ materially from those projected in the forward-looking statements.

Risks and uncertainties to which the Company are subject are further discussed in the reports that the Company has filed with the United States Securities and Exchange Commission (SEC). These reports are available through the EDGAR system free-of-charge on the SEC's website, [www.sec.gov](http://www.sec.gov) and on the Company's website, [investors.portlandgeneral.com](http://investors.portlandgeneral.com). Investors should not rely unduly on any forward-looking statements.



# Topics for today's call

## Business Update

Maria Pope, President and CEO

- Financial and operational highlights
- Strategic updates



## Financial Update

Jim Ajello, Senior VP of Finance, CFO, Treasurer and CCO

- Economy and load growth
- First quarter 2023 earnings
- RFP update and capital investments
- Liquidity and financing



# First quarter 2023 financial results

	Q1 2023	Q1 2022
GAAP net income (in millions)	\$74	\$60
GAAP diluted earnings per share (EPS)	\$0.80	\$0.67
Exclusion of 2020 Wildfire and COVID deferral reversal <sup>(2)</sup>	-	\$0.19
Tax effect <sup>(3)</sup>	-	(\$0.05)
Non-GAAP adjusted diluted earnings per share	\$0.80	\$0.81

- Reaffirming**
- 2023 adjusted earnings guidance of \$2.60 to \$2.75 per diluted share
  - 2023 load growth guidance of 2.5% to 3%, weather adjusted
  - Long-term load growth of 2%, through 2027
  - Long-term EPS growth of 5% to 7% off 2022 non-GAAP adjusted base year
  - 5% to 7% long-term dividend growth <sup>(1)</sup>



(1) The amount and timing of dividends payable and the dividend policy are at the sole discretion of the Portland General Electric Board of Directors and, if declared and paid, dividends may be in amounts that are less than projected  
 (2) PGE believes that excluding the effects of the previously disclosed 2020 Wildfire and COVID deferral reversal provides a meaningful representation of the Company's comparative earnings and reflects the present operating financial performance (see appendix for important information about non-GAAP measures)  
 (3) Tax effects were determined based on the Company's full-year blended federal and state statutory tax rate  
 (4) Q2-Q4 2023 estimate based on 2023 earnings guidance



# Strategic updates



## Growth

- Sustained load and customer growth
- New renewable and non-emitting resources including 400 MW of new battery storage



## Risk Management

- Managing power cost variability and customer price impacts by working with regulators, lawmakers and stakeholders



## Performance

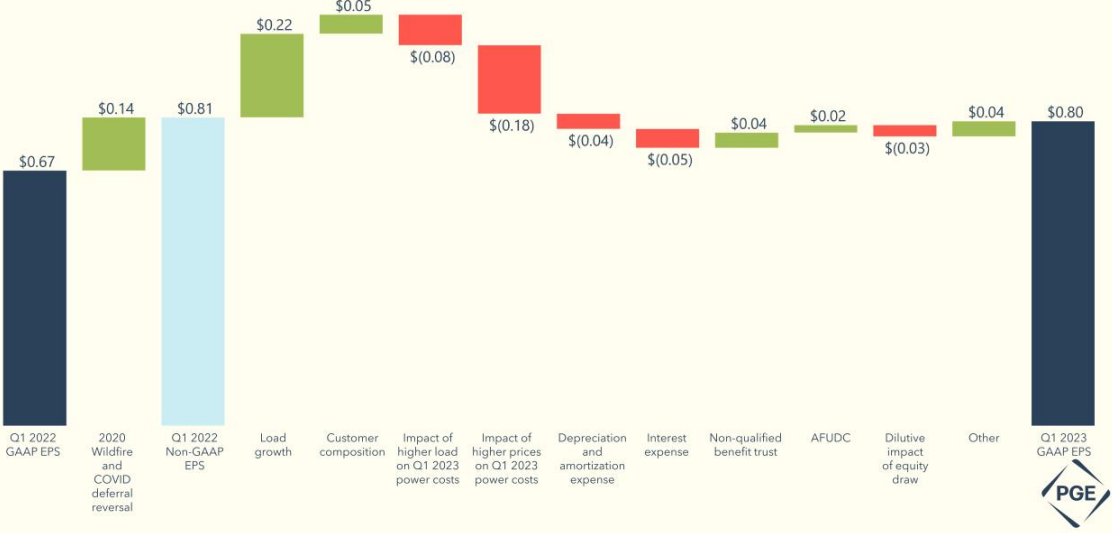
- Driving operational efficiencies to deliver largely flat O&M: new digital tools and technology deployments

## Value Creation for Stakeholders





# Q1 2023 earnings bridge



Note: Dollar values are earnings per diluted share



# 2021 RFP Update

Project Name	Clearwater Wind <sup>(1)</sup>	Seaside Grid	Troutdale Grid
Project Location	Eastern Montana	Portland, OR	Troutdale, OR
Project Type	Wind	Battery Energy Storage System	Battery Energy Storage System
PGE Ownership %	67%	100%	-
Total Nameplate Capacity	311 MW	200 MW	200 MW
PGE Ownership	208 MW	200 MW	-
Net PGE Capital Cost (excluding AFUDC)	\$415 million	\$360 million	PGE will purchase capacity under a 20-year storage capacity agreement
Estimated In-Service Date	12/31/2023	6/30/2025	12/31/2024

**PGE continues to negotiate with a remaining short-list bidder for a 75-MW company-owned BESS project**

**PGE plans to issue the forthcoming 2023 All-Source RFP in mid-2023, with final project selection anticipated in 2024**



(1) Note: Project which will be part of the larger Clearwater Wind development in Eastern Montana

# Reliability and resiliency investments

Capital expenditures forecast<sup>(1)</sup>

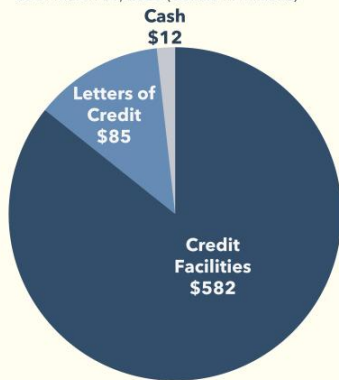


Note: Dollar values in millions. Capital expenditures exclude allowance for funds used during construction. These are projections based on assumptions of future investment. Actual amounts expended will depend on various factors and may differ materially from the amounts reflected in this capital expenditure forecast.  
 (1) Values presented do not include incremental potential investments for future RFP cycles



# Liquidity and financing

**Total Liquidity: \$679 million**  
as of March 31, 2023 (dollars in millions)



Ratings	S&P	Moody's
Senior Secured	A	A1
Senior Unsecured	BBB+	A3
Commercial Paper	A-2	P-2
Outlook	Stable	Stable

Actual and expected 2023 financings (dollars in millions)	Q1	Q2	Q3	Q4
Long-term debt	\$100 <sup>(1)</sup>	-	\$100	\$200
Short-term debt	\$68	-	-	-

Equity financings (dollars in millions)	Total available	Settled to-date
2022 Equity Forward Sale Agreement <sup>(2)</sup>	\$485	\$300
At-The-Market Offering Program <sup>(3)</sup>	\$300	-

(1) Bond purchase agreement was entered on November 30, 2022, and Bonds were issued and funded in full on January 13, 2023.  
 (2) In 2022, PGE entered into an equity forward sale agreement (EFSA) in connection with a public offering of 11,615,000 shares (including 1,515,000 shares in connection with the underwriters' exercise of their option to purchase additional shares) of its common stock. In March 2023, the Company issued 7,178,016 shares pursuant to the EFSA and received net proceeds of \$300 million. Remaining draws against the existing 2022 Equity Forward Sale Agreement is expected to be completed by the end of the Agreement's 24-month term. Amounts presented are net of underwriting discount of \$1.23625 per share.  
 (3) PGE entered into an at-the-market offering program in the second quarter of 2023. The proceeds from the issuances of common stock will be used for general corporate purposes and renewable energy investments.





# Appendix



## Non-GAAP financial measures

This presentation contains certain non-GAAP measures, such as adjusted earnings, adjusted EPS and adjusted earnings guidance. These non-GAAP financial measures exclude significant items that are generally not related to our ongoing business activities, are infrequent in nature, or both. PGE believes that excluding the effects of these items provides a meaningful representation of the Company's comparative earnings per share and enables investors to evaluate the Company's ongoing operating financial performance. Management utilizes non-GAAP measures to assess the Company's current and forecasted performance, and for communications with shareholders, analysts and investors. Non-GAAP financial measures are supplementary information that should be considered in addition to, but not as a substitute for, the information prepared in accordance with GAAP.

Items in the periods presented, which PGE believes impact the comparability of comparative earnings and do not represent ongoing operating financial performance, include the following:

- Non-cash Wildfire and COVID deferral reversal charge associated with the year ended 2020, resulting from the OPUC's 2022 GRC Final Order earnings test

Due to the forward-looking nature of PGE's non-GAAP adjusted earnings guidance, management is unable to estimate specific items requiring adjustment, which could potentially impact the Company's GAAP earnings (such as potential adjustments described above) for future periods and therefore cannot provide a reconciliation of non-GAAP adjusted earnings per share guidance to the most comparable GAAP financial measure without unreasonable effort.

PGE's reconciliation of non-GAAP earnings for the three months ended March 31, 2022, and the year ended December 31, 2022, are on the following slide.



# Non-GAAP financial measures

Non-GAAP Earnings Reconciliation for the quarter ended March 31, 2022		
(Dollars in millions, except EPS)	Net Income	Diluted EPS
<b>GAAP as reported for the quarter ended March 31, 2022</b>	\$60	\$0.67
Exclusion of 2020 Wildfire and COVID deferral reversal	17	0.19
Tax effect <sup>(1)</sup>	(5)	(0.05)
<b>Non-GAAP as reported for the quarter ended March 31, 2022</b>	<b>\$72</b>	<b>\$0.81</b>

Non-GAAP Earnings Reconciliation for the year ended December 31, 2022		
(Dollars in millions, except EPS)	Net Income	Diluted EPS
<b>GAAP as reported for the year ended December 31, 2022</b>	\$233	\$2.60
Exclusion of released deferrals related to 2020	17	0.19
Tax effect <sup>(1)</sup>	(5)	(0.05)
<b>Non-GAAP as reported for the year ended December 31, 2022</b>	<b>\$245</b>	<b>\$2.74</b>

(1) Tax effects were determined based on the Company's full-year blended federal and state statutory tax rate









# Portland General Electric Announces Chief Financial Officer Jim Ajello to Retire

## Company initiates search for successor

**April 28, 2023**

Portland, Ore. — Portland General Electric Company (NYSE: POR) ("PGE" or the "Company") today announced that Jim Ajello, senior vice president of finance, CFO, treasurer and corporate compliance officer, has informed the Company of his intent to retire. Ajello will transition from his current roles, effective June 30, 2023, and serve as a senior advisor to the Company through August 31, 2023.

"Jim joined us in 2020, bringing a wealth of knowledge and deep experience that helped us to enhance our strategic focus, strengthen our financial foundation and drive superior customer service," said Maria Pope, PGE president and CEO. "Importantly, under Jim's leadership, we have reset our balance sheet to support higher levels of clean energy investments, reliability and smart grid improvements. On behalf of the board and management team, I wish him all the best in his well-deserved retirement."

"It has been a privilege to have worked alongside Maria and the talented team at Portland General," said Ajello. "Together, we have advanced critical initiatives to provide outstanding service to our customers and positioned the Company for growth as we accelerate our clean energy transition. While I look forward to a retirement filled with travel, time with my family and grandkids, and continued service on the boards of professional and educational organizations, I am proud of what we have accomplished and am confident in the Company's continued success."

The Company has initiated a search to identify its next CFO and will consider both internal and external candidates.

### **First Quarter 2023 Financial Results and Conference Call**

PGE also separately announced its first quarter 2023 financial results. The Company will host a conference call with financial analysts and investors today, April 28, 2023, beginning at 11:00 a.m. ET. The conference call will be webcast live on the PGE website at [investors.portlandgeneral.com](https://investors.portlandgeneral.com). A webcast replay will also be available on PGE's investor website "Events & Presentations" page beginning at 2 p.m. ET on April 28, 2023.

**About Portland General Electric Company**

Portland General Electric (NYSE: POR) is a fully integrated energy company that generates, transmits and distributes electricity to over 900,000 customers in 51 cities across the state of Oregon. For more than 130 years, Portland General Electric (PGE) has powered the advancement of society, delivering safe, affordable, reliable and increasingly clean energy. To deliver on its strategy and meet state targets, PGE and its approximately 3,000 employees committed to partnering with stakeholders to achieve at least an 80% reduction in greenhouse gas emissions from power served to customers by 2030 and 100% reduction by 2040. PGE customers set the standard for prioritizing clean energy with the No. 1 voluntary renewable energy program in the country. Additionally, for the fifth year in a row, PGE was recognized by the Bloomberg Gender-Equality Index which highlights companies committed to creating a more equal and inclusive workplace. As a reflection of the company's commitment to the community it serves, in 2022, PGE employees, retirees and the PGE Foundation donated nearly \$5.5 million and volunteered more than 18,000 hours with more than 400 nonprofits across Oregon. For more information visit [www.PortlandGeneral.com/news](http://www.PortlandGeneral.com/news).

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